

The EU Audiovisual Media Services Directive and its transposition into national law – a comparative study of the 27 Member States

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Member State: Slovakia

Act amending Act on broadcasting and retransmission and amending Act on telecommunications

Important Notice

This text is an unofficial translation conducted at the University of Luxembourg in the framework of a research project on the transposition of the “**Audiovisual Media Services Directive**” in the Member States of the European Union.

The original legal acts which Member States notified to the European Commission as national execution measures were retrieved from official national databases. In order to focus on the core of the research project, several national legal acts have been shortened to include only those provisions of relevance for the study. Subsequently, the modified acts were translated by a translation agency external to the university.

The translations only serve the purpose of being an information source; there is no guarantee whatsoever that the translations correctly correspond to the original versions of the laws. Therefore, evidently, the texts have no legal value. The original, as well as the translated version of the legal acts, are available at: www.medialaw.lu, where additional information on the comparative study may be found.

Member State: Slovakia

Act No 498 of 29 October 2009 amending Act No 308/2000 on broadcasting and retransmission and amending Act No 195/2000 on telecommunications, as amended, and amending certain laws

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

Article I

Act No 308/2000 on broadcasting and retransmission and amending Act No 195/2000 on telecommunications, as amended by Act No 147/2001, Act No 206/2002, Act No 289/2005, Act No 95/2006, Act No 121/2006, Act No 13/2007, Act No 220/2007, Act No 343/2007, Act No 654/2007, Act No 167/2008, Act No 287/2008, Act No 516/2008, Act No 77/2009 and Act No 318/2009, is amended as follows:

1. In Section 1(b)(f), a comma and the words “on-demand audiovisual media service provider” are inserted after the words “retransmission operator”, and the words “in Section 2(2) and (4)” are replaced by the words “in Section 2(3) and (4)”.

2. Section 2, including the heading, reads:

“Section 2

Scope

(1) The present Act shall apply to

- a) a statutory broadcaster¹⁾ (hereinafter referred to as a ‘statutory broadcaster’);
- b) a broadcaster who is not a statutory broadcaster¹⁾ and is authorized to broadcast under a licence granted under the present Act or a special regulation^{1a)} (hereinafter referred to as a ‘licensed broadcaster’);
- c) an Internet broadcaster;
- d) an on-demand audiovisual media service provider;
- e) a retransmitter.

(2) The present Act shall apply to a broadcaster under paragraph (1)(a) to (c) or to an on-demand audiovisual media service provider having its registered office, place of business or residence in the Slovak Republic and taking editorial decisions here.

(3) The present Act shall also apply to legal persons or natural persons who are not broadcasters under paragraph (1)(a) to (c) or on-demand audiovisual media service providers under paragraph (1)(d) if they have their registered office, organizational unit, place of business or residence

a) in the Slovak Republic, but take editorial decisions in another Member State of the European Union, and if they employ a significant part of the workforce directly involved in the pursuit of broadcasting or in the provision of the on-demand audiovisual media service in the Slovak Republic, including those cases in which the proportion of the workforce directly involved in the pursuit of broadcasting or in the provision of the on-demand audiovisual media service employed in the Slovak Republic and in the Member State of the European Union where editorial decisions are taken is approximately the same;

b) in the Slovak Republic, but take editorial decisions in another Member State of the European Union, and a significant part of the workforce directly involved in the pursuit of broadcasting or in the provision of the on-demand audiovisual media service is not employed in either of these States, provided that they first began their activities in the Slovak Republic and maintain a stