

Law no. 8/2011 of 11 April

Carries out the first amendment to the Television Law, approved by Law no. 27/2007, of 30 July, the twelfth amendment to the Advertising Code, approved by Decree-Law no. 330/90, of 23 October, and the first amendment to Law no. 8/2007, of 14 February, which restructures the concessionaire of the public radio and television service, transposing Directive no. 2007/65/EC of the European Parliament and Council, of 11 December.

The Assembly of the Republic decrees, pursuant to Article 161 (c) of the Constitution, the following:

Article 1

Object

This law transposes into Portuguese legislation Directive no. 2007/65/EC, of the Parliament and Council, of 11 December, alterando a Law no. 27/2007, of 30 July, o Código da Publicidade, e a Law no. 8/2007, of 14 de Fevereiro.

Article 2

Alteration to Law no. 27/2007, of 30 July

Articles 1 to 7, 11, 12, 15, 20, 25, 26, 27, 31, 33 to 35, 40, 41, 44 to 47, 49, 54, 56, 59, 64, 65, 67 to 71, 73 to 78, 86, 87, 91 and 92 of Law no. 27/2007, of 30 July, shall now have the following wording:

«Article 1

[...]

The object of this law is to regulate access to television activity and pursuit thereof, as well as provision of on-demand audiovisual media services to the public, transposing Council Directive no. 89/552/EEC, of 3 October, as amended by Directive no. 97/36/EC, of the Parliament and Council, of 30 June, and Directive no. 2007/65/EC, of the Parliament and Council, of 11 December, into Portuguese legislation.

Article 2

[...]

1 — For the purposes of this law, the following definitions apply:

a)

b) «Production aid» means an audiovisual commercial communication consisting of the inclusion of or reference to a specific product or service within a programme, provided free of charge;

c) «Self-promotion» means an audiovisual commercial communication broadcast by a broadcaster or on-demand audiovisual media service provider relating to their own

products and services, including television programme services, on-demand audiovisual media services, directly associated programmes and products, as well as audiovisual and cinematographic works in which the broadcaster has participated financially;

d) «Product placement» means an audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof, within a programme, in return for payment or for similar consideration;

e) «Audiovisual commercial communication» means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity, including but not limited to television advertising, teleshopping, sponsorship, product placement, production aid and self-promotion;

f) «Virtual audiovisual commercial communication» means an audiovisual commercial communication resulting from the substitution, by electronic means, of other audiovisual commercial communications;

g) «Control» means the relationship existing between a natural or legal person and a company, through which, regardless of whether its domicile or registered office is in Portugal or abroad, the former is able to exercise, directly or indirectly, a dominant influence over the latter, whereas, control will be deemed to exist in any case when a natural or legal person:

i) Holds a majority shareholding or a majority of voting rights;

ii) Is able to exercise the majority of voting rights under the terms of a shareholders' agreement; or

iii) Has power to appoint or remove the majority of the members of the management or supervisory boards;

h) "Creative work" means a cinematographic or audiovisual production based on structured creative elements, including, for the purpose of complying with the percentage limits set out in Section V of chapter IV of this law, fiction and animation feature films and short films, documentaries, telefilms and television series and also, for the same purposes, television reports, educational, musical, artistic and cultural programmes, provided that they are eligible for copyright protection;

i) «Independent production» means a work produced by an independent producer and which cumulatively satisfies the following requirements:

i) Ownership of the rights over the work produced by the independent producer, with clear contractual definition of the type and duration of the broadcasting rights granted to the broadcasters;

ii) Work produced with creative autonomy and freedom in the form of development, in particular as regards the choice of studios, actors, media and distribution;

j) "European work" means a cinematographic or audiovisual production that meets the requirements set out in paragraph n) of article 1 of Council Directive no. 89/552/EEC, of 3 October, altered by the Directive no. 97/36/EC, of the Parliament and Council, of 30 June, and Directive no. 2007/65/EC, of the Parliament and Council, of 11 December;

l) [*Previous paragraph e).*]

m) «On-demand audiovisual media service provider» means the natural or legal person who has responsibility for the selection and organization of the content of the on-demand audiovisual media services in the form of a catalogue;

n) «Broadcaster» means a legal person legally authorised to pursue television activity, responsible for organising television programme services;

o) «Sponsorship» means an audiovisual commercial communication consisting of any contribution made by public or private undertakings or natural persons who are not broadcasters, on-demand audiovisual media service providers or are not engaged in the production of audiovisual works, to the financing of television programme services, on-demand audiovisual media services or their programmes, with a view to promoting their name, trade mark, image, activities or products;

p) «Independent producer» means the legal person whose principal activity is the production of cinematographic or audiovisual works, provided that the following cumulative requirements are met:

i) Direct or indirect shareholding does not exceed 25% when held by a single broadcaster or does not exceed 50% when held by multiple broadcasters;

ii) No more than 90% of sales, on an annual basis, are made to the same broadcaster;

q) «Programme» means a set of moving images with or without sound constituting an individual item within the programme schedule of a television programme service or a catalogue of an on-demand audiovisual media service;

r) «Television advertising» means any form of audiovisual commercial communication broadcast within television programme services, whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply, subject to payment, of goods or services, including immovable property, rights and obligations;

s) "On-demand audiovisual media service" (i.e. a "non-linear audiovisual media service") means the offer to the general public of a catalogue of programmes and of accompanying text content, specifically including subtitling and electronic programming guides which catalogue is selected and organised by a on-demand audiovisual media service provider for viewing by a user, at the moment chosen by him and upon his individual request with use of an electronic communications network within the meaning given by Law no. 5/2004, of 10 February, wherein this concept does not include:

i) Any form of communication that is private in nature;

ii) Audiovisual content generated by private users to be shared, preferentially, within groups with common interests;

iii) Electronic versions of newspapers and magazines and complementary audiovisual content;

t) «Television programme service» means the sequence and uniform set of programming items provided by a broadcaster, organised on the basis of a programme schedule;

u) «Telepromotion» means television advertising inserted during a break within the programme through the announcement of products or services by the respective presenter;

v) «Teleshopping» means an audiovisual commercial communication consisting of direct offers broadcast to the public with a view to the supply of goods or services, in return for payment;

x) «Television» means the transmission, encrypted or unencrypted, of non-permanent images with or without sound over an electronic communications network, intended for simultaneous reception by the general public, wherein this concept does not include:

i) Communications services to be received only upon individual request;

ii) The mere retransmission of third party broadcasting;

iii) The occasional transmission of events, by means of technical devices installed at places where such events take place, and intended for the public gathered therein.

2 — *(Revoked.)*

Article 3

[...]

1 — The following are subject to the provisions of this law:

a) Television programme services transmitted by broadcasters pursuing television activity under the jurisdiction of the Portuguese State;

b) On-demand audiovisual media services made available by providers who undertake the said provision under the jurisdiction of the Portuguese State.

2 — Broadcasters and on-demand audiovisual media service providers are considered as being under the jurisdiction of the Portuguese state when they meet the criteria laid down in article 2 of Council Directive no. 89/552/EEC, of 3 October, altered by Directive no. 97/36/EC, of the Parliament and Council, of 30 June, and Directive no. 2007/65/EC, of the Parliament and Council, of 11 December.

3 — The provisions established in the previous point apply, *mutatis mutandis*, to distributors.

Article 4

Transparency of ownership and management

1 — Shares representing the capital of broadcasters incorporated in the form of a public limited company (*sociedade anónima*) must be registered shares.

2 — The list of the owners and holders of shareholdings in broadcasters, the composition of their administrative and management boards and identification of the person responsible for giving guidance to and undertaking supervision of the content of their broadcasts are to be publicly disclosed on the website of the respective media organisations and are to be updated within seven days of any event occurring whereby:

- a) An owner or holder of the shares attains or exceeds 5 %, 10 %, 20 %, 30 %, 40 % or 50 % of the share capital or voting rights;
- b) An owner or holder of the shares reduces his stake to a value which is less than one of the percentage thresholds indicated in the previous point;
- c) There is a change in the control over the broadcaster;
- d) Any change occurs in the composition of the administrative and management boards or the structure that is responsible for guiding and supervising the content of the broadcasts.

3 — The list referred to in the previous paragraph shall contain, with the necessary updates:

- a) The breakdown of the percentage shareholdings held by the respective owners and holders;
- b) Identification of the entire chain of entities controlling a shareholding of at least 5 % in the broadcasters in question; and
- c) Indication of the shareholdings of the said owners and holders in other media organisations.

4 — Where no website is available, this information and the updating thereof, as referred to in nos. 2 and 3 is to be additionally reported by the broadcaster in question to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), which will make this information available to the public.

5 — The provisions established in nos. 2 and 3 apply, *mutatis mutandis*, to legal persons which are not companies but which pursue television activity, specifically including associations, cooperatives or foundations.

Article 5 [...]

1 — *(Previous text of the article.)*

2 — The public television service may include on-demand audiovisual media services or other audiovisual services necessary for pursuit of its goals.

Article 6 [...]

1 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) will promote and encourage the adoption of co-regulation, self-regulation and cooperation mechanisms between the various broadcasters and on-demand audiovisual media service providers that make it possible to attain the objectives specified in the next point.

2 — The State, the public service concessionaire and the remaining broadcasters and on-demand audiovisual media service providers shall collaborate together in pursuit of the values of human dignity, the rule of law, democratic society and national cohesion, and in promotion of the Portuguese language and culture, taking into account the special needs of certain categories of viewers.

Article 7
[...]

1 —

a)

b)

c) A district or a group of bordering districts or a metropolitan area, in mainland Portugal, or a group of islands in the Autonomous Regions;

d) A municipality or a group of bordering municipalities and eventual neighbouring areas, in accordance with the technical requirements associated to the necessary coverage of these areas, in mainland Portugal, or an island with various municipalities, in the Autonomous Regions.

2 — The geographic area allocated to each television programme service of national scope is to be covered by the same programme and recommended signal, except where otherwise authorised by determination of the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), and without prejudice to the use of complementary coverage resources, when duly authorised.

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4 —

Article 11
[...]

1 — Television activity consisting in the organization of generalist or thematic informational programme services of international, national or regional scope, may be pursued under the terms of this law, by companies or cooperatives whose primary object is the pursuit thereof.

2 — Television activity consisting in the organization of generalist or thematic informational programme services of local scope, may only be pursued under the terms of this law, by companies or cooperatives whose primary object is the pursuit of media activities.

3 — *(Previous text of no. 2.)*

a) *[Previous paragraph a) of no. 2.]*

b) *[Previous paragraph b) of no. 2.]*

c) € 100,000 or € 50,000, depending upon whether the broadcasters supply television programme services of regional or local coverage, independently of their type.

4 — *(Previous text of no. 3.)*

a) *[Previous paragraph a) of no. 3.]*

b) € 500,000, in the case of a network that covers a group of districts in the mainland or a group of islands in the Autonomous Regions, or an island with several municipalities, or a metropolitan area;

c) € 100,000, in the case of a network that covers a municipality or a group of neighbouring municipalities.

5 — The provisions established in nos. 1 and 2 do not apply to broadcasters who only operate educational, cultural and scientific television programme services, on a non-profit basis, which may take the form of an association or foundation.

6 — *(Previous no. 5.)*

Article 12

[...]

1 — Television activity may not be pursued or financed, directly or indirectly, by political parties or political associations, trade unions, employer and professional associations and public professional associations, except where such activity is operated exclusively via the Internet or via conditional access channels and consists of the organisation of programme services of a doctrinal, scientific or institutional nature.

2 — Without prejudice to the provisions established in article 5, television activity may not be pursued by the State, Autonomous Regions, local authorities or their associations, directly or via state or regional public companies, municipal, metropolitan or inter-municipal companies, except where such activity is operated exclusively over the Internet and where it consists of the organisation of programme services of a scientific or institutional nature.

Article 15

[...]

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3 — The regulations shall identify the conditions under which applications are eligible, as well as documents to be attached, in order to make it possible to appraise the compliance of the applicants and projects with legal and regulatory requirements, specifically:

a)

b)

c)

d)

e)

f) Sufficiency and quality of the human and technical resources to be assigned;

g) Proof of compliance with tax and social security obligations, wherein presentation of the respective certificate may be waived, pursuant to Decree-Law no. 114/2007, of 19 April.

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- 7 —
- 8 —
- 9 —
- 10 —

Article 20
[...]

Broadcasters shall commence broadcasting of the authorised or licensed television programme services within 12 months from the date of the final decision assigning the corresponding qualifying document.

Article 25
[...]

- 1 —
- 2 —
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- 8 —
- 9 —
- 10 — Distributors should have access, without prejudice to market uses, in conformity with competition rules, to television programme services according to transparent, reasonable and non discriminatory conditions, with a view to their distribution.
- 11 — *(Previous no. 10.)*

Article 26
[...]

- 1 — Freedom of expression of thought through television programme services and on-demand audiovisual media services constitutes part of the fundamental right of citizens to free and pluralistic information, which is essential to democracy and to Portugal's social and economic development.
- 2 — Except in the cases foreseen under this law, pursuit of television activity and of on-demand audiovisual media services is based on freedom of programming, whereby neither the Public Administration nor any sovereign body, with the exception of the law courts, may prevent, limit or impose the broadcasting of any programmes.

Article 27
[...]

1 — Programming of television programme services and of on-demand audiovisual media services shall respect human dignity and fundamental rights, freedoms and guarantees.

2 — Television programme services and on-demand audiovisual media services shall not, through the programming elements which they broadcast, incite racial, religious, or political hatred or hatred based on colour, ethnic or national origin, gender, sexual orientation or disability.

3 — It is prohibited to broadcast programmes which are likely to cause an obvious and serious adverse effect on the free development of the personality children and adolescents, including programmes which contain pornography, in the case of the programme services provided via non-conditional access, or gratuitous violence.

4 — The television broadcast of any other programme which is likely to have an adverse effect on the development of children or adolescents is only to be broadcast while permanently displaying an appropriate visual symbol and only between 10:30 p.m. and 06.00 a.m.

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7 — The provisions established in the previous points apply to all programming elements, including advertising and messages, extracts or self-promotion images, and also to teletext services and electronic programming guides.

8 —

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10 — Programmes of on-demand audiovisual media services which are likely to cause obvious and serious harm to the free personality development of children and adolescents, such as programmes with pornographic content, may only be made available provided that sufficient technical features are adopted so as to prevent access to such content by that audience segment.

11 — Broadcasters and on-demand audiovisual media service providers may adopt codes of conduct which respond to the requirements set out in the present Article, with consultation, in the case of broadcasters, of their editorial boards, in the context of their attributions.

Article 31

[...]

Without prejudice to the provisions established in chapter VI, broadcasters, distributors and on-demand audiovisual media service providers are prohibited from granting airtime to political propaganda.

Article 33

[...]

1 — The persons responsible for conducting performances or other public events taking place on national territory, as well as holders of exclusive rights over such performances or events, may not oppose the broadcasting of short extracts thereof, when of a news-based nature, by programmes provided by any broadcasters, national or otherwise.

2 —

3 — When a broadcaster under the jurisdiction of the Portuguese State holds exclusive broadcasting rights in the national territory in respect of events occurring in the territory of another Member state of the European Union, it shall provide access to the respective signal to other national broadcasters, which are interested in broadcasting short news extracts of such events.

4 — Without prejudice to any agreement providing for different uses, the extracts referred to in nos. 1 and 3 shall:

a) [Previous paragraph a) of no. 3.]

b) [Previous paragraph b) of no. 3.]

c) [Previous paragraph c) of no. 3.]

d) [Previous paragraph d) of no. 3.]

5 — Except where a specific agreement is made otherwise, short news extracts relating to performances or other public events which are subject to exclusive rights may only be used in on-demand audiovisual media services when included in programmes previously broadcast by the same provider in television programme services.

Article 34

Obrigações gerais dos operadores

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3 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), after consulting the Instituto Nacional para a Reabilitação (National Institute for Rehabilitation), other organisations representing people with disabilities, broadcasters and on-demand audiovisual media service providers, will establish a set of obligations in respect of accessibility of television programme services and on-demand audiovisual media services to persons with special needs. The establishment of such obligations will be based on a multi-year plan that provides for gradual compliance therewith, taking into account the technical and market conditions which are deemed as prevailing at any given moment, with a view, in particular, to the nature of the service, the use of subtitling, sign language interpretation, audio description or other techniques deemed necessary, as well as the availability of easily understandable navigation menus.

4 — In addition to the terms specified in paragraphs a) to d) and f) of no. 2, the following obligations apply to general television programme services of regional or local scope:

a) To extend television programming to content of a regional or local nature;

b) To broadcast information that is of specific interest given the geographic scope of its audience;

c) To promote the characteristic values of the regional or local cultures.

5 — The provisions of paragraphs a), b) and g) constitute obligations of thematic programme services, according to their nature, and the provisions of paragraphs c) and f) of no. 2 constitute obligations of thematic programme services, regardless of their nature.

Article 35

Editorial responsibility and autonomy

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3 — Each on-demand audiovisual media service provider shall have a person who is responsible for the selection and organisation of the catalogue of programmes.

4 — The broadcaster is responsible for the appointment and dismissal of the person responsible for the news content of television programmes, after consulting the editorial board.

5 — The requirement to conduct a prior hearing of the editorial board is waived in respect of the appointment of the first person responsible for the news content of each programme service and in respect of programme services which are doctrinal or denominational in nature.

6 — The management posts for the news area and the head thereof are to be exercised with editorial autonomy, whereby the broadcaster is prohibited from interfering in the production of news content and the manner in which such content is presented.

7 — The provisions established in the previous point do not apply to guidelines which are aimed at ensuring strict observance of legal provisions that if breached would result in the broadcaster being held responsible for a criminal or administrative offence.

Article 40

Time allotted to television advertising and teleshopping

1 — Airtime allotted to television advertising and teleshopping between two-hour periods may not exceed 10% in the case of conditional access television programme services and may not exceed 20% in the case of non-conditional access television programme services, (whether free-to-air or subscription-based).

2 — The limits established in the previous point do not apply to self-promotions, telepromotions and teleshopping segments, and do not apply to the promotion of associated products, including where not directly related to the broadcasters' programmes.

3 — Individual teleshopping segments must be of a minimum duration of 15 minutes.

Article 41

Sponsorship

1 — Sponsored television programme services and on-demand audiovisual media services, as well as the respective programmes, will be clearly identified as such by the

name, logo or other distinguishing symbol of the sponsor of its products or of its services.

2 — Programmes which are sponsored are to be identified additionally at the beginning, as they restart and at the end of the programme, which indication may also be made cumulatively at other points in time, provided that the integrity of the programmes is not undermined, taking into account the breaks, their duration and nature, and provided that this is done in such a way as does not infringe the rights of any holders.

3 — News services and political information programmes may not be sponsored.

4 — The content of a sponsored television programme service, on-demand audiovisual media service or programme or, in the case of television programme services, its programming, may under no circumstances be influenced in such a way that affects its editorial responsibility and independence.

5 — Sponsored programme services or programmes, as well as the identification of the respective sponsors, may not directly encourage the purchase or rental of products or services of the sponsor or of third parties, including through specific promotional references to such goods or services.

Article 44

[...]

1 —

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4 — For the purposes of calculating the percentage of programming referred to in the previous point, only the first five screenings of each work is to be counted, regardless of the year in which they are aired.

5 — *(Previous no. 4.)*

6 — *(Previous no. 5.)*

Article 45

[...]

1 — *(Previous text of article.)*

2 — On-demand audiovisual media services shall contribute to the promotion of European works, specifically through financial contributions to their production or through their progressive incorporation into the respective catalogue.

3 — On-demand audiovisual media services are to give particular visibility to European works in their catalogue, implementing features which enable the public to search for such works by origin.

4 — Compliance with the rules governing the promotion of European works set out in nos. 2 and 3 of this article is subject to annual review by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).

Article 46

[...]

1 — Broadcasters engaged in the provision of television programme services with national coverage shall ensure that at least 10% of their transmission time, excluding the time devoted to news, sports events, games, advertising, teleshopping and teletext services, consists of the broadcasting of European works created by independent producers and produced less than five years previously.

2 — The television programme services referred to in the previous point, where classified as general, shall allocate at least 50% of their transmission time to the broadcasting of European works created by independent producers which were produced originally in Portuguese and produced less than five years previously.

3 — For the purposes of calculating the percentage of transmission time referred to in the previous points, only the first five screenings of each work are to be considered, regardless of the year in which they are aired.

Article 47

[...]

1 — Compliance with the obligations set forth in articles 44 to 46 shall be assessed on an annual basis and is to take into account, where applicable, the specific nature of thematic television programme services and the broadcaster's responsibilities with regard to information, education, culture and entertainment.

2 — Reports on the assessment referred to above, containing the respective findings, are to be published on the website of the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) no later than 30 June of the year following the year to which they refer.

Article 49

[...]

Broadcasters and on-demand audiovisual media service providers are obliged to provide, on quarterly basis, to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), in accordance with a model defined by the latter, all the necessary elements to inspect compliance with the obligations specified in articles 44 to 46,

Article 54

[...]

1 — The second generalist programme service of national scope will include programmes that have a strong cultural and educational component, enhancing education, science, investigation, arts, innovation, entrepreneurialism, economic issues, social work, disclosure of humanitarian causes, non-professional and school sports, religious faiths, independent production of creative works, Portuguese cinema, the environment, consumer protection and experimental audiovisual works.

2 —

3 —

Article 56

[...]

1 — The television programme services specifically aimed at the Autonomous Regions of the Azores and Madeira are to take due regard of the respective social, cultural and geographic realities and enhance regional production.

2 —

3 —

Article 59

[...]

1 —

2 — *(Previous no. 3.)*

3 — The entities referred to in no. 1 shall be entitled, free of charge and on an annual basis, to the following airtime:

a) Ten minutes per each party represented in the Assembly of the Republic or in the Legislative Assemblies of the Autonomous Regions plus a further thirty seconds per elected member;

b) Five minutes per each party which, without representation in the Assembly of the Republic or in the Legislative Assemblies of the Autonomous Regions, participated in the most recent legislative elections, plus a further thirty seconds per 15,000 votes obtained in said elections;

c) *[Previous paragraph c) of anterior no. 2.]*

d) *[Previous paragraph d) of anterior no. 2.]*

e) *[Previous paragraph e) of anterior no. 2.]*

4 — In the case of the Autonomous Regions, the right to broadcast time referred to in the previous point is to be exercised by the parties that stood in elections to Regional Legislative Assemblies in programme services specifically aimed at the respective Region.

5 — *(Previous no. 4.)*

6 — *(Previous no. 5.)*

7 — *(Previous no. 6.)*

Article 64

[...]

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6 — The provisions set forth in the previous points shall correspondingly apply, in respect of programme services specifically aimed at the Autonomous Regions, to the

right to political reply of the parties which, while represented in the Regional Legislative Assemblies, do not form part of the respective Regional Governments.

Article 65
[...]

- 1 — Any natural or legal person, organisation, public service or body which is referred to, albeit indirectly, in television programme services or in on-demand audiovisual media services in such a way that their reputation or good name might be affected, is granted a right to reply in the said services.
- 2 — The persons and undertakings referred to in the previous point are entitled to rectification in television programme services and in on-demand audiovisual media services in which false or inaccurate references about them have been made.
- 3 — The right to reply and to rectification will be undermined if, with the express agreement of the concerned party, the broadcaster or on-demand audiovisual media service provider has corrected or clarified the relevant text or image, or has allowed the interested party to present, by other means, the facts or views which it has been claimed give cause to reply and to rectification.
- 4 —

Article 67
[...]

- 1 —
- 2 —
- 3 — The text of the reply or rectification is to be submitted to the broadcaster or on-demand audiovisual media service provider, bearing the signature and identification of the author, via recorded delivery, and expressly invoking the right of reply or rectification or the applicable legal provisions.
- 4 —
- 5 —

Article 68
[...]

- 1 — In the event that a reply or rectification falls outside the legal deadlines, originates from persons without legitimacy, is clearly unsubstantiated or stands contrary to the provisions of nos. 4 and 5 of the previous article, the broadcaster or on-demand audiovisual media service provider may refuse to broadcast it, in which case it shall inform the concerned party in writing as to the refusal and the grounds thereof, within twenty-four hours following receipt of the reply or rectification.
- 2 —
- 3 —
- 4 —
- 5 —
- 6 —

Article 69
[...]

1 — The reply or rectification is to be broadcast within twenty-four hours following delivery of the respective text to the broadcaster or on-demand audiovisual media service provider, except where as provided for under nos. 1 and 2 of the previous article.

2 — Replies and rectifications are to be broadcast free of charge:

a) In television programme services, in the same programme or, where this is not possible, at an equivalent airtime;

b) In on-demand audiovisual media services, in the programme associated, in the catalogue, with the programme to which the reply or rectification refers, with the same prominence and properly identified as a reply or rectification.

3 — Replies or rectifications are:

a) In respect of television programme services, to be broadcast as many times as was broadcast the reference which gave cause thereto;

b) In respect of on-demand audiovisual media services, to remain accessible to the public for as long as the programme that has made the reference which gave cause thereto remains in the catalogue or, irrespective of this fact, for a period of not less than seven days.

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Article 70
[...]

1 — The conditions under which civil liability may be incurred, as resulting from acts committed through television programme services or on-demand audiovisual media services, is to be determined according to general principles.

2 — Broadcasters or on-demand audiovisual media service providers shall be held jointly liable with those responsible for the broadcasting of pre-recorded material, except in respect of material which is broadcast pursuant to the right to free airtime, political reply, reply and rectification or in the course of interviews or debates involving persons who are not contractually bound to the broadcaster or provider.

Article 71

**Crimes committed through television programme
services or on-demand audiovisual media services**

1 — Such acts or behaviours that are damaging or harmful to legally protected interests and which are perpetrated through television programme services or through on-demand audiovisual media services shall be punishable according to general provisions, with the adaptations laid down in the following paragraphs.

2 — Where the law does not provide for an aggravation on account of the means of perpetration, crimes committed through television programme services or through on-demand audiovisual media services which are not foreseen in this law shall be punishable by penalties established in the respective criminal norms, having their maximum and minimum limits increased by the order of one third.

3 —

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6 — Technicians at the service of broadcasters or on-demand audiovisual media service providers will not be held liable for the broadcasts to which they contributed on a professional basis, provided that they may not be held liable for awareness of the criminal nature of their act.

Article 73

[...]

1 — Those responsible for giving guidance to and for the supervision of the content of television broadcasts or responsible for the selection and organisation of the catalogue of on-demand audiovisual media services, or whosoever replaces them, commits a crime of qualified disobedience when, in order to prevent the intended purposes:

a)

b)

c)

d) They fail to comply with a decision to suspend a broadcast or repeated broadcast of television programme services, the offer of on-demand audiovisual media services or the respective programmes.

2 —

Article 74

[...]

1 — Whosoever prevents or prejudices the broadcasting of television programme services or the offer of on-demand audiovisual media services, or seizes or damages the material that is necessary for the pursuit of television activity, except where as provided for under the law, with the purpose of undermining the freedom of programming and information, is to be punished with imprisonment for a period of up to 2 years or with a fine of up to 240 days where no heavier penalty is provided for under penal law.

2 —

3 —

Article 75

[...]

1 — The following are punishable with a fine of between € 7500 to € 37 500:

a) Failure to comply with the provisions of article 4-A, of no. 3 of article 19, of the first part of no. 4 of article 27, of articles 29 and 42, of no. 5 of article 44, of articles 45 and 46, of no. 6 of article 40-B, of no. 2 of article 41-B, of no. 2 of article 41-C and of article 58;

b)

c)

2 — In the case of programme services of local coverage, the minimum and maximum of the offences foreseen in the previous point are reduced to one third.

3 — Negligence is punishable with the minimum and maximum limits of the fines under the previous point reduced by 50%.

Article 76

[...]

1 — The following are punishable with a fine of between € 20,000 to € 150,000:

a) Failure to comply with the provisions of nos. 1, 6, 8 and 9 of article 25, the second part of no. 4 and of no. 8 of article 27, of no. 1 of article 30, of no. 5 of article 32, of nos. 4 and 5 of article 33, of no. 3 of article 34, of articles 35, 36, 37, 40 and 40-A, of nos. 1 to 5 of article 40-B, of articles 41 and 41-A, of nos. 1 and 3 of article 41-B, of nos. 1 and 3 of article 41-C, of nos. 2 and 3 of article 41-D, of article 43, of nos. 1 to 3 of article 44, of article 49, of no. 4 of article 59, of nos. 1 and 4 of article 61, of nos. 2 and 3 of article 64, of article 69 and of no. 1 of article 92;

b)

c)

d) Failure to comply with the conditions governing the inclusion of the functions that allow passage into the interactive environment which contains advertising as provided for in no. 1 of Article 41-D.

2 — In the case of programme services of local coverage, the minimum and maximum limits of the offences foreseen in the previous point are reduced to one third.

3 — Negligence is punishable with the minimum and maximum limits of the fines under the previous point reduced by 50%.

Article 77

[...]

1 — The following are punishable with a fine of € 75,000 to € 375,000 and suspension of the license or authorisation of the programme service or of broadcasting of the programme through which the offence is committed, for a period of 1 to 10 days, according to the severity of the offence:

a) Failure to comply with the provisions of nos. 1 to 3 of article 4, nos. 3 and 4 of article 4-B and no. 2 of article 7, of articles 11 and 12, of no. 1 of article 21 and nos. 2 and 3 of

articles 25 and 27, of article 31, of nos. 2 and 6 of article 32, nos. 1 and 3 of article 33, no. 1 of article 39 and no. 2 of article 60;

- b)
- c)
- d)
- e)

2 —

3 — In the case of programme services of local coverage, the minimum and maximum of the administrative offences foreseen in the previous point is reduced to one third.

4 — Negligence is punishable with the minimum and maximum limits of the fines under the previous point reduced by 50%.

Article 78

[...]

1 — The broadcaster or provider through whose television programme services or audiovisual media service the administrative offence is committed will be held liable for the breaches foreseen in the previous articles, except in respect of any breach of no. 2 of article 60, in which case the holder of the right to free airtime is held liable.

2 —

Article 86

Limitations on the re-broadcasting of television programme services

1 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may suspend the re-broadcasting of television programme services or of the respective programmes:

a) In the case of television programme services, provided via free-to-air non-conditional access or via subscription-based non-conditional access, where these cause obvious and serious harm to the free personality development of children and adolescents, including the broadcasting of programmes containing scenes of pornography or gratuitous violence; or

b) Regardless of the type of programme service, where these incite hatred, racism or xenophobia; and where the broadcaster has committed a similar breach at least twice during the preceding 12-month period.

2 —

3 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall notify the member of Government responsible for the media as to the requests and notifications it makes under the terms of the previous point.

Article 87

[...]

Proceedings for criminal offences which are committed through television programme services will be governed by the provisions of the Penal Procedure Code and complementary legislation, with the specificities resulting from the present law.

Article 91
[...]

1 — Where so requested by the Ministério Público (Public Prosecution Service) or by an injured party, and following a judicial ruling, the operative part of final judgments in respect of crimes committed through television programme services or through on-demand audiovisual media services, as well as identification of the parties concerned, is to be broadcast by the respective broadcaster or provider.

2 — A defendant in criminal proceedings reported via television programme services who is subsequently acquitted in a final judgement may make a request to the court that the findings of the judgement are also reported by the broadcaster, in the same television programme service and with an equivalent schedule, duration and prominence.

3 — In the case of on-demand audiovisual media services, the situation described in the previous point, *mutatis mutandis*, is made subject to the provisions of paragraph b) nos. 2 and 3 of article 69, in respect of transmission of the reply or rectification.

4 — Broadcast of the operative part of judgments referred to in previous points is to be undertaken in such a manner as to safeguard the rights of third parties.

Article 92
[...]

1 —

2 — The legal deposit referred to in the previous point will be governed by a specific statutory instrument, which will safeguard the interests of authors, producers and operators.

3 — »

Article 3
Addition to Law no. 27/2007, of 30 July

Articles 1-A, 4-A, 4-B, 40-A, 40-B, 40-C, 41-A, 41-B, 41-C, 41-D, 77-A, 86-A and 86-B are added to Law no. 27/2007, of 30 July, with the following wording:

«Article 1-A
Applicable regimes

1 — The rules relating to information society services and to e-commerce specified in Decree-Law no. 7/2004, of 7 January, altered by Decree-Law no. 62/2009, of 10 March also apply to on-demand audiovisual media services, as appropriate, provided that they do not counter the provisions established in this law.

2 — Without prejudice to the provisions established in this law, the provisions established in the Advertising Code, approved by Decree-Law no. 330/90, of 23 October, and complementary legislation, as well in Law no. 37/2007, of 14 August, and

Decree-Law no. 176/2006, of 30 August also apply to audiovisual commercial communications, with the necessary adaptations.

Article 4-A **Identification Obligations**

1 — Broadcasters, distributors and on-demand audiovisual media service providers are obliged to make easily, directly and permanently accessible:

- a) Their respective names or company names;
- b) The name of the director or head of each service, when applicable;
- c) The geographical address at which the undertaking is established;
- d) Its contact details, specifically its telephone, postal and electronic contacts;
- e) The identification and contacts of the competent regulatory authorities.

2 — In the case of television programme services it is also obligatory to provide permanently, except during advertising breaks, a visual element that enables identification of each service, wherein the information specified in the previous point shall be disclosed:

- a) In the respective website, whose address shall be disseminated at the beginning and end of every news service or, when the television programme service doesn't include informational programming during its respective broadcasts, at least once every four hours;
- b) If they exist, and to the extent that this is viable, in the complementary services, such as the teletext pages and electronic programming guides.

3 — For on-demand audiovisual media services, the information specified in no. 1 shall be disclosed in the electronic pages that permit access to the respective programmes.

4 — On-demand audiovisual media service providers are obliged to communicate to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), by electronic means, at the beginning and end of the activity of each of their services, the elements specified in paragraphs a) to d) of no. 1 and the respective updates.

5 — The communications specified in the previous point shall be made within the 10 working days after occurrence of the fact that justify such communications and are not subject to any taxes or fees.

Article 4-B **Competition, non-concentration and pluralism**

1 — Broadcasters shall be subject to the general scheme for the protection and promotion of competition.

2 — Concentration operations between broadcasters subject to intervention by the Competition Authority shall be submitted for a prior opinion from the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), which is

only binding if there is a well-founded risk to both the freedom of expression and the presentation of different opinions.

3 — No natural or legal person may hold, directly or indirectly, specifically via a controlling relationship, a number of licenses for television programme services provided via free-to-air non-conditional access of national scope that is equal to, or higher than, 50 % of the total number of licenses granted to comparable television programme services in the same coverage area.

4 — The practice of legal acts which involve the alteration of the control of operators pursuing the television activity via a license may only occur three years after the original granting of the license, two years after modification of the approved project or one year after the last renewal and is subject to authorisation from the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).

5 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall decide thereof, after hearing the interested parties, within a maximum of 30 working days, after verification and careful consideration of the initial conditions underpinning the granting of the qualifying document and the interests of the potential audience of the supplied television programme services, while guaranteeing that the conditions which made it possible to decide in favour of the original project, or the subsequent alterations, are upheld.

6 — The provisions established in the previous points apply, with the necessary adaptations, to legal persons other than companies, specifically associations, cooperatives or foundations that pursue television activity, wherein the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), should foster the respective alterations to the qualifying document for pursuit of the activity, if it considers that the pre-requisites for implementation have been met.

Article 40-A

Identification and separation

1 — Television advertising and teleshopping shall be readily identifiable as such and clearly distinguished from other programming.

2 — The distinction required under the previous point is to be achieved:

a) Between programmes and during programme breaks, through the insertion of optical and acoustic separators at the beginning and end of each break, which separator at the beginning of each break is to contain, in a manner that is perceptible to viewers and as appropriate, the word 'Publicidade' (Advertising) or 'Televenda' (Teleshopping);

b) With use of a split screen, by demarcating an area on the screen, never more than a quarter part thereof, clearly separated from the remaining area and identified in a manner that is perceptible to viewers, containing the word 'Publicidade' (Advertising).

Article 40-B

Insertion

1 — Television advertising and teleshopping may be inserted provided that such insertions do not prejudice the integrity of the programmes, are in keeping with the

natural breaks of programmes as well as their duration and nature, and provided that they do not infringe the rights of any holders:

- a) Between programmes and in programme breaks;
- b) Using the full screen or part thereof.

2 — Insertion of television advertising and teleshopping entailing an increase in sound volume compared to that applied to remaining programming is prohibited.

3 — The following are prohibited:

- a) Teleshopping using a split screen;
- b) Teleshopping during children's programmes and during the fifteen-minute periods immediately preceding and following the broadcasting of children's programmes;
- c) Split-screen television advertising during news programmes and political information programmes, children's programmes and programmes providing broadcast of religious services;
- d) Split-screen television advertising during the broadcasting of creative works and during debate or interview programmes.

4 — The transmission of news, political information programmes, cinematographic works and films made for television, excluding series, serials and documentaries may be interrupted by television advertising and/or teleshopping once for each programming period of at least 30 minutes.

5 — The transmission of children's programmes may be interrupted by television advertising once for each programming period of at least thirty minutes provided that the scheduled duration of the programme exceeds thirty minutes.

6 — Broadcasting of religious services may not be interrupted by the insertion of television advertising and/or teleshopping.

7 — Isolated messages of television advertising and teleshopping, except where presented in the transmission of sports events, may not be inserted other than in exceptional circumstances.

Article 40-C

Telepromotion

1 — Telepromotion is only admissible in light entertainment programmes which have the nature of competitions or similar.

2 — Viewers are to be informed of the existence of telepromotion at the beginning and end of programmes that make use of this form of advertising.

3 — Telepromotion is to be immediately preceded by an optical or acoustic separator and accompanied by a symbol which signals its commercial nature.

Article 41-A

Product placement and production aid

- 1 — Product placement is only permitted in cinematographic works, films and series, made for television programme services or on-demand audiovisual media services, sports programmes and light entertainment programmes.
- 2 — Product placement in children's programmes is prohibited.
- 3 — The content of programmes which contain product placement and, in the case of television programme services, their scheduling, shall not be influenced in any such way as impacts their responsibility and editorial independence.
- 4 — Programmes which contain product placement shall not directly encourage the purchase or rental of products or services, in particular by making special promotional references to such products or services.
- 5 — Product placement shall not give undue prominence to products, services or trademarks, specifically where the reference made is not justified on editorial grounds or where such reference is likely to mislead the public with respect to their nature, or by the recurrent form in which such items are presented or shown.
- 6 — When produced or commissioned by the broadcaster, by the on-demand audiovisual media service provider or by an affiliate thereof, programmes containing product placement shall be appropriately identified at the start and the end of the programme, and when a programme resumes after an advertising break.
- 7 — Production aid may be provided to any programme when the products or services used are of no significant commercial value, subject to the provisions of nos. 3 and 6.
- 8 — The presentation, during the exhibition of children's programmes, of any type of commercial messages which may impair the physical and mental development of minors is prohibited, wherein such commercial messages include those related to food and beverages containing nutrients and substances with a nutritional or physiological effect, excessive intakes of which in the diet are not recommended.
- 9 — The use of production aid, where the goods or services used have significant commercial value, is subject to the rules governing product placement, including those rules referring to administrative offences.
- 10 — Significant commercial value is to be determined by agreement made between the broadcasters and the on-demand audiovisual media service providers, wherein this agreement shall be subject to ratification by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).
- 11 — In the event that there is no agreement, as referred to in the previous point, or where there is a lack of subscription to such an agreement, significant commercial value will be determined by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), following a prior hearing with the sector's broadcasters and operators, and shall, in any event, be based on the commercial value of products or services involved and the publicity value corresponding to the duration of broadcasting during which the product or service is commercially identifiable, in particular through display of the brand, in addition to the time given to its identification immediately preceding or subsequent to the programme, according to the highest television advertising tariff applying on the date on which the programme is first broadcast or is first made available on demand.

Article 41-B

Virtual audiovisual commercial communications

1 — Virtual audiovisual commercial communications may not be inserted except where audiovisual commercial communications previously existed and provided that they are not given greater prominence and that agreement is obtained from the organisers of the broadcast event and from the holders of broadcasting rights.

2 — Consumers are to be informed regarding the inclusion of virtual audiovisual commercial communications, at the beginning and end of each programme where these occur.

3 — The inclusion of virtual audiovisual commercial communications in creative works, as defined in paragraph h) of no. 1 of article 2, and in debate or interview programmes is prohibited.

Article 41-C

Airtime

There is no limitation on the amount of airtime, within television programme services or on-demand audiovisual media services, given to the identification of sponsorship, product placement and production aid, or to the dissemination of messages that relate to public services or public interest purposes and humanitarian appeals which are broadcast free of charge.

Article 41-D

Interactivity

1 — Advertising inserted into television programme services or on-demand audiovisual media services may include features which enable passage into an interactive environment that contains advertising.

2 — Such interactive features, as referred to in the previous point, are prohibited during children's programmes and during the five-minute periods immediately preceding and subsequent to the broadcasting of children's programmes.

3 — The transition to the interactive environment that contains advertising is to be preceded by a notice on an intervening screen that contains clear information on the destination of this transition and allows easy return to the linear environment.

4 — The provision in television programme services of the features described in the previous point is subject to the general rules governing advertising and in particular to those rules which stipulate restrictions on the subject and content thereof.

Article 77-A

Administrative offences committed by on-demand audiovisual media services

1 — When the administrative offences referred to in articles 75, 76 and 77 are committed through on-demand audiovisual media services, the minimum and maximum limits of the respective fines are reduced to one quarter.

2 — The act of committing an administrative offence under article 77 through on-demand audiovisual media services may give rise to the suspension of the on-demand audiovisual media service or of the programme in which the offence was committed, in accordance with the severity of the offence, for a period of 1 to 10 days.

Article 86-A
Delocalisation of broadcasting

1 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may take appropriate measures as are necessary and proportionate to achieve cessation of offences committed through programme services provided by broadcasters under the jurisdiction of another Member State, if it is satisfied that such services are wholly or mainly targeted at the Portuguese territory and that the operators thereof have established themselves in another Member State in order to circumvent the stricter rules to which they would be subject under the jurisdiction of the Portuguese State.

2 — The measures referred to above may be adopted only when, after having made a detailed request to the competent Member State that it put an end to the infringing action, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media):

- a) Has not, within a period of two months, been informed by the Member State concerned as to the results obtained, or where it deems such results to be unsatisfactory; and
- b) It has subsequently given notice, on a well-substantiated basis, to the European Commission and to the Member State concerned of its intention to take such measures and the Commission does not lodge opposition to the decision within the subsequent three month period.

3 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) will provide procedures that ensure reciprocity in exercise of the option referred to in no. 1 by other Member States in respect of television programme services of broadcasters under the jurisdiction of the Portuguese State.

4 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall notify the member of Government responsible for the media as to any requests and notifications it executes pursuant to no. 2, and as to any requests and notifications it receives in respect of situations foreseen in the previous point.

Article 86-B
Limitations on the provision of on-demand audiovisual media services

1 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may, insofar as is proportionate to its regulatory objectives, impede the provision of programmes included in catalogues of on-demand audiovisual media services which breach the provisions of nos. 2 and 10 of article 27.

2 — In the case of on-demand audiovisual media services originating from other Member States of the European Union, the measure referred to in the previous point is to be preceded by:

- a) A request to the Member State where the service provider has its origin that it put an end to the situation; or

b) In the event that this has not been undertaken or in the event that the steps taken prove to be inadequate, notification to the European Commission and the Member State of origin as to its intention to take restrictive measures.

3 — In urgent cases, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may take restrictive measures without previously giving notification to the Commission and to other Member States of origin in accordance with the previous point.

4 — In the case foreseen in the previous point, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall notify the Commission and the Member State to whose jurisdiction the on-demand audiovisual media service provider is subject as to the restrictive measures, doing so without delay and indicating the grounds for its determination of the case as urgent.

5 — The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall notify the member of Government responsible for the media as to any requests and notifications it executes pursuant to no. 2, and as to any requests and notifications it receives in respect of situations foreseen in the previous point.»

Article 4

Alteration to Law no. 8/2007, of 14 February

Articles 22, 23 and 27 of the Statutes of Rádio e Televisão de Portugal, S. A., approved by Law no. 8/2007, of 14 February, shall have the following wording:

«Article 22 [...]

1 —

a)

b)

c)

d)

e) Issue an opinion on legislative initiatives concerning the public radio and television service;

f) *[Previous paragraph e).]*

g) Issue an opinion, after hearing by the Board of Directors of Rádio e Televisão de Portugal, S. A., on the creation of any entities whose purpose is to monitor the activity of the public radio or television service;

h) *[Previous paragraph f).]*

i) *[Previous paragraph g).]*

j) *[Previous paragraph h).]*

2 —

Article 23

[...]

1 — *(Previous text of article.)*

2 — The absences of the members of the board of opinion shall be justified before the board's chairman within eight days after their occurrence or at the end of the force majeure incident that caused them.

3 — If a member fails to attend three meetings of the board of opinion without providing a due justification he or she shall forfeit their mandate.

4 — The absence of due justifications for absences must be ratified in a plenary session of the board when it is likely to involve the loss of mandate.

5 — In the event of the loss of the term of office of one of its members, the chairman of the board of opinion shall notify the entity responsible for his or her election or designation, to appoint and communicate his or her replacement, within a maximum of 30 days.

Article 27

[...]

1 —

2 —

3 —

4 — The annual reports of the radio listeners' ombudsman and television viewers' ombudsman shall be sent to the board opinion and to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) up until 31 January of each year and shall be annually disclosed by the concessionaires of the public radio and television service through their website or any other convenient means.»

Article 5

Alteration to the Advertising Code

Article 8 of the Advertising Code, approved by Decree-Law no. 330/90, of 23 October, and altered by Decree-Law no. 74/93, of 10 March, Decree-Law no. 6/95, of 17 January, and Decree-Law no. 61/97, of 25 March, by Law no. 31-A/98, of 14 July, by Decree-Law nos. 275/98, of 9 September, Decree-Law no. 51/2001, of 15 February, and Decree-Law no. 332/2001, of 24 December, by Law no. 32/2003, of 22 August, by Decree-Law no. 224/2004, of 4 December, by Law no. 37/2007, of 14 August, and by Decree-Law no. 57/2008, of 26 March shall have the following wording:

«Article 8

[...]

1 —

2 —

3 — The separator referred to in the preceding paragraph is constituted, on the radio, by acoustic signals.»

Article 6

Systematic alterations

1 — The title of Law no. 27/2007, of 30 July, is altered and shall have the designation «Television and On-demand Audiovisual Media Services Law».

2 — Chapter II of Law no. 27/2007, of 30 July, shall have the heading «Access to television activity».

3 — Section III of chapter IV da Law no. 27/2007, of 30 July, shall have the heading «Audiovisual commercial communications».

4 — The following subsections shall be added to section III of chapter IV of Law no. 27/2007, of 30 July:

a) Subsection I, with the heading «Television advertising and teleshopping», that includes articles 40 to 40-C;

b) Subsection II, with the heading «Other forms of audiovisual commercial communication», that includes articles 41 to 41-D.

5 — Chapter V of Law no. 27/2007, of 30 July, shall have the heading «Public service».

Article 7

Application of the law in time

The provisions of article 41-A da Law no. 27/2007, of 30 July, in the wording given to it by this law, only apply to programmes produced after 19 December, 2009.

Article 8

Revocatory norm

The following are revoked:

a) No. 2 of article 2, articles 85 and 89 and no. 2 of article 98 of Law no. 27/2007, of 30 July;

b) Nos. 1 to 4 of article 24 and articles 25 and 25-A of the Advertising Code, approved by Decreto –Law no. 330/90, of 23 October.

Article 9

Transitory norm

The rules on non-concentration stipulated in Law no. 27/2007, of 30 July, as amended by this law, shall be reassessed by the Assembly of the Republic following the termination of analogue broadcasting and in accordance with the plan for development of digital terrestrial television.

Article 10

Republication

Law no. 27/2007, of 30 July, with its current wording, is republished, as an annex to this law, of which it forms an integral part

Article 11
Entry into force

1 — This law shall enter into force 30 days after its publication.

2 — The wording given to paragraphs *h)*, *i)* and *p)* of no. 1 of article 2 and to articles 44 e 46 da Law no. 27/2007, of 30 July, shall only take effect on 1 January 2012.

Approved on 4 February 2011.

President of the Assembly of the Republic, *Jaime Gama*.

Proclaimed on 18 March 2011.

Let this be published.

President of the República, ANÍBAL CAVACO SILVA.

Countersigned on 23 March 2011.

Prime-Minister, *José Sócrates Carvalho Pinto de Sousa*.

ANNEX

Law no. 27/2007, of 30 July
(Television and On-demand Audiovisual Media Services Law)

CHAPTER I
General provisions

Article 1
Object

The object of this law is to regulate access to television activity and pursuit thereof, as well as provision of on-demand audiovisual media services to the public, transposing Council Directive no. 89/552/EEC, of 3 October, as amended by Directive no. 97/36/EC, of the Parliament and Council, of 30 June, and Directive no. 2007/65/EC, of the Parliament and Council, of 11 December, into Portuguese legislation.

Article 1-A

Applicable regimes

1 – The rules relating to information society services and to e-commerce specified in Decree-Law no. 7/2004, of 7 January, altered by Decree-Law no. 62/2009, of 10 March also apply to on-demand audiovisual media services, as appropriate, provided that they do not counter the provisions established in this law.

2 - Without prejudice to the provisions established in this law, the provisions established in the Advertising Code, approved by Decree-Law no. 330/90, of 23 October, and complementary legislation, as well in Law no. 37/2007, of 14 August, and Decree-Law no. 176/2006, of 30 August also apply to audiovisual commercial communications, with the necessary adaptations.

Article 2

Definitions

1 - For the purposes of this law, the following definitions apply:

- a) «Television activity» means the activity consisting of the organization, or selection and aggregation of television programme services, for the purpose of their transmission and reception by the general public;
- b) «Production aid» means an audiovisual commercial communication consisting of the inclusion of or reference to a specific product or service within a programme, provided free of charge;
- c) «Self-promotion» means an audiovisual commercial communication broadcast by a broadcaster or on-demand audiovisual media service provider relating to their own products and services, including television programme services, on-demand audiovisual media services, directly associated programmes and products, as well as audiovisual and cinematographic works in which the broadcaster has participated financially;
- d) «Product placement» means an audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof, within a programme, in return for payment or for similar consideration;
- e) «Audiovisual commercial communication» means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity, including but not limited to television advertising, teleshopping, sponsorship, product placement, production aid and self-promotion;
- f) «Virtual audiovisual commercial communication» means an audiovisual commercial communication resulting from the substitution, by electronic means, of other audiovisual commercial communications;
- g) «Control» means the relationship existing between a natural or legal person and a company, through which, regardless of whether its domicile or registered office is in Portugal or abroad, the former is able to exercise, directly or indirectly, a dominant influence over the latter, whereas, control will be deemed to exist in any case when a natural or legal person:
 - i) Holds a majority shareholding or a majority of voting rights;

- ii) Is able to exercise the majority of voting rights under the terms of a shareholders' agreement; or
- iii) Has power to appoint or remove the majority of the members of the management or supervisory boards;
- h) "Creative work" means a cinematographic or audiovisual production based on structured creative elements, including, for the purpose of complying with the percentage limits set out in Section V of chapter IV of this law, fiction and animation feature films and short films, documentaries, telefilms and television series and also, for the same purposes, television reports, educational, musical, artistic and cultural programmes, provided that they are eligible for copyright protection;
- i) «Independent production» means a work produced by an independent producer and which cumulatively satisfies the following requirements:
 - i) Ownership of the rights over the work produced by the independent producer, with clear contractual definition of the type and duration of the broadcasting rights granted to the broadcasters;
 - ii) Work produced with creative autonomy and freedom in the form of development, in particular as regards the choice of studios, actors, media and distribution;
- j) «European work" means a cinematographic or audiovisual production that meets the requirements set out in paragraph n) of article 1 of Council Directive no. 89/552/EEC, of 3 October, altered by the Directive no. 97/36/EC, of the Parliament and Council, of 30 June, and Directive no. 2007/65/EC, of the Parliament and Council, of 11 December;
- l) «Distributor» means the legal person responsible for the selection and aggregation of television programme services as well as for their provision to the public, via electronic communications networks;
- m) «On-demand audiovisual media service provider» means the operator who has responsibility for the selection and organization of the content of the on-demand audiovisual media services in the form of a catalogue;
- n) «Broadcaster» means a legal person legally authorised to pursue television activity, responsible for organizing television programme services;
- o) «Sponsorship» means an audiovisual commercial communication consisting of any contribution made by public or private undertakings or natural persons who are not broadcasters, on-demand audiovisual media service providers or are not engaged in the production of audiovisual works, to the financing of television programme services, on-demand audiovisual media services or their programmes, with a view to promoting their name, trade mark, image, activities or products;
- p) «Independent producer» means the legal person whose principal activity is the production of cinematographic or audiovisual works, provided that the following cumulative requirements are met:
 - i) Direct or indirect shareholding does not exceed 25% when held by a single broadcaster or does not exceed 50% when held by multiple broadcasters;
 - ii) No more than 90% of sales, on an annual basis, are made to the same broadcaster;
- q) «Programme» means a set of moving images with or without sound constituting an individual item within the schedule the programme schedule of a television programme service or a catalogue of an on-demand audiovisual media service;

r) «Television advertising» means any form of audiovisual commercial communication broadcast within television programme services, whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply of goods or services, subject to payment, including immovable property, rights and obligations;

s) "On-demand audiovisual media service" (i.e. a "non-linear audiovisual media service") means the offer to the general public of a catalogue of programmes and of accompanying text content, specifically including subtitling and electronic programming guides which catalogue is selected and organised by a on-demand audiovisual media service provider for viewing by a user, at the moment chosen by him and upon his individual request with use of an electronic communications network within the meaning given by Law no. 5/2004, of 10 February, wherein this concept does not include:

- i) Any form of communication that is private in nature;
- ii) Audiovisual content generated by private users to be shared, preferentially, within groups with common interests;
- iii) Electronic versions of newspapers and magazines and complementary audiovisual content;

t) «Television programme service» means the sequence and uniform set of programming items provided by a broadcaster, organised on the basis of a programme schedule;

u) «Telepromotion» means television advertising inserted during a break within the programme through the announcement of products or services by the respective presenter;

v) «Teleshopping» means an audiovisual commercial communication consisting of direct offers broadcast to the public with a view to the supply of goods or services, in return for payment;

x) «Television» means the transmission, encrypted or unencrypted, of non-permanent images with or without sound over an electronic communications network, intended for simultaneous reception by the general public, wherein this concept does not include:

- i) Communications services to be received only upon individual request;
- ii) The mere retransmission of third party broadcasting;
- iii) The occasional transmission of events, by means of technical devices installed at places where such events take place, and intended for the public gathered therein.

2 - (Revoked.)

Article 3 **Scope of application**

1 - The following are subject to the provisions of the present law:

a) Television programme services transmitted by broadcasters pursuing television activity under the jurisdiction of the Portuguese State;

b) On-demand audiovisual media services made available by providers who undertake the said provision under the jurisdiction of the Portuguese State.

2 - Broadcasters and on-demand audiovisual media service providers are considered as being under the jurisdiction of the Portuguese state when they meet the criteria laid down in article 2 of Council Directive no. 89/552/EEC, of 3 October, altered by Directive no. 97/36/EC, of the Parliament and Council, of 30 June, and Directive no. 2007/65/EC, of the Parliament and Council, of 11 December.

3 - The provisions established in the previous point apply, *mutatis mutandis*, to distributors.

Article 4

Transparency of ownership and management

1 - Shares representing the capital of broadcasters incorporated in the form of a public limited company (*sociedade anónima*) must be registered shares.

2 - The list of the owners and holders of shareholdings in broadcasters, the composition of their administrative and management boards and identification of the person responsible for giving guidance to and undertaking supervision of the content of their broadcasts are to be publicly disclosed on the website of the respective media organisations and are to be updated within seven days of any event occurring whereby:

- a) An owner or holder of the shares attains or exceeds 5 %, 10 %, 20 %, 30 %, 40 % or 50 % of the share capital or voting rights;
- b) An owner or holder of the shares reduces his stake to a value which is less than one of the percentage thresholds indicated in the previous point;
- c) There is a change in the control over the broadcaster;
- d) Any change occurs in the composition of the administrative and management boards or the structure that is responsible for guiding and supervising the content of the broadcasts

3 – The list referred to in the previous paragraph shall contain, with the necessary updates:

- a) The breakdown of the percentage shareholdings held by the respective owners and holders;
- b) Identification of the entire chain of entities controlling a shareholding of at least 5 % in the broadcasters in question; and
- c) Indication of the shareholdings of the said owners and holders in other media organisations.

4 - Where no website is available, this information and the updating thereof, as referred to in nos. 2 and 3 is to be additionally reported by the broadcaster in question to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), which will make this information available to the public.

5 - The provisions established in nos. 2 and 3 apply, *mutatis mutandis*, to legal persons which are not companies but which pursue television activity, specifically including associations, cooperatives or foundations.

Article 4-A

Identification Obligations

1 - Broadcasters, distributors and on-demand audiovisual media service providers are obliged to make easily, directly and permanently accessible:

- a) Their respective names or company names;
- b) The name of the director or head of each service, when applicable;
- c) The geographical address at which the undertaking is established;;
- d) Its contact details, specifically its telephone, postal and electronic contacts;
- e) The identification and contacts of the competent regulatory authorities.

2 - In the case of television programme services it is also obligatory to provide permanently, except during advertising breaks, a visual element that enables identification of each service, wherein the information specified in the previous point shall be disclosed:

- a) In the respective website, whose address shall be disseminated at the beginning and end of every news service or, when the television programme service doesn't include informational programming during its respective broadcasts, at least once every four hours;
- b) If they exist, and to the extent that this is viable, in the complementary services, such as the teletext pages and electronic programming guides.

3 - For on-demand audiovisual media services, the information specified in no. 1 shall be disclosed in the electronic pages that permit access to the respective programmes.

4 - On-demand audiovisual media service providers are obliged to communicate to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), by electronic means, at the beginning and end of the activity of each of their services, the elements specified in paragraphs a) to d) of no. 1 and the respective updates.

5 – The communications specified in the previous point shall be made within the 10 working days after occurrence of the fact that justify such communications and are not subject to any taxes or fees.

Article 4-B

Competition, non-concentration and pluralism

1 - Broadcasters shall be subject to the general scheme for the protection and promotion of competition.

2 - Concentration operations between broadcasters subject to intervention by the Competition Authority shall be submitted for a prior opinion from the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), which is

only binding if there is a well-founded risk to both the freedom of expression and the presentation of different opinions.

3 - No natural or legal person may hold, directly or indirectly, specifically via a controlling relationship, a number of licenses for television programme services provided via free-to-air non-conditional access of national scope that is equal to, or higher than, 50 % of the total number of licenses granted to comparable television programme services in the same coverage area.

4 - The practice of legal acts which involve the alteration of the control of operators pursuing the television activity via a license may only occur three years after the original granting of the license, two years after modification of the approved project or one year after the last renewal and is subject to authorisation from the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).

5 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall decide thereof, after hearing the interested parties, within a maximum of 30 working days, after verification and careful consideration of the initial conditions underpinning the granting of the qualifying document and the interests of the potential audience of the supplied television programme services, while guaranteeing that the conditions which made it possible to decide in favour of the original project, or the subsequent alterations, are upheld.

6 - The provisions established in the previous points apply, with the necessary adaptations, to legal persons other than companies, specifically associations, cooperatives or foundations that pursue television activity, wherein the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), should foster the respective alterations to the qualifying document for pursuit of the activity, if it considers that the pre-requisites for implementation have been met.

Article 5

Public Television Service

1 - The State shall guarantee the existence and operation of a public television service, under the terms of chapter V.

2 – The public television service may include on-demand audiovisual media services or other audiovisual services necessary for pursuit of its goals.

Article 6

Principle of cooperation

1 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) will promote and encourage the adoption of co-regulation, self-regulation and cooperation mechanisms between the various broadcasters and on-demand audiovisual media service providers that make it possible to attain the objectives specified in the next point.

2 - The State, the public service concessionaire and the remaining broadcasters and on-demand audiovisual media service providers shall collaborate together in pursuit of the values of human dignity, the rule of law, democratic society and national cohesion, and in promotion of the Portuguese language and culture, taking into account the special needs of certain categories of viewers.

Article 7

Coverage areas

1 – The coverage area for television programme services may be international, national, regional or local, according to whether they are intended to cover, respectively:

- a) Predominantly the territories of other countries;
- b) Portuguese territory in general, including the Autonomous Regions;
- c) A district or a group of bordering districts or a metropolitan area, in mainland Portugal, or a group of islands in the Autonomous Regions;
- d) A municipality or a group of bordering municipalities and eventual neighbouring areas, in accordance with the technical requirements associated to the necessary coverage of these areas, in mainland Portugal, or an island with various municipalities, in the Autonomous Regions.

2 - The geographic area allocated to each television programme service of national scope is to be covered by the same programme and recommended signal, except where otherwise authorised by determination of the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), and without prejudice to the use of complementary coverage resources, when duly authorised.

3 - The determination referred to in the previous point sets the hourly limit for broadcasting breaks, up to a maximum of two hours per day, which may be extended in exceptional and duly substantiated situations, under the terms provided therein.

4 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) is responsible for providing the classifications specified in this article which shall be established in the license or authorisation document, without prejudice to its subsequent amendment at the request of the interested parties, subject to the binding conditions for pursuit of the activity, under article 21 hereof.

Article 8

Types of television programme services

1 - Television programme services may be generalist or thematic and provided via conditional access or non-conditional access and in the latter case may be either free or subscription-based.

2 - «Generalist» television programme services are deemed to be those that present diversified programming aimed at the general public.

3 - «Thematic» television programme services are deemed to be those that present a programming model focusing predominantly upon specific audio-visual fields or genres, or intended for particular audience segments.

4 - Thematic television programme services destined for self-promotion or teleshopping shall not involve any other conventional programme elements, such as news reports, sports, films, series or documentaries.

5 - Television programme services provided via free-to-air non-conditional access are those provided to the public without any form of compensation and television programme services provided via subscription-based non-conditional access are those provided to the public subject to payment for access to or use of the distribution infrastructure.

6 - Television programme services provided via conditional access are those provided to the public in return for specific payment, excluding the amount due for access to and use of the distribution infrastructure.

7 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) is responsible for providing the classifications specified in this article which shall be established in the license or authorisation document, without prejudice to its subsequent amendment at the request of the interested parties, subject to the binding conditions for pursuit of the activity, under article 21 hereof.

Article 9

Purposes of television activity

1 - The following shall be deemed to be purposes of television activity, according to the nature, subject-matter and coverage area of the television programme services provided:

- a) Contribute towards providing information, education and entertainment for the public;
- b) Foster the exercise of the right to inform others, to inform oneself and to be informed with rigour and independence, without impediments or discrimination;
- c) Promote citizenship and democratic participation and uphold political, social and cultural pluralism;
- d) To disseminate and promote the Portuguese culture and language, Portuguese creators, artists and scientists, and values that express national identity.

2 - The purposes referred to in the previous point shall be taken into consideration in the selection and aggregation of television programme services to be provided to the public by distributors.

Article 10

Technical standards

The technical conditions for pursuit of television activity and the fees to be paid for the allocation of rights or use of the resources required for transmission are defined in applicable legislation in the field of electronic communications.

CHAPTER II

Access to television activity

Article 11

Broadcasters' requirements

1 - Television activity consisting in the organization of generalist or thematic informational programme services of international, national or regional scope, may be pursued under the terms of this law, by companies or cooperatives whose primary object is the pursuit thereof.

2 - Television activity consisting in the organization of generalist or thematic informational programme services of local scope, may only be pursued under the terms of this law, by companies or cooperatives whose primary object is the pursuit of media activities.

3 - The minimum share capital required from broadcasters, who need to obtain a licence in order to pursue television activity, is:

- a) € 5,000,000, in the case of a broadcaster that supplies generalist television programme services of national or international coverage;
- b) € 1,000,000, in the case of a broadcaster that supplies thematic television programme services of national or international coverage;
- c) € 100,000 or € 50,000, depending upon whether the broadcasters supply television programme services of regional or local coverage, independently of their type.

4 - The minimum share capital required from distributors of conditional access or subscription-based non-conditional access television programme services that use the terrestrial spectrum is:

- a) € 5,000,000, in the case of a network that covers the whole national territory, including the Autonomous Regions;
- b) € 500,000, in the case of a network that covers a group of districts in the mainland or a group of islands in the Autonomous Regions, or an island with several municipalities, or a metropolitan area;
- c) € 100,000, in the case of a network that covers a municipality or a group of neighbouring municipalities.

5 - The provisions established in nos. 1 and 2 do not apply to broadcasters who only operate educational, cultural and scientific television programme services, on a non-profit basis, which may take the form of an association or foundation.

6 – Broadcasters' share capital shall be fully paid up within 30 days after notification of the decisions referred to in article 18, on penalty of expiry of the license or authorisation.

Article 12 **Restrictions**

1 - Television activity may not be pursued or financed, directly or indirectly, by political parties or political associations, trade unions, employer and professional associations and public professional associations, except where such activity is operated exclusively via the Internet or via conditional access channels and consists of the organisation of programme services of a doctrinal, scientific or institutional nature.

2 - Without prejudice to the provisions established in article 5, television activity may not be pursued by the State, Autonomous Regions, local authorities or their associations, directly or via state or regional public companies, municipal, metropolitan or inter-municipal companies, except where such activity is operated exclusively over the Internet and where it consists of the organisation of programme services of a scientific or institutional nature.

Article 13 **Modalities of access**

1 - Television activity may only be pursued subject to issue of a licence, by means of public tender, to be launched by a decision of the Government, where use of the terrestrial spectrum intended for broadcasting purposes is made, under the terms specified in the National Frequency Allocation Plan, and where it consists of:

- a) The organization of television programme services provided via free-to-air non-conditional access;
- b) The selection and aggregation of television programme services provided via conditional access or subscription-based non-conditional access.

2 – In the case of television programme services provided via free-to-air non-conditional access, licenses shall be granted on an individual basis, according to the number of television programme services provided by each broadcaster.

3 - In the case of television programme services provided via conditional access or subscription-based non-conditional access, two qualifying documents shall be granted in the scope of the same tender, one of which confers rights of use for the respective radio frequencies or groups of frequencies, and the other conferring rights of use for selection and aggregation of television programme services to be provided by a distributor.

4 - Television activity shall be conditional upon issue of an authorisation, at the request of the interested parties, where it consists of the organization of television programme services which:

- a) Do not use the terrestrial spectrum intended for broadcast purposes, under the terms specified in the National Frequency Allocation Plan;
- b) Are intended to be included within the offer of a distributor who holds a prior license to pursue television activity, under the terms of paragraph b) of no. 1.

5 - Authorisations shall be granted on an individual basis, according to the number of television programme services under the jurisdiction of the Portuguese State provided by each broadcaster.

6 - The previous points shall not apply to the public television service, pursuant to chapter V.

7 - Licenses and authorisations for television activity shall not be transferable.

8 - Television activity shall be subject to registration, pursuant to article 19, when it consists of the broadcasting of television programme services exclusively via the Internet, which are not retransmitted via other networks.

Article 14

Frequency planning

Planning of the radio spectrum for pursuit of television activity is the responsibility of the national communications regulatory authority, after consulting the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).

Article 15

Public tender for television programme services provided via free-to-air non-conditional access

1 - Without prejudice to procedures necessary for allocation of rights of use for frequencies, incumbent upon the national communications regulatory authority, pursuant to Law no. 5/2004, of 10 February, the public tender to grant a license for pursuit of television activity consisting in the organisation of television programme services provided via free-to-air non-conditional access shall be launched by an administrative rule issued by the member of Government responsible for the media, which shall include the respective object and regulations.

2 – The requirements on the coverage area, types of programme services and the number of hours of the respective broadcasts shall be expressly stipulated in the regulations, taking into consideration the public interest that such requirements aim to uphold.

3 - The regulations shall identify the conditions under which applications are eligible, as well as documents to be attached, in order to make it possible to appraise the compliance of the applicants and projects with legal and regulatory requirements, specifically:

- a) Broadcasters' requirements and restrictions on pursuit of the activity;
- b) Rules on concentration of media ownership;
- c) Correspondence between projects and the object of the tender;
- d) Economic and financial feasibility of the projects;
- e) Coverage obligations and the respective scheduling;

f) Sufficiency and quality of the human and technical resources to be assigned;
g) Proof of compliance with tax and social security obligations, wherein presentation of the respective certificate may be waived, pursuant to Decree-Law no. 114/2007, of 19 April.

4 - For the purpose of ranking the applications submitted to the tender, and where general television programme services of a national scope are concerned, the following criteria shall also be taken into account:

- a) The contribution of each of these projects towards improvement of the television offer in the area to be covered, which shall be appraised in function of the guarantees of protection of pluralism and independence before political and economic powers, the emphasis granted to information and safeguarding journalists' constitutionally-consecrated rights, the coherence of the general programming guidelines with the respective editorial status and the tailoring of the projects to the social and cultural universes they are aimed at;
- b) The contribution of each of these projects towards the diversification of the television offer in the area to be covered, which shall be appraised on the basis of their originality, investment in innovation and creativity, and the guarantee of rights of access for minorities and under-represented tendencies;
- c) The contribution of each of these projects towards the dissemination of independent creative European and original Portuguese language works;
- d) Compliance with legal rules and with commitments assumed during prior pursuit of the licensed television activity;
- e) General guidelines of the human resources policy, specifically as regards recruitment, training and professional qualification plans.

5 – For the purposes of ranking applications submitted to tender, and where thematic television programme services of a regional or local scope are concerned, the criteria laid down in the previous paragraph shall be taken into account, where applicable.

6 - The regulations shall develop ranking criteria for the tender applications specified in nos. 4 and 5, and assign a relative weight thereto.

7 - The regulations shall specify the amount of the bond and the respective regime for releasing this bond, according to principles of appropriateness and proportionality relatively to compliance with the obligations that are aimed to be safeguarded, taking into account the types and territorial scope of the television programme services to be licensed.

8 – The tender specifications, which shall include obligations and conditions for pursuit of the activity, shall be available from the date of publication of the administrative rule opening the tender, until the date and time of the corresponding public act of tender, under the terms defined therein.

9 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) must provide a prior opinion on the object of the tender, respective regulations and specifications, within 20 working days from reception thereof.

10 – After expiry of the deadline specified in the previous point, the draft regulations will be submitted for public comments, for a 30-day period, and will be published for this purpose in the 2nd series of the Diário da República (Official Gazette) and in the website of the incumbent government department.

Article 16

Public tender for television programme services provided via conditional access and subscription-based non-conditional access

1 - The public tender for allocation of rights of use for frequencies and of licenses for pursuit of television activity that consists of the selection and aggregation of television programme services provided via conditional access or subscription-based non-conditional access, shall be launched by a joint administrative rule of the members of the Government responsible for the media and for electronic communications, which shall include the respective object and regulations.

2 - The requirements in terms of the coverage area and types of television programme services to be provided will be expressly substantiated in the text of the regulations, taking into consideration the principles of optimal radio spectrum management and the public interest that such requirements aim to protect.

3 - The regulations shall identify the conditions under which applications may be admitted, as well as documents to be attached, which shall focus specifically on the economic and financial feasibility of the projects, coverage obligations and the respective scheduling, correspondence between the applicants and projects and the object of the tender and the sector's legal requirements, wherein applicants who fail to comply with their tax or social security obligations will not be admitted to the tender.

4 – The ranking criteria for the applications to the tender, to be weighted jointly, in accordance with their respective competencies, by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) and by the national communications regulatory authority, are as follows:

- a) Economic and financial costs of the projects;
- b) The projects' contribution towards development of the information society, improvement of the television offer, the production of European works, and the dissemination of Portuguese-language original creative works.

5 - The regulation shall develop ranking criteria for the tender applications and assign a relative weight thereto.

6 - The regulations shall specify the amount of the bond and the respective regime for releasing this bond, according to principles of appropriateness and proportionality relatively to compliance with the obligations that are aimed to be safeguarded.

7 - The tender specifications, which shall include obligations and conditions for pursuit of the activity, shall be available from the date of publication of the administrative rule opening the tender, until the date and time of the corresponding public act of tender, under the terms defined therein.

8 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) and the national communications regulatory authority must provide a prior opinion on the object of the tender, respective regulations and specifications, within 20 working days from reception thereof.

9 - After expiry of the deadline specified in the previous point, the draft regulations will be submitted for public comments, for a 30-day period, and will be published for this purpose in the 2nd series of the Diário da República (Official Gazette) and in the websites of the incumbent government departments.

Article 17

Drawing up the processes

1 – The licensing or authorisation processes referred to paragraph a) of no. 1 and in no. 4 of article 13 are drawn up by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), which shall obtain, for this purpose, an opinion from the national communications regulatory authority on the technical conditions of the applications.

2 - The licensing processes specified in paragraph b) of no. 1 of article 13 are drawn up by the national communications regulatory authority.

3 - In the processes referred to in the previous point, the national communications regulatory authority shall make available for inspection by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) compliance with the eligibility conditions of applications for which the latter is competent.

4 - Authorisation applications shall be accompanied by documentation to be defined by an administrative rule to be approved by the member of the Government responsible for the media.

5 - The Regulatory Authority responsible for drawing up the processes shall notify the applicants, within 15 days from reception of the applications, of any insufficiencies observed therein, which shall be corrected within the following 15 days.

6 - Applications which fail to meet the conditions of eligibility laid down in the administrative rule by which the tender is opened will be rejected by the competent regulatory authority, via a well substantiated decision.

7 - Applications deemed eligible by the competent Regulatory Authority after any insufficiencies have been corrected, shall be subject to a decision to grant or reject

qualifying documents requested within 90 days, where a licensing application is concerned, or 30 days, where an authorisation application is concerned.

Article 18

Granting of licenses or authorisations

1 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) is responsible for granting, renewing, altering or revoking licenses or authorisations for television activity.

2 – In order to obtain a license for television activity that consists of the provision of general television programme services of a national scope, an essential pre-requisite is the coverage of the entire national territory, including the Autonomous Regions.

3 - The decisions to grant or reject applications shall be duly reasoned by reference to compliance with the eligibility conditions and each of the ranking criteria referred to in articles 15 and 16, as well as to issues raised in a hearing with the interested parties

4 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) can only reject an authorisation application when the following reasons are concerned:

- a) Compliance of the broadcasters and the respective projects with the applicable legal obligations;
- b) The applicant's compliance with its tax and social security obligations;
- c) The technical quality of the submitted project.

5 - The qualifying documents for television activity shall list the binding obligations and conditions that fall upon television programme services, the classifications of the television programme services and also the obligations and scheduling of the respective coverage.

6 - The decisions referred to in no. 3 shall be notified to interested parties, published in the 2nd series of the Diário da República (Official Gazette) and disclosed in the website of the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), accompanied by the qualifying documents that state the purposes and obligations which the licensed or authorized broadcasters must comply with.

7 - It is incumbent upon the national communications regulatory authority to grant, renew, alter or repeal the qualifying document that allocates rights of use for radio frequencies or groups of frequencies intended for the provision of television programme services via non-conditional access (free-to-air and subscription-based) or conditional access, pursuant to Law no. 5/2004, of 10 February, without prejudice to the licensing regime established herein.

Article 19

Registration of operators

1 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) is responsible for registration of broadcasters and distributors and the respective television programme services, in order to make public their ownership structure, organization, operation and obligations, and protect their corporate designation.

2 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall officially undertake the registrations and notes that result from its licensing and authorisation activity.

3 - Broadcasters and distributors are obliged to communicate to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) the elements that are necessary for the purposes of registration, and update them, as defined in a regulatory decree.

4 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may, at any time, carry out audits in order to monitor and control the elements supplied by the broadcasters and distributors.

Article 20

Commencement of broadcasting

Broadcasters shall commence broadcasting of the authorised or licensed television programme services within 12 months from the date of the final decision assigning the corresponding qualifying document.

Article 21

Compliance with the approved project

1 - Pursuit of television activity is subject to compliance by the broadcaster with the conditions and terms of the licensed or authorised project, whereas any amendment thereto shall be subject to approval by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), which shall state its position thereon within 90 days.

2 - A modification to the television programme services may only be altered on request, after a period of three years has elapsed since the granting of the respective licence or one year has elapsed since the granting of the respective authorisation.

3 – The modification request must be well substantiated, taking into account, in particular, the essential legal conditions underpinning granting of the licence or authorisation, and also taking into account the development of the market and the implications for the potential audience of the programme service in question.

Article 22

Validity periods of the licenses or authorisations

1 - Licences or authorisations for pursuit of television activity are to be issued for a 15-year period and will be subsequently renewable for equal periods.

2 - Applications to renew licenses or authorisations are to be submitted to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) 240 and 180 days, respectively, before the end of the respective validity periods.

3 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) will decide on the renewal of licenses or authorisations no later than 90 days prior to the expiry of the respective validity period.

4 - When renewing licenses or authorisations, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), will reinforce the obligations to which broadcasters are subject thereunder, in light of evolution in the audiovisual field and in order that such obligations comply with prevailing legal provisions.

5 – Licenses or authorisations will only be renewed if there is recognition of compliance by the respective broadcasters with their binding obligations and conditions.

Article 23

Interim evaluation

1 - At the end of the 5th and 10th year following the granting of licenses and authorisations, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) will prepare and make public, after a hearing with the interested parties, a report assessing compliance with the obligations and conditions to which the broadcasters are subject, and shall issue appropriate recommendations, in conformity with this analysis.

2 - The assessment reports referred to in the previous point, as well as the assessment report on the last five years of the validity period of the licenses and authorisations, are to be taken into account in the decision on their renewal.

Article 24

Extinction and suspension of the licenses or authorisations

1 - The licenses or authorisations shall be expire at the end of their validity period or due to revocation thereof, under the terms of the law.

2 - The licenses and authorisations, as well as the programmes, may be suspended in the cases and under the terms specified in articles 77, 81 and 85

3 - The revocation and suspension of licenses and authorisations are incumbent on the entity responsible for the granting thereof.

CHAPTER III

Distribution of television programme services

Article 25

Distributors

1 - In organising and presenting their respective television offer distributors shall give priority, successively, to television programme services originally produced in the Portuguese language, of generalist content, providing general information, or of a scientific, educational or cultural nature, taking into account the scope of coverage and access conditions.

2 - Operators of electronic communications networks used for television activity are to provide, following a decision issued by the national communications regulatory authority pursuant to points 1 and 2 of article 43 of Law no. 5/2004, of 10 February, the transport of the television programme services specified by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) under the terms of paragraph s) of no. 3 of article 24 of Law no. 53/2005, of 8 November.

3 - For the purposes of the provisions established in the previous point, the broadcasters responsible for organisation of the television programme services referred therein are to provide the respective signal.

4 - The national communications regulatory authority may, under the terms specified in no. 3 of article 43 of Law no. 5/2004, of 10 February, determine appropriate remuneration in respect of the transport obligations so imposed.

5 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may determine, in a proportionate, transparent and non-discriminatory manner, appropriate remuneration in respect of the delivery obligations, under the terms of no. 3.

6 - Operators of electronic communications networks involved in the provision of television programme services and distributors are required to provide network and distribution capacity for regional and local television programme services, as well as for broadcasting of educational or cultural activities, taking into account the characteristics of the composition of the offer and the technical and market conditions, as assessed at any given time by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) in the context of authorisation procedures underway, after consulting, whenever it deems this to be necessary, the Competition Authority (AdC) or the national communications regulatory authority.

7 - Any alterations to the composition of the offer of distributed television programme services or to the respective access conditions shall take into account the obligations of diversification and pluralism and uphold consumer rights.

8 - Independently of the provisions established in the previous point, consumers are to be given 30 days prior notice before any alteration to the contracted conditions.

9 - The communications referred to in the previous point shall be accompanied by a reference to the option to dissolve the contract in the event that such alterations affect the composition or the price of the offer of the distributed television programme services.

10 - Distributors should have access, without prejudice to market uses, in conformity with competition rules, to television programme services according to transparent, reasonable and non discriminatory conditions, with a view to their distribution.

11 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), pursuant to its Statutes, may adopt decisions which ensure compliance with the provisions of the present article.

CHAPTER IV

Programming and information

SECTION I

Freedom of programming and information

Article 26

Autonomy of operators

1 - Freedom of expression of thought through television programme services and on-demand audiovisual media services constitutes part of the fundamental right of citizens to free and pluralistic information, which is essential to democracy and to Portugal's social and economic development.

2 - Except in the cases foreseen under this law, pursuit of television activity and of on-demand audiovisual media services is based on freedom of programming, whereby neither the Public Administration nor any sovereign body, with the exception of the law courts, may prevent, limit or impose the broadcasting of any programmes.

Article 27

Restrictions on the freedom of programming

1 - Programming of television programme services and of on-demand audiovisual media services shall respect human dignity and fundamental rights, freedoms and guarantees.

2 - Television programme services and on-demand audiovisual media services shall not, through the programming elements which they broadcast, incite racial, religious, or political hatred or hatred based on colour, ethnic or national origin, gender, sexual orientation or disability.

3 – It is prohibited to broadcast programmes which are likely to cause an obvious and serious adverse effect on the free development of the personality children and adolescents, including programmes which contain pornography, in the case of the programme services provided via non-conditional access, or gratuitous violence.

4 - The television broadcast of any other programme which is likely to have an adverse effect on the development of children or adolescents is only to be broadcast while permanently displaying an appropriate visual symbol and only between 10:30 p.m. and 06.00 a.m.

5 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) will encourage broadcasters to draw up a common television programme rating system which establishes a set of symbols in order to identify target age groups according to programme content and which observes, with respect to the exhibition of cinematographic works and videos, the ratings of the Comissão de Classificação de Espectáculos (the Portuguese Board of Classification).

6 - The provisions established in nos. 4 and 5 do not apply to transmissions of television programme services provided via conditional access.

7 - The provisions established in the previous points apply to all programming elements, including advertising and messages, extracts or self-promotion images, and also to teletext services and electronic programming guides.

8 - Programming elements with the characteristics referred to in nos. 3 and 4 may be broadcast as part of any news services provided that they have journalistic relevance and are presented with respect for the ethical standards of the profession and are preceded by a warning regarding their nature.

9 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall define and make public the criteria for assessing non-compliance with nos. 3 and 4, which criteria shall be objective, fitting, necessary and proportional to the objectives pursued.

10 - Programmes of on-demand audiovisual media services which are likely to cause obvious and serious harm to the free personality development of children and adolescents, such as programmes with pornographic content, may only be made available provided that sufficient technical features are adopted so as to prevent access to such content by that audience segment.

11 - Broadcasters and on-demand audiovisual media service providers may adopt codes of conduct which respond to the requirements set out in the present Article, with consultation, in the case of broadcasters, of their editorial boards, in the context of their attributions.

Article 28

Restrictions on the freedom of retransmission

The provisions established in nos. 1 to 3 and 7 of previous article apply to the retransmission of television programme services in the cases and according to the procedures provided for in article 86.

Article 29

Programme announcements

1 - Broadcasters are required to provide information, with reasonable prior notice and in a manner that is suitable for informing the public, regarding the contents and alignment of the programming of the television programme services for which they are responsible.

2 - Broadcasters may not alter announced programmes, or the scheduled duration and airtime thereof, less than forty-eight hours in advance thereof.

3 - The stipulation of the previous point may be waived where the nature of broadcast events is of sufficient importance, in light of a need to provide news coverage of unforeseen situations or in cases of "force majeure".

4 – The programming alterations referred to in nos. 2 and 3 shall be communicated to the public in the programme service concerned, regardless of when such alterations take place and regardless of the respective reasons.

5 - Programming announcements provided with respect to television programme services broadcast in various media services or bodies are to be accompanied by the identifying symbol referred to in no. 4 of article 27, wherein this information is to be provided by the respective broadcaster.

Article 30

Mandatory broadcasts

1 - Announcements whose broadcast is requested by the President of the Republic, the President of the Assembly of the Republic and by the Prime Minister are to be broadcast by the public service television broadcaster, and shall be carried out with due prominence and with the utmost urgency.

2 - In the event of a declared state of siege or state of emergency, the obligation set out in the previous point shall also apply to other broadcasters.

Article 31

Political propaganda

Without prejudice to the provisions established in chapter VI, broadcasters, distributors and on-demand audiovisual media service providers are prohibited from granting airtime to political propaganda.

Article 32
Acquisition of exclusive rights

1 - Any acquisition by a broadcaster of exclusive rights to the transmission of events of a political nature shall be deemed null and void.

2 – If broadcasters who broadcast via a conditional access regime or without national coverage, purchase exclusive rights to the full or partial transmission, via live or delayed coverage, of other events deemed to be of general public interest, the holders of the said television rights will be required to grant access to such transmissions to other broadcasters which are interested in the transmission thereof and which broadcast via non-conditional access with national coverage using the terrestrial spectrum, on non-discriminatory terms and according to prevailing market conditions.

3 - If there is no agreement between the holder of television rights and other broadcasters interested in the transmission of the event, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), may, upon request of any of the parties involved, conduct binding arbitration.

4 - The events referred to in the previous points and the conditions governing their respective transmission shall be included in a list to be published in the 2nd series of the Diário da República (Official Gazette), no later than 31 October every year by the member of the Government responsible for the sector, having heard the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), without prejudice to the publication of exceptional amendments in the event of the occurrence of overriding and unforeseen facts of the same nature.

5 - Holders of exclusive rights to the transmission of any events shall provide the respective signal, on a live or delayed basis, to broadcasters providing international broadcasts with use restricted to such broadcasts under conditions to be defined by a decree-law that shall also establish criteria for remuneration in respect of such provision. If there is no agreement between the interested parties the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may conduct binding arbitration.

6 - The broadcasters subject to the present law are prohibited from holding exclusive rights on terms by which a substantial proportion of the public of another Member State of the European Union are prevented from viewing, via non-conditional access television, events included in the lists referred to in no. 8, in the conditions set therein.

7 - Non-compliance with the provisions established in nos. 2 or 6 will not be subject to penalty when the holder of exclusive rights demonstrates the impossibility of fulfilling the obligations provided for therein.

8 - For the purposes of the provisions established in no. 6, the definitive list of measures taken by Member States, as published in the Official Journal of the European

Union, will be published in 2nd series of the Diário da República (Official Gazette), upon the initiative of the member of the Government responsible for the media.

Article 33

Right to news extracts

1 - The persons responsible for conducting performances or other public events taking place on national territory, as well as holders of exclusive rights over such performances or events, may not oppose the broadcasting of short extracts thereof, when of a news-based nature, by programmes provided by any broadcasters, national or otherwise.

2 - For the exercise of the right to information provided for in the previous paragraph, broadcasters may use the signal transmitted by holders of exclusive rights, bearing only the costs that may result from the respective provision, or may alternatively resort to use of their own technical resources, under the legal terms that ensure access for media organizations to public places.

3 – When a broadcaster under the jurisdiction of the Portuguese State holds exclusive broadcasting rights in the national territory in respect of events occurring in the territory of another Member state of the European Union, it shall provide other national broadcasters, which are interested in broadcasting short news extracts of such events, with access to the respective signal.

4 - Without prejudice to any agreement providing for different uses, the extracts referred to in nos. 1 and 3 shall:

- a) Be limited in duration to the minimum strictly necessary to enable perception of the essential content of the events in question, taking into account the nature of the events and provided that this does not exceed ninety seconds;
- b) Only be broadcast in regular programmes of a general news nature;
- c) Be broadcast within thirty-six hours of the event taking place, except where subsequent inclusion in reports of current events is justified by the purpose of the information being covered;
- d) Identify the source of the images, where they are broadcast using a signal transmitted by the holder of exclusive rights.

5 - Except where a specific agreement is made otherwise, short news extracts relating to performances or other public events which are subject to exclusive rights may only be used in on-demand audiovisual media services when included in programmes previously broadcast by the same provider in television programme services.

SECTION II

Operators' obligations

Article 34

Operators' general obligations

1 - All broadcasters shall guarantee in their programming, namely by means of self-regulatory practices, adherence to broadcasting ethics, ensuring respect for human dignity, for fundamental rights and other constitutional values, especially the personality development of children and adolescents.

2 - All broadcasters which operate general television programme services of national coverage are subject to the following obligations:

- a) To provide varied and plural programming, including during primetime viewing periods;
- b) To broadcast information that is pluralist, accurate and independent;
- c) To guarantee programming and information that is independent from political and economic powers;
- d) To issue such announcements as referred to in no. 1 of article 30 in the event of declaration of a state of siege or state of emergency;
- e) To guarantee the right to free airtime during election periods, as provided for in the Constitution and in the law;
- f) To guarantee the right to reply and to rectification as provided for in the Constitution and in the law;
- g) To broadcast creative European works, specifically those in the Portuguese language, and to participate in the development of their production, in accordance with applicable legal norms.

3 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), after consulting the Instituto Nacional para a Reabilitação (National Institute for Rehabilitation), other organisations representing people with disabilities, broadcasters and on-demand audiovisual media service providers, will establish a set of obligations in respect of accessibility of television programme services and on-demand audiovisual media services to persons with special needs. The establishment of such obligations will be based on a multi-year plan that provides for gradual compliance therewith, taking into account the technical and market conditions which are deemed as prevailing at any given moment, with a view, in particular, to the nature of the service, the use of subtitling, sign language interpretation, audio description or other techniques deemed necessary, as well as the availability of easily understandable navigation menus.

4 - In addition to the terms specified in paragraphs a) to d) and f) of no. 2, the following obligations apply to general television programme services of regional or local scope:

- a) To extend television programming to content of a regional or local nature;
- b) To broadcast information that is of specific interest given the geographic scope of its audience;
- c) To promote the characteristic values of the regional or local cultures.

5 - The provisions of paragraphs a), b) and g) constitute obligations of thematic programme services, according to their nature, and the provisions of paragraphs c) and f) of no. 2 constitute obligations of thematic programme services, regardless of their nature.

Article 35
Editorial responsibility and autonomy

1 – Each television programme service shall have a person responsible for providing guidance and supervision of the content of the broadcasts.

2 - Each television programme service which includes news programming shall have a news director.

3 - Each on-demand audiovisual media service provider shall have a person who is responsible for the selection and organisation of the catalogue of programmes.

4 – The broadcaster is responsible for the appointment and dismissal of the person responsible for the news content of television programmes, after consulting the editorial board.

5 - The requirement to conduct a prior hearing of the editorial board is waived in respect of the appointment of the first person responsible for the news content of each programme service and in respect of programme services which are doctrinal or denominational in nature.

6 - The management posts for the news area and the head thereof are to be exercised with editorial autonomy, whereby the broadcaster is prohibited from interfering in the production of news content and is also prohibited from interfering in the manner in which such content is presented.

7 - The provisions established in the previous point do not apply to guidelines which are aimed at ensuring strict observance of legal provisions that if breached would result in the broadcaster being held responsible for a criminal or administrative offence.

Article 36
Editorial statute

1 - Every television programme service shall adopt an editorial statute which defines, in a clear and detailed manner, binding guidelines and objectives, including a commitment to respect viewers' rights, as well as journalists' deontological principles and professional ethics.

2 - The editorial statute is to be drawn up by the news director, as specified in the previous article, having consulted the editorial board, subject to the approval of the owner, and is to be submitted to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) no later than 60 days subsequent to the day on which broadcasts commence.

3 - Any amendments to the editorial statute are likewise subject to the procedure laid down in the previous point.

4 - The editorial statute of television programme services shall be disclosed by any means appropriate for its publication.

Article 37
News services

Generalist television programme services shall broadcast regular news services prepared by journalists.

Article 38
Editorial board and journalists' right to participation

Television programme services with more than five journalists shall be provided with an editorial board, elected according to the procedure and with the areas of competence defined by law.

Article 39
Number of broadcasting hours

1 - Licensed television programme services are required to broadcast programmes for at least six hours each day.

2 - Advertising and teleshopping programmes, as well as broadcasts of fixed or merely repetitive images, are not considered when calculating the number of hours broadcast for the purposes of the limit established in the previous point, without prejudice to no. 4 of article 8.

SECTION III
Audiovisual commercial communications

SUBSECTION I
Television advertising and teleshopping

Article 40
Time allotted to television advertising and teleshopping

1 - Airtime allotted to television advertising and teleshopping between two-hour periods may not exceed 10% in the case of conditional access television programme services and may not exceed 20% in the case of non-conditional access television programme services, (whether free-to-air or subscription-based).

2 - The limits established in the previous point do not apply to self-promotions, telepromotions and teleshopping segments, and do not apply to the promotion of

associated products, including where not directly related to the broadcasters' programmes.

3 - Individual teleshopping segments must be of a minimum duration of 15 minutes.

Article 40-A

Identification and separation

1 - Television advertising and teleshopping shall be readily identifiable as such and clearly distinguished from other programming.

2 - The distinction required under the previous point is to be achieved:

- a) Between programmes and during programme breaks, through the insertion of optical and acoustic separators at the beginning and end of each break, which separator at the beginning of each break is to contain, in a manner that is perceptible to viewers and as appropriate, the word 'Publicidade' (Advertising) or 'Televenda' (Teleshopping);
- b) With use of a split screen, by demarcating an area on the screen, never more than a quarter part thereof, clearly separated from the remaining area and identified in a manner that is perceptible to viewers, containing the word 'Publicidade' (Advertising).

Article 40-B

Insertion

1 - Television advertising and teleshopping may be inserted provided that such insertions do not prejudice the integrity of the programmes, are in keeping with the natural breaks of programmes as well as their duration and nature, and provided that they do not infringe the rights of any holders:

- a) Between programmes and in programme breaks;
- b) Using the full screen or part thereof.

2 - Insertion of television advertising and teleshopping entailing an increase in sound volume compared to that applied to remaining programming is prohibited.

3 - The following are prohibited:

- a) Teleshopping using a split screen;
- b) Teleshopping during children's programmes and during the fifteen-minute periods immediately preceding and following the broadcasting of children's programmes;
- c) Split-screen television advertising during news programmes and political information programmes, children's programmes and programmes providing broadcast of religious services;
- d) Split-screen television advertising during the broadcasting of creative works and during debate or interview programmes.

4 – The transmission of news, political information programmes, cinematographic works and films made for television, excluding series, serials and documentaries may

be interrupted by television advertising and/or teleshopping once for each programming period of at least 30 minutes.

5 - The transmission of children's programmes may be interrupted by television advertising once for each programming period of at least thirty minutes provided that the scheduled duration of the programme exceeds thirty minutes.

6 - Broadcasting of religious services may not be interrupted by the insertion of television advertising and/or teleshopping.

7 - Isolated messages of television advertising and teleshopping, except where presented in the transmission of sports events, may not be inserted other than in exceptional circumstances.

Article 40-C **Telepromotion**

1 - Telepromotion is only admissible in light entertainment programmes which have the nature of competitions or similar.

2 - Viewers are to be informed of the existence of telepromotion at the beginning and end of programmes that make use of this form of advertising.

3 - Telepromotion is to be immediately preceded by an optical or acoustic separator and accompanied by a symbol which signals its commercial nature.

SUBSECTION II **Other forms of audiovisual commercial communication**

Article 41 **Sponsorship**

1 - Sponsored television programme services and on-demand audiovisual media services, as well as the respective programmes, will be clearly identified as such by the name, logo or other distinguishing symbol of the sponsor of its products or of its services.

2 - Programmes which are sponsored are to be identified additionally at the beginning, as they restart and at the end of the programme, which indication may also be made cumulatively at other points in time, provided that the integrity of the programmes is not undermined, taking into account the breaks, their duration and nature, and provided that this is done in such a way as does not infringe the rights of any holders.

3 - News services and political information programmes may not be sponsored.

4 - The content of a sponsored television programme service, on-demand audiovisual media service or programme or, in the case of television programme services, its

programming, may under no circumstances be influenced in such a way that affects its editorial responsibility and independence.

5 - Sponsored programme services or programmes, as well as the identification of the respective sponsors, may not directly encourage the purchase or rental of products or services of the sponsor or of third parties, including through specific promotional references to such goods or services.

Article 41-A

Product placement and production aid

1 - Product placement is only permitted in cinematographic works, films and series, made for television programme services or on-demand audiovisual media services, sports programmes and light entertainment programmes.

2 - Product placement in children's programmes is prohibited.

3 - The content of programmes which contain product placement and, in the case of television programme services, their scheduling, shall not be influenced in any such way as impacts their responsibility and editorial independence.

4 - Programmes which contain product placement shall not directly encourage the purchase or rental of products or services, in particular by making special promotional references to such products or services.

5 - Product placement shall not give undue prominence to products, services or trademarks, specifically where the reference made is not justified on editorial grounds or where such reference is likely to mislead the public with respect to their nature, or by the recurrent form in which such items are presented or shown.

6 - When produced or commissioned by the broadcaster, by the on-demand audiovisual media service provider or by an affiliate thereof, programmes containing product placement shall be appropriately identified at the start and the end of the programme, and when a programme resumes after an advertising break.

7 - Production aid may be provided to any programme when the products or services used are of no significant commercial value, subject to the provisions of nos. 3 and 6.

8 - The presentation, during the exhibition of children's programmes, of any type of commercial messages which may impair the physical and mental development of minors is prohibited, wherein such commercial messages include those related to food and beverages containing nutrients and substances with a nutritional or physiological effect, excessive intakes of which in the diet are not recommended.

9 - The use of production aid, where the goods or services used have significant commercial value, is subject to the rules governing product placement, including those rules referring to administrative offences.

10 - Significant commercial value is to be determined by agreement made between the broadcasters and the on-demand audiovisual media service providers, wherein this agreement shall be subject to ratification by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).

11 - In the event that there is no agreement, as referred to in the previous point, or where there is a lack of subscription to such an agreement, significant commercial value will be determined by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), following a prior hearing with the sector's broadcasters and operators, and shall, in any event, be based on the commercial value of products or services involved and the publicity value corresponding to the duration of broadcasting during which the product or service is commercially identifiable, in particular through display of the brand, in addition to the time given to its identification immediately preceding or subsequent to the programme, according to the highest television advertising tariff applying on the date on which the programme is first broadcast or is first made available on demand.

Article 41-B

Virtual audiovisual commercial communications

1 - Virtual audiovisual commercial communications may not be inserted except where audiovisual commercial communications previously existed and provided that they are not given greater prominence and that agreement is obtained from the organisers of the broadcast event and from the holders of broadcasting rights.

2 - Consumers are to be informed regarding the inclusion of virtual audiovisual commercial communications, at the beginning and end of each programme where these occur.

3 - The inclusion of virtual audiovisual commercial communications in creative works, as defined in paragraph h) of no. 1 of article 2, and in debate or interview programmes is prohibited.

Article 41-C

Airtime

There is no limitation on the amount of airtime, within television programme services or on-demand audiovisual media services, given to the identification of sponsorship, product placement and production aid, or to the dissemination of messages that relate to public services or public interest purposes and humanitarian appeals which are broadcast free of charge.

Article 41-D

Interactivity

1 - Advertising inserted into television programme services or on-demand audiovisual media services may include features which enable passage into an interactive environment that contains advertising.

2 - Such interactive features, as referred to in the previous point, are prohibited during children's programmes and during the five-minute periods immediately preceding and subsequent to the broadcasting of children's programmes.

3 - The transition to the interactive environment that contains advertising is to be preceded by a notice on an intervening screen that contains clear information on the destination of this transition and allows easy return to the linear environment.

4 - The provision in television programme services of the features described in the previous point is subject to the general rules governing advertising and in particular to those rules which stipulate restrictions on the subject and content thereof.

SECTION IV

Identification of programmes and recording of broadcasts

Article 42

Identification of programmes

Programmes shall be identified and comprise all relevant information on the respective artistic and technical credits.

Article 43

Recording of broadcasts

1 - Independently of the provisions established in article 92, broadcasts shall be recorded and conserved for a period not less than 90 days, except where a longer period is determined by law or by judicial ruling.

2 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may, at any time, request the recordings referred to in the previous point, and in duly substantiated cases of urgency, operators are required to send the said recordings within forty-eight hours.

SECTION V

Broadcasting of audiovisual works

Article 44

Protection of the Portuguese language

1 - Broadcasts shall be spoken or subtitled in Portuguese, without prejudice to the possible use of other languages in programmes that fulfil occasional informational needs, are intended for the teaching of foreign languages, or are aimed specially at immigrant communities.

2 - Television programme services with national coverage, with the exception of those whose nature and thematic content would not permit such an approach, shall devote at least 50% of their broadcasts, excluding the time reserved for advertising, teleshopping and teletext services, to the broadcasting of original Portuguese language programmes.

3 - Without prejudice to the previous point, the television programme services referred therein shall reserve at least 20% of their airtime to creative programmes produced originally in Portuguese.

4 - For the purposes of calculating the percentage of programming referred to in the previous point, only the first five screenings of each work is to be counted, regardless of the year in which they are aired.

5 - The percentage specified in nos. 2 and 3 may comprise, up to 25% of programmes originated in other Portuguese-speaking countries.

6 - Broadcasters shall guarantee that compliance with the percentages referred to in nos. 2 and 3 is not accomplished during off-peak viewing periods.

Article 45

European production

1 - Broadcasters who operate television programme services with national coverage shall reserve a majority proportion of their transmission time for European works, excluding the time allocated to news services, sports events, games, advertising, teleshopping and teletext services.

2 - On-demand audiovisual media services shall contribute to the promotion of European works, specifically through financial contributions to their production or through their progressive incorporation into the respective catalogue.

3 - On-demand audiovisual media services are to give particular visibility to European works in their catalogue, implementing features which enable the public to search for such works by origin.

4 - Compliance with the rules governing the promotion of European works set out in nos. 2 and 3 of this article is subject to annual review by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).

Article 46

Independent Production

1 - Broadcasters engaged in the provision of television programme services with national coverage shall ensure that at least 10% of their transmission time, excluding the time devoted to news, sports events, games, advertising, teleshopping and teletext

services, consists of the broadcasting of European works created by independent producers and produced less than five years previously.

2 - The television programme services referred to in the previous point, where classified as general, shall allocate at least 50% of their transmission time to the broadcasting of European works created by independent producers which were produced originally in Portuguese and produced less than five years previously.

3 - For the purposes of calculating the percentage of transmission time referred to in the previous points, only the first five screenings of each work are to be considered, regardless of the year in which they are aired.

Article 47

Application criteria

1 - Compliance with the obligations set forth in articles 44 to 46 shall be assessed on an annual basis and is to take into account, where applicable, the specific nature of thematic television programme services and the broadcaster's responsibilities with regard to information, education, culture and entertainment.

2 - Reports on the assessment referred to above, containing the respective findings, are to be published on the website of the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) no later than 30 June of the year following the year to which they refer.

Article 48

Support for production

The State shall ensure, through appropriate legal, financial, fiscal or credit mechanisms, that measures exist which encourage original audiovisual production in the Portuguese language of fiction, documentaries and animation, with a view to creating conditions which enable compliance with the provisions of articles 44 to 46.

Article 49

Information duty

Broadcasters and on-demand audiovisual media service providers are obliged to provide, on quarterly basis, to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), in accordance with a model defined by the latter, all the necessary elements to inspect compliance with the obligations specified in articles 44 to 46.

CHAPTER V

Public service

Article 50

Principles

1 - The structure and operation of the public service broadcaster shall safeguard its independence from the Government, Public Administration and other public authorities, while ensuring that various strands of opinion can be expressed and contrasted.

2 - The public service broadcaster will guarantee observance of the principles of universality and national cohesion, diversification, of programming excellence and indivisibility, of pluralism and accuracy, of independence of news coverage, as well as the principle of innovation.

Article 51

Specific obligations of the concessionaire of the public television service

1 - The concessionaire of the public television service shall exhibit, according to the principles laid down in the previous article, programmes that promote the cultural and civic education of viewers, guaranteeing that all viewers have access to high quality news, culture, education and entertainment programmes.

2 - Specifically, it is incumbent upon the concessionaire to:

- a) Provide varied and comprehensive programmes that promote cultural diversity and take into account the interests of minorities;
- b) Promote public access to Portuguese cultural events and guarantee appropriate news coverage thereof;
- c) Provide independent, accurate, pluralist and contextualised information, ensuring news coverage of major national and international events;
- d) Ensure the production and broadcast of educational and entertainment programmes intended for young people and children, contributing towards their education;
- e) Ensure the broadcasting of informational, educational and cultural programmes for specific audiences, including those of the different immigrant communities living in Portugal;
- f) Take part in educational activities for the media, including broadcasting of programmes targeted at accomplishing this objective;
- g) Promote the broadcasting of programmes in Portuguese, of varied types, and reserving a considerable part of its airtime to European production, dedicating thereto percentages of time which exceed those to which, under the present law, all broadcasters are subject, in light of the purpose of each programme service;
- h) Support national production of cinematographic and audiovisual works, in line with the Portuguese State's binding international commitments, and co-production treaties with other countries, especially European countries and the community of official Portuguese speaking countries (CPLP);
- i) Broadcast programmes intended especially for Portuguese people residing outside Portugal and for nationals of other countries having Portuguese an official language who also reside outside Portugal;
- j) Ensure that people with special needs are able to follow broadcasts, including through subtitling, sign language, audio-description and other techniques deemed

appropriate, and ensure that programmes specifically aimed at this segment of the public are broadcast, according to the schedule defined in the multi-annual plan referred to in no. 3 of article 34, which shall take into account the specific responsibilities of the public service, as provided for in the respective concession contract;

l) Guarantee exercise of the right to free airtime, right of reply and right to political reply, pursuant to the Constitution and the law;

m) Broadcast any announcement which is requested by the President of the Republic, by the President of Assembly of the Republic or by the Prime Minister;

n) Provide airtime to the Public Administration, for the purposes of disseminating information of general interest, in particular as regards public health and safety.

Article 52

Concession of the public television service

1 - The concession of the public television service shall be granted for a 16-year period, under the terms of the concession contract to be concluded between the State and the concessionaire.

2 - The concession of the public television service shall be executed by means of television programme services provided via free-to-air non-conditional access, or, on grounds of a technological or financial nature, via subscription-based non-conditional access.

3 - The concession of the public television service is to include:

a) A general programme service distributed simultaneously throughout the national territory, including the Autonomous Regions, having as its object the fulfilment of the informational, educational and cultural and entertainment needs of the general public;

b) A second general programme service distributed simultaneously throughout the national territory, including the Autonomous Regions, open to the participation of civil society and having as its object the fulfilment of the information and entertainment needs, and especially the education and cultural needs, of the various segments of the public, including minorities;

c) Two television programme services intended, respectively, for the Autonomous Region of the Azores and the Autonomous Region of Madeira;

d) One or more programme services aimed at Portuguese-speaking viewers residing abroad or in countries where Portuguese is an official language, promoting the affirmation, enhancement and defence of Portugal's image in the world.

4 - The television programme services referred in points a), b) and c) of the previous point shall be broadcast via free-to-air non-conditional access.

5 – In order to comply with legal and contractual obligations, the concession of the public television service may also integrate television programme services having as their object:

- a) The specialist provision of information, having particular regard to issues which are of interest to specific regions or communities, whether or not in articulation with other television programme services, including in respect of the joint management of rights;
- b) The release of documentary material from the audiovisual archives of the public service concessionaire;
- c) Fulfilment of the educational and training needs of young people and children;
- d) The promotion of access to different areas of knowledge.

6 - The concession contract, as referred to in no. 1, shall establish, according to the provisions of the present chapter, the rights and obligations of each party, and shall define the objectives to be achieved and the qualitative and quantitative criteria which ensure their accomplishment, and shall further define the respective means of assessment.

7 - The contents of the concession contract and of acts or contracts referred to in the previous point shall be subject to an opinion from the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).

8 - The concession contract is to be reviewed at four year intervals, without prejudice to any amendments deemed necessary in intervening periods.

9 - The review process referred to in the previous point shall take into consideration the assessment of accomplishment of public service and consider the need for a public consultation on the objectives and reference criteria to apply in the subsequent four-year period.

Article 53

First generalist programme service of a national scope

The generalist programme service of national scope aimed at the general public shall, having regard to territorial realities and to the various groups comprising Portuguese society, give particular focus to:

- a) Information, specifically by broadcasting debates, interviews, reports and documentaries;
- b) High quality entertainment originated in the Portuguese language;
- c) The broadcasting of programmes of a cultural nature;
- d) Making viewers aware of their rights and duties as citizens.

Article 54

Second generalist programme service of national scope

1 - The second generalist programme service of national scope will include programmes that have a strong cultural and educational component, enhancing education, science, investigation, arts, innovation, entrepreneurialism, economic issues, social work, disclosure of humanitarian causes, non-professional and school sports, religious faiths, independent production of creative works, Portuguese cinema, environment, consumer protection and experimental audiovisual works.

2 - The second generalist programme service of a national scope shall ensure coherent and high-quality programmes, which shall be distinguished from those of other public service television programme services, with the participation of public or private entities that assume a relevant role in the areas mentioned in the previous point.

3 - An advisory body shall be established in respect of the second programme service to represent partners of the Public Administration and civil society related thereto.

Article 55

Television programme services of international scope

1 - The television programme services referred to in paragraph d) of no. 3 of article 52 shall pursue their own objectives taking into account national interests as regards connection to Portuguese communities throughout the world or cooperation with Portuguese-speaking countries.

2 - For the purpose of the previous point, the concessionaire of the public television service may enter into collaboration agreements with private broadcasters which broadcast general television programme services, as well as with public bodies and services with activity which is relevant in such areas.

3 - An advisory body will be established for the television programme services of international scope, comprising representatives of the partners of the Public Administration and civil society related thereto.

Article 56

Television programme services of regional scope

1 - The television programme services specifically aimed at the Autonomous Regions of the Azores and Madeira are to take due regard of the respective social, cultural and geographic realities and enhance regional production.

2 - Television programme services of a regional scope shall make airtime available to the Public Administration, including the autonomous regional administration, with a view to disclosure of information of general interest, in particular as regards public health and safety.

3 - The concessionaire of the television public service and the Regional Governments of the Azores and Madeira may establish specific agreements that provide for the financing of specific complementary obligations of the public television service, as defined by the respective Legislative Assemblies.

Article 57

Financing and monitoring of execution

1 - The State shall provide financing of the public television service and shall take steps to ensure appropriate execution thereof, under the terms of the law and of the concession contract.

2 - Public financing shall be provided in compliance with the principles of proportionality and transparency.

3 - The concession contracts shall establish a control system for monitoring compliance with the public service missions and the transparency and proportionality of the associated financial flows guaranteeing that these are limited to the level necessary for their execution, and providing for appropriate mechanisms to ensure reimbursement in case of a surplus financial compensation.

4 - The concession contract shall likewise prohibit the concessionaire from adopting behaviour which is not justified by market rules and which leads to higher costs or lower revenues.

5 - In order to ensure suitable and efficient management of resources, in accordance with the likely evolution of the economic and social environment, expenditure resulting from the financing of the public radio and television service will be specified on a multi-annual basis spanning four-year periods.

6 - The specification referred to in the previous point shall identify, in addition to total costs for the four-year period, the breakdown of such expenditure on an annual basis.

7 - The annual external audit promoted by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), in the scope of its assignments, is to include assessment of compliance with nos. 2 to 4 of the present article.

CHAPTER VI

Rights to free airtime, to reply and to political reply

SECTION I

General provision

Article 58

Counting of airtime

Broadcasters will count airtime, for the purpose of this chapter, informing interested parties as to the respective result.

SECTION II

Right to free airtime

Article 59

Access to the right to free airtime

1 - Political parties, the Government, trade unions, professional organisations, organisations representing economic and environmental activities, and consumer protection associations are guaranteed the right to free airtime on the public television service.

2 - "Airtime" means an individual programme slot for which the holder of the right is responsible, a fact that should be explicitly mentioned at the beginning and at the end of each programme slot.

3 - The entities referred to in no. 1 shall be entitled, free of charge and on an annual basis, to the following airtime:

a) Ten minutes per each party represented in the Assembly of the Republic or in the Legislative Assemblies of the Autonomous Regions plus a further thirty seconds per elected member;

b) Five minutes per each party which, without representation in the Assembly of the Republic or in the Legislative Assemblies of the Autonomous Regions, participated in the most recent legislative elections, plus a further thirty seconds per 15,000 votes obtained in said elections;

c) Sixty minutes for the Government and sixty minutes for parties represented in the Assembly of the Republic which do not form part of the Government, to be divided according to their level of representation;

d) Ninety minutes for trade union organisations, ninety minutes for professional organisations and those representing economic activities, and fifty minutes for environmental, consumer protection and human rights associations, to be divided according to their level of representation;

e) Fifteen minutes for other bodies which are entitled to airtime under the law.

4 - In the case of the Autonomous Regions, the right of broadcast referred to in the previous point is to be exercised by the parties that stood in elections to Regional Legislative Assemblies in programme services specifically aimed at the respective Region.

5 - Each right holder may use the entitlement to airtime one time only in any 15-day period, and may not use it in programmes that have a duration exceeding ten minutes or that is less than three minutes, unless their overall airtime is lower.

6 - The programming directors shall, in collaboration with the holders of the right to free airtime and pursuant to this law, organise general plans for its respective use.

7 - Where there is no agreement on the plans referred to in the previous point, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall conduct arbitration.

Article 60

Limitation of the right to free airtime

1 - The right to free airtime may not be exercised on Saturdays, Sundays and on national public holidays, and shall also be suspended one month prior to the date established for the beginning of an electoral or referendum campaign, under the respective legislation.

2 - The right to free airtime is non-transferable.

Article 61

Broadcasting and reservation of the right to free airtime

1 – Free airtime slots shall be broadcast in the television programme service with national coverage with the highest audience, immediately before or after the main national news bulletin, between 7.00 p.m. and 10.00 p.m.

2 - Holders of the right to free airtime may request the reservation of the time to which they are entitled, up to 15 days prior to transmission, whereas the respective recording is to be carried out, or pre-recorded materials submitted, no later than forty hours prior to broadcasting of the programme.

3 - Programmes which are ready for broadcast are to be delivered no later than twenty-four hours prior to transmission.

4 - Holders of the right to free airtime are to be provided, on absolutely equal terms, with such technical means as are indispensable for the production of their respective programmes.

Article 62

Forfeit of the right to free airtime

Failure to comply with the time limits stipulated under the previous article will result in the forfeit of the right, except where such failure is due to forces which lie beyond the control of the holder of the right, in which case the unused free airtime may be added to the next programme subsequent to the removal of the obstacle.

Article 63

Right to free airtime during election periods

During election periods, use of the right to free airtime is governed by applicable electoral legislation, covering all generalist television programme services provided via free-to-air access.

SECTION III

Right to political reply

Article 64

Right to political reply of opposition parties

1 - Parties represented in the Assembly of the Republic which do not form part of the Government are entitled to reply in the same programme service to political statements made by the Government in the public television service where such statements directly concern them.

2 - The duration and prominence given to the exercise of the right referred to in the previous point shall be the same as given to the original statement that gave rise to the reply.

3 - When more than one party has requested to exercise the right, through their respective representatives, the time is divided equally among the different holders of said right, whereas each respondent shall be entitled to a minimum period of one minute.

4 - The procedures laid down in the present law in respect of the exercise of the right to reply shall apply likewise, *mutatis mutandis*, to the right to political reply.

5 - For the purposes of the present article, only statements on general or sectorial policies made by the Government in its name and identifiable as such shall be considered, whereby statements made by members of the Government on matters relating to the management of their respective departments are not deemed relevant for this purpose.

6 - The provisions set forth in the previous points shall correspondingly apply, in respect of programme services specifically aimed at the Autonomous Regions, to the right to political reply of the parties which, while represented in the Regional Legislative Assemblies, do not form part of the respective Regional Governments.

SECTION IV

Rights to reply and to rectification

Article 65

Assumptions governing rights to reply and to rectification

1 - Any natural or legal person, organisation, public service or body which is referred to, albeit indirectly, in television programme services or in on-demand audiovisual media services in such a way that their reputation or good name might be affected, is granted a right to reply in the said services.

2 - The persons and undertakings referred to in the previous point are entitled to rectification in television programme services and in on-demand audiovisual media services in which false or inaccurate references about them have been made.

3 - The right to reply and to rectification will be undermined if, with the express agreement of the concerned party, the broadcaster or on-demand audiovisual media service provider has corrected or clarified the relevant text or image, or has allowed

the interested party to present, by other means, the facts or views which it has been claimed give cause to reply and to rectification.

4 - The right to reply and to rectification is established without prejudice to any criminal proceedings related to the broadcast and without prejudice to the right to compensation for any damages caused.

Article 66

Right to view the broadcast

1 - The holder of the right to reply or to rectification, or its legitimate representative, pursuant to no. 1 of the following article, may request, for the purposes of exercising its right, to view the material from the broadcast in question, wherein this material is to be provided within a maximum of twenty-four hours.

2 - The request for viewing suspends the deadline for the exercise of the right to reply or to rectification, which shall restart twenty-four hours after the broadcaster has provided the said recording.

3 - The right to view the broadcast shall also involve recording the broadcast in question, subject to payment of the cost of the format that is used.

Article 67

Exercise of rights to reply and to rectification

1 - The rights to reply and to rectification shall be exercised by the holder thereof, its legal representative or heirs, within 20 days following the broadcast.

2 - The deadline stipulated in the previous point is to be suspended when, for reasons of force majeure, the persons specified therein are prevented from exercising the right under consideration.

3 - The text of the reply or rectification is to be submitted to the broadcaster or on-demand audiovisual media service provider, bearing the signature and identification of the author, via recorded delivery, and expressly invoking the right of reply or rectification or the applicable legal provisions.

4 - The content of the reply or rectification is to be limited to content which is directly and usefully relevant to the references that gave rise to the respective rights, and shall not exceed the number of words of the text which gave cause thereto.

5 - The reply or rectification shall not include any words that are disproportionately uncivil or that give rise to criminal or civil liability, for which, in such cases, only the author of the reply or rectification shall be held accountable.

Article 68

Decision on the transmission of the reply or rectification

1 - In the event that a reply or rectification falls outside the legal deadlines, originates from persons without legitimacy, is clearly unsubstantiated or stands contrary to the provisions of nos. 4 and 5 of the previous article, the broadcaster or on-demand audiovisual media service provider may refuse to broadcast it, in which case it shall inform the concerned party in writing as to the refusal and the grounds thereof, within twenty-four hours following receipt of the reply or rectification.

2 - Where the reply or rectification does not comply with the provisions of nos. 4 and 5 of the previous article, the broadcaster shall request from the interested party, within the deadline laid down in the previous point, that it remove the relevant passages or words within forty-eight hours, failing which the broadcaster is entitled to refuse to broadcast the text in its entirety.

3 - Where the right to reply or to rectification has not been fulfilled or has been unjustifiably refused, the interested party may bring the matter to the judicial court in the area of its residence, within 10 days from said refusal or from the expiry of the legal deadline for the fulfilment of the right, or to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), pursuant to and within the time limits set out in specifically applicable legislation.

4 - Following a request for legal notification of the broadcaster or provider which has not fulfilled the right to reply or to rectification, that broadcaster or provider shall be immediately notified by post so that it may respond to the claim within a period of two working days, following which a decision shall be issued within an equal period, which decision may be appealed with a mere non-staying effect.

5 - Only documentary evidence shall be admissible, and all documents shall be attached to the initial claim and response.

6 - Where the claim is upheld, the broadcaster or provider shall broadcast the reply or rectification within the deadline laid down in no. 1 of the following article, which broadcast shall also include reference to the fact that it is being carried out subsequent to a judicial ruling or a ruling of the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).

Article 69

Broadcast of the reply or rectification

1 - The reply or rectification is to be broadcast within twenty-four hours following delivery of the respective text to the broadcaster or on-demand audiovisual media service provider, except where as provided for under nos. 1 and 2 of the previous article.

2 - Replies and rectifications are to be broadcast free of charge:

- a) In television programme services, in the same programme or, where this is not possible, at an equivalent airtime;
- b) In on-demand audiovisual media services, in the programme associated, in the catalogue, with the programme to which the reply or rectification refers, with the same prominence and properly identified as a reply or rectification.

3 - Replies or rectifications are:

- a) In respect of television programme services, to be broadcast as many times as was broadcast the reference which gave cause thereto.
- b) In respect of on-demand audiovisual media services, to remain accessible to the public for as long as the programme that has made the reference which gave cause thereto remains in the catalogue or, irrespective of this fact, for a period of not less than seven days.

4 - The reply or rectification shall be read by an announcer of the broadcaster in a format that ensures that it is easily understood and may include other audiovisual components where the reference which gave rise thereto made use of similar techniques.

5 - The broadcasting of the reply or rectification may not be preceded nor followed by any comments whatsoever, with the exception of such comments as are necessary to indicate any factual inaccuracy or error which may give rise to a new reply or rectification, under the terms of nos. 1 and 2 of article 65.

CHAPTER VII

Liability

SECTION I

Civil liability

Article 70

Civil liability

1 - The conditions under which civil liability may be incurred, as resulting from acts committed through television programme services or on-demand audiovisual media services, is to be determined according to general principles.

2 - Broadcasters or on-demand audiovisual media service providers shall be held jointly liable with those responsible for the broadcasting of pre-recorded material, except in respect of material which is broadcast pursuant to the right to free airtime, political reply, reply and rectification or in the course of interviews or debates involving persons who are not contractually bound to the broadcaster or provider.

SECTION II

Penalties

Article 71

Crimes committed through television programme services or on-demand audiovisual media services

1 - Such acts or behaviours that are damaging or harmful to legally protected interests and which are perpetrated through television programme services or through on-demand audiovisual media services shall be punishable according to general provisions, with the adaptations laid down in the following paragraphs.

2 - Where the law does not provide for an aggravation on account of the means of perpetration, crimes committed through television programme services or through on-demand audiovisual media services which are not foreseen in this law shall be punishable by penalties established in the respective criminal norms, having their maximum and minimum limits increased by the order of one third.

3 - The director specified in article 35 shall only be held liable if he does not oppose the perpetration of crimes, as referred to in no. 1, by means of appropriate preventative action, in which case the penalties stipulated in corresponding legal categories are applicable with the respective limits reduced by a third.

4 - Where duly identified persons provide statements which are properly reproduced or provide opinions, they shall be solely liable in respect thereof, except where the respective content constitutes incitement to hatred on the grounds of race, religion, politics, skin colour, ethnic or national origin, gender or sexual orientation, or incitement to perpetrate a crime, and where the respective transmission has no justification under journalistic criteria.

5 - In the case of unauthorised broadcasts, the person responsible for ordering the respective broadcast shall be held liable.

6 - Technicians at the service of broadcasters or on-demand audiovisual media service providers will not be held liable for the broadcasts to which they contributed on a professional basis, provided that they may not be held liable for awareness of the criminal nature of their act.

Article 72

Illegal pursuit of television activity

1 - Whosoever pursues a television activity while not being legally authorised to do so shall be punished with imprisonment for up to 3 years or with a fine of up to 320 days.

2 - Pursuant to article 110 of the Penal Code, all and any assets used in the unauthorised pursuit of a television activity shall be forfeited in favour of the State, without prejudice to the rights of third parties who acted in good faith.

3 - No. 1 shall apply specifically in the following situations:

a) Pursuit of the activity by an undertaking that doesn't hold a license or authorisation;

b) Failure to comply with a decision to revoke a licence or to prohibit the retransmission of a programme service.

Article 73

Illegal television activity

1 - Those responsible for giving guidance to and for the supervision of the content of television broadcasts or responsible for the selection and organisation of the catalogue of on-demand audiovisual media services, or whosoever replaces them, commits a crime of qualified disobedience when, in order to prevent the intended purposes:

- a) They fail to adhere to a judicial ruling ordering the broadcasting of a reply or rectification pursuant to no. 6 of article 68;
- b) They refuse to broadcast judicial rulings, pursuant to article 91;
- c) They fail to comply with the determinations of the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) as regards the exercise of the right to free airtime, to political reply, or to reply or rectification;
- d) They fail to comply with a decision to suspend a broadcast or repeated broadcast of television programme services, the offer of on-demand audiovisual media services or the respective programmes.

2 - Any undertaking which fail to adhere to a decision of the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) to suspend a retransmission, pursuant to article 86, also commits a crime of qualified disobedience.

Article 74

Undermining the freedom of programming and information

1 - Whosoever prevents or prejudices the broadcasting of television programme services or the offer of on-demand audiovisual media services, or seizes or damages the material that is necessary for the pursuit of television activity, except where as provided for under the law, with the purpose of undermining the freedom of programming and information, is to be punished with imprisonment for a period of up to 2 years or with a fine of up to 240 days where no heavier penalty is provided for under penal law.

2 - The application of the penalty provided for in the previous point shall be without prejudice to civil liability for any damages caused to the broadcaster.

3 - Where the perpetrator is an agent or civil servant of the State or of a public sector legal person and commits the acts described in no. 1, in the exercise of his duties, he shall be liable to a term of imprisonment of up to 3 years or a fine up to 320 days, where a heavier penalty has not been provided for under penal law.

Article 75

Light administrative offences

1 - The following are punishable with a fine of between € 7,500 and € 37,500:

- a) Failure to comply with the provisions of article 4-A, of no. 3 of article 19, of the first part of no. 4 of article 27, of articles 29 and 42, of no. 5 of article 44, of articles 45 and 46, of no. 6 of article 40-B, of no. 2 of article 41-B, of no. 2 of article 41-C and of article 58;
- b) Failure to comply with the provisions of the first part of no. 1 of article 60;
- c) Failure to include the reference referred to in the second part of no. 6 of article 68.

2 - In the case of programme services of local coverage, the minimum and maximum of the offences foreseen in the previous point are reduced to one third.

3 - Negligence is punishable with the minimum and maximum limits of the fines under the previous point reduced by 50%.

Article 76

Serious administrative offences

1 - The following are punishable with a fine of between € 20,000 and € 150,000:

- a) Failure to comply with the provisions of nos. 1, 6, 8 and 9 of article 25, the second part of no. 4 and of no. 8 of article 27, of no. 1 of article 30, of no. 5 of article 32, of nos. 4 and 5 of article 33, of no. 3 of article 34, of articles 35, 36, 37, 40 and 40-A, of nos. 1 to 5 of article 40-B, of articles 41 and 41-A, of nos. 1 and 3 of article 41-B, of nos. 1 and 3 of article 41-C, of nos. 2 and 3 of article 41-D, of article 43, of nos. 1 to 3 of article 44, of article 49, of no. 4 of article 59, of nos. 1 and 4 of article 61, of nos. 2 and 3 of article 64, of article 69 and of no. 1 of article 92;
- b) Failure to include the information referred to in no. 1 of article 68;
- c) Breach of the provisions of article 20, of the second part of no. 1 of article 60 and of the deadlines established in no. 1 of article 66 and no. 6 of article 68
- d) Failure to comply with the conditions governing the inclusion of the functions that allow passage into the interactive environment which contains advertising as provided for in no. 1 of Article 41-D.

2 - In the case of programme services of local coverage, the minimum and maximum limits of the offences foreseen in the previous point are reduced to one third.

3 - Negligence is punishable with the minimum and maximum limits of the fines under the previous point reduced by 50%.

Article 77

Very serious administrative offences

1 - The following are punishable with a fine of € 75,000 to € 375,000 and suspension of the license or authorisation of the programme service or of broadcasting of the programme through which the offence is committed, for a period of 1 to 10 days, according to the severity of the offence:

- a) Failure to comply with the provisions of nos. 1 to 3 of article 4, nos. 3 and 4 of article 4-B and no. 2 of article 7, of articles 11 and 12, of no. 1 of article 21 and nos. 2 and 3 of

articles 25 and 27, of article 31, of nos. 2 and 6 of article 32, nos. 1 and 3 of article 33, no. 1 of article 39 and no. 2 of article 60;

b) Violation by any operator of binding coverage obligations and the respective scheduling;

c) Infringement by any operator of no. 2 of article 30 and the right provided for in no. 1 of article 66;

d) The operation of television programme services by entities other than holders of licences or authorisations;

e) Non-fulfilment of the right to free airtime held by entities entitled thereto under no. 1 of article 59.

2 - The retransmission of television programme services or programmes in breach of nos. 2 and 3 of article 27 shall be liable to the penalty referred in the previous point where:

a) Rights over contents under consideration are acquired in the knowledge of their nature; or

b) In the case of retransmission of contents originating in countries outside the European Union, when the breach is obvious and clear and the distributor fails to prevent access to the respective content.

3 - In the case of programme services of local coverage, the minimum and maximum of the administrative offences foreseen in the previous point is reduced to one third.

4 - Negligence is punishable with the minimum and maximum limits of the fines under the previous point reduced by 50%.

Article 77-A

Administrative offences committed by on-demand audiovisual media services

1 - When the administrative offences referred to in articles 75, 76 and 77 are committed through on-demand audiovisual media services, the minimum and maximum limits of the respective fines are reduced to one quarter.

2 - The act of committing an administrative offence under article 77 through on-demand audiovisual media services may give rise to the suspension of the on-demand audiovisual media service or of the programme in which the offence was committed, in accordance with the severity of the offence, for a period of 1 to 10 days.

Article 78

Liability

1 - The broadcaster or provider through whose television programme services or audiovisual media service the administrative offence is committed will be held liable for the breaches foreseen in the previous articles, except in respect of any breach of no. 2 of article 60, in which case the holder of the right to free airtime is held liable.

2 – Distributors shall be liable for breaches for which they are held accountable pursuant to article 25 and no. 2 of article 77.

Article 79

Infringements committed during free airtime

Violation of the provisions of nos. 2 and 3 of article 27 and of no. 2 of article 60, laid down in paragraph a) of no. 1 of article 77, where committed in the course of the exercise of the entitlement to free airtime, shall be punishable with the additional penalty of suspension of the entitlement to exercise the said right for a period of between 3 and 12 months, with a minimum of 6 to 12 months in the event of a repeated offence, without prejudice to other penalties provided for in the law.

Article 80

Special mitigation and waiver of suspension and fine

1 - In the event that the circumstances permit special mitigation of the penalty, under general law:

a) In the case of a minor or serious breach, the provisions of no. 3 of article 18 of Decree-Law No. 433/82 of 27 October, shall apply, as amended by Decree-law no. 244/95 of 14 September.

b) In the case of a very serious breach, the limits of the penalty shall be reduced by a third, and the suspension of the license or authorisation for the programme service or transmission of the programme may not be ordered.

2 - In the case of a minor breach, the penalty applied to the perpetrator thereof may be waived where circumstances are such as to allow a penalty to be waived under penal law.

3 - The penalty applied to the operator may be waived in the case of violation of the time limits applicable to advertising as established in article 40, where failure to comply with this limit occurs occasionally and on exceptional grounds, and is duly justified, in particular by the unexpected delay or extension of a programme, and where there is evidence that, during that time period, and during the preceding and subsequent periods, the accumulated stipulated advertising limit has been respected.

Article 81

Special aggravation

Where the operator commits a breach after having been punished for another offence committed less than one year before, the minimum and maximum limits of the fine and the suspension of broadcasting shall be doubled.

Article 82

Revocation of licence and authorisation

1 - Failure to comply with no. 2 of article 7, no. 1 of article 21, nos. 2 and 3 of article 25, nos. 2 and 3 of article 27, article 31, nos. 2 and 6 of article 32, no. 1 of article 33, no. 1 of article 39, no. 1 of article 59, no. 2 of article 60 and no. 1 of article 66, and any infringement of binding coverage obligations and the respective scheduling of television programme services, where two previous breaches of the same degree of seriousness have been committed, may give rise to revocation of the respective license or authorisation.

2 - For the purposes of the previous point, breaches shall not be taken into consideration where more than two years have elapsed between conviction and the subsequent infringement.

3 - Failure to comply with article 12 and no. 2 of article 30 may give rise, according to the seriousness of the infringement, to revocation of the license or authorisation of the television programme services where the breach was committed.

4 - In the event of breach of article 20, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may set a new deadline for the start of programme broadcasting, upon expiry of which, if the breach still persists, the license or authorisation will be revoked.

5 - Repeated breach of points a) to c) of no. 1 of article 73 may give rise to revocation of the license or authorisation of the television programme services where the breach was committed.

6 - Any violation of point d) of no. 1 of article 73 may give rise to revocation of the license or authorisation of the television programme services where the said breach was committed.

Article 83

Suspension of execution

1 - Execution of the suspension of the license or of the authorisation of programme services or of the transmission of a programme may be suspended for a period of between three months and one year, when the conditions justifying suspension of execution under general penal law are fulfilled and where the operator has not been convicted of an offence within the preceding year.

2 - The suspension of execution may be made subject to the provision of a bond to guarantee good conduct, to be set between € 20,000 and € 150,000, depending on the duration of the suspension.

3 - The suspension of execution shall be revoked whenever, during the course of the respective period, the offender commits a very serious breach.

4 - Revocation determines enactment of the suspension, the execution of which was suspended, and forfeit of the guarantee deposit.

Article 84
Abbreviated proceedings

1 - In the case of infringement of nos. 1 and 2 of article 40 and in any other situation where the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) is in possession of a recording or other automated record of the facts that constitute the infringement, as soon as the news of the infringement has been received, the operator shall be notified of:

- a) The facts that constitute the infringement;
- b) The legislation which has been infringed;
- c) The applicable penalties;
- d) The time-limit granted for the presentation of his defence.

2 - The defendant may, within 20 days from the notification, present its defence in writing, giving indication of such evidence as it deems fit to be provided.

Article 85
Interim suspension of transmission

(Revoked.)

Article 86
Limitations on the re-broadcasting of television programme services

1 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may suspend the re-broadcasting of television programme services or of the respective programmes:

- a) In the case of television programme services, provided via free-to-air non-conditional access or via subscription-based non-conditional access, where these cause obvious and serious harm to the free personality development of children and adolescents, including the broadcasting of programmes containing scenes of pornography or gratuitous violence; or
- b) Regardless of the type of programme service, where these incite hatred, racism or xenophobia; and where the broadcaster has committed a similar breach at least twice during the preceding 12-month period.

2 - In the case of television programme services or programmes from other Member States of the European Union, the measure referred to in the previous point shall be preceded by:

- a) Notification by the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) made to the broadcasting broadcaster and to the European Commission, identifying the alleged breaches and measures to be adopted in the event that such breaches are repeated;
- b) Where the breach persists after 15 days have elapsed from the notification provided for in the previous paragraph and following conciliatory consultations between the Member State of transmission and the European Commission, notification by the

Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) made to the European Commission, of the Member State of the broadcast and also of the distributor, as to the suspension of the rebroadcasting of programmes that fail to comply with the previous point.

3 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall notify the member of Government responsible for the media as to the requests and notifications it makes under the terms of the previous point.

Article 86-A

Delocalisation of broadcasting

1 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may take appropriate measures as are necessary and proportionate to achieve cessation of offences committed through programme services provided by broadcasters under the jurisdiction of another Member State, if it is satisfied that such services are wholly or mainly targeted at the Portuguese territory and that the operators thereof have established themselves in another Member State in order to circumvent the stricter rules to which they would be subject under the jurisdiction of the Portuguese State.

2 - The measures referred to above may be adopted only when, after having made a detailed request to the competent Member State that it put an end to the infringing action, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media):

- a) Has not, within a period of two months, been informed by the Member State concerned as to the results obtained, or where it deems such results to be unsatisfactory; and
- b) It has subsequently given notice, on a well-substantiated basis, to the European Commission and to the Member State concerned of its intention to take such measures and the Commission does not lodge opposition to the decision within the subsequent three month period.

3 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) will provide procedures that ensure reciprocity in exercise of the option referred to in no. 1 by other Member States in respect of television programme services of broadcasters under the jurisdiction of the Portuguese State.

4 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall notify the member of Government responsible for the media as to any requests and notifications it executes pursuant to no. 2, and as to any requests and notifications it receives in respect of situations foreseen in the previous point.

Article 86-B

Limitations on the provision of on-demand audiovisual media services

1 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may, insofar as is proportionate to its regulatory objectives, impede the provision of programmes included in catalogues of on-demand audiovisual media services which breach the provisions of nos. 2 and 10 of article 27.

2 - In the case of on-demand audiovisual media services originating from other Member States of the European Union, the measure referred to in the previous point is to be preceded by:

a) A request to the Member State where the service provider has its origin that it put an end to the situation; or

b) In the event that this has not been undertaken or in the event that the steps taken prove to be inadequate, notification to the European Commission and the Member State of origin as to its intention to take restrictive measures.

3 - In urgent cases, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) may take restrictive measures without previously giving notification to the Commission and to other Member States of origin in accordance with the previous point.

4 - In the case foreseen in the previous point, the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall notify the Commission and the Member State to whose jurisdiction the on-demand audiovisual media service provider is subject as to the restrictive measures, doing so without delay and indicating the grounds for its determination of the case as urgent.

5 - The Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) shall notify the member of Government responsible for the media as to any requests and notifications it executes pursuant to no. 2, and as to any requests and notifications it receives in respect of situations foreseen in the previous point.

SECTION III

Special provisions on proceedings

Article 87

Form of proceedings

Proceedings for criminal offences which are committed through television programme services will be governed by the provisions of the Penal Procedure Code and complementary legislation, with the specificities resulting from the present law.

Article 88

Territorial jurisdiction

1 - The judicial court of the location where the operator has its registered office or permanent representation shall have jurisdiction over the crimes specified herein.

2 - The previous point does not apply to crimes committed against good name and reputation, the protection of private life or other personal values, whereas, in such cases, the judicial court of the area of residence of the injured party shall have jurisdiction.

3 - In the case of television broadcasts by an undertaking which is not so authorised under the law, and where the element defining jurisdiction under no. 1 is unknown, Lisbon District Judicial Court shall have jurisdiction.

Article 89

Interim suspension of criminal proceedings

(Revoked.)

Article 90

Regime of evidence

1 - In order to prove the pre-requisites for the exercise of the rights to reply or to rectification, and without prejudice to other means of evidence provided for by law, the interested party may request, pursuant to article 528 of the Civil Procedure Code, that the broadcaster be instructed to present recordings of the respective programme, within the response deadline.

2 - In addition to the means of evidence referred to in the previous point, only documental evidence attached to the initial claim and response shall be admissible.

Article 91

Broadcasting of decisions

1 - Where so requested by the Ministério Público (Public Prosecution Service) or by an injured party, and following a judicial ruling, the operative part of final judgments in respect of crimes committed through television programme services or through on-demand audiovisual media services, as well as identification of the parties concerned, is to be broadcast by the respective broadcaster or provider.

2 - A defendant in criminal proceedings reported via television programme services who is subsequently acquitted in a final judgement may make a request to the court that the findings of the judgement are also reported by the broadcaster, in the same television programme service and with an equivalent schedule, duration and prominence.

3 - In the case of on-demand audiovisual media services, the situation described in the previous point, mutatis mutandis, is made subject to the provisions of paragraph b) nos. 2 and 3 of article 69, in respect of transmission of the reply or rectification.

4 - Broadcast of the operative part of judgments referred to in previous points is to be undertaken in such a manner as to safeguard the rights of third parties.

CHAPTER VIII
Conservation of television heritage

Article 92
Legal deposit

1 - Recordings of programmes that are deemed to be of public interest due to their historical or cultural importance shall be subject to legal deposit, for the purpose of long-term conservation and access for research.

2 - The legal deposit referred to in the previous point will be governed by a specific statutory instrument, which will safeguard the interests of authors, producers and operators.

3 - The State will likewise promote the long-term conservation of and public access to recordings deemed to be of public interest and made prior to the statutory instrument that governs the legal deposit comes into force, by means of specific protocols established with each operator.

CHAPTER IX
Final and transitory provisions

Article 93
Regulatory competencies

1 - Except where otherwise provided for by law, it shall be incumbent upon the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) to regulate the issues provided for herein and to monitor compliance therewith.

2 - It is incumbent upon the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) to draw up the administrative offence proceedings as provided for herein and it is incumbent upon the chairman of the said Authority to apply the corresponding penalties.

3 - Revenues from fines will revert 60% to the State and 40% to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media).

Article 94
Reservation of capacity

1 - Upon granting rights of use of frequencies for the digital terrestrial television service of national coverage provided via free-to-air non-conditional access, transmission capacity shall be reserved for television programme services broadcast by terrestrial means in analogue mode provided by operators holding licenses or concessions in force at the date of entry into force hereof.

2 - Claims to the right referred to in the previous point shall be submitted to the Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) by interested operators, under penalty of expiry, within 60 days from the granting of rights of use of frequencies under consideration.

3 - Failure to exercise the right provided for in the previous points does not undermine the provisions established in nos. 2 and 3 of article 25 hereof.

Article 95

Supervening amendments

The allocation of new licenses or authorisations as well as any amendment of the current legal framework shall not constitute grounds for broadcasters to allege alteration of conditions in respect of the pursuit of the activity as regards their economic and financial equilibrium, nor do such occurrences confer any entitlement to compensation.

Article 96

References

References made to Law 32/2003 of 22 August shall be deemed to be made to the corresponding provisions hereof.

Article 97

Transitory norm

1 – The provisions established in no. 1 of article 22 and no. 1 of article 52 do not undermine counting of the validity periods of the licenses, authorisations and concession of the public television service at the date of entry into force hereof.

2 - Article 23 shall apply to licenses and authorisations held by operators exercising their activity on the date of entry into force hereof, whereas the first interim evaluation will take place at the end of the 1st or 2nd five-year period following the date of granting thereof or the date of the last renewal, as applicable.

3 - The provisions of this law apply in full to companies that effectively pursue television activity, as defined in paragraph a) of no. 1 of article 2.

Article 98

Revocatory norm

1 - The following are hereby revoked:

- a) Law 32/2003 of 22 August;
- b) Decree-Law no. 237/98 of 5 August.

2 - (Revoked.)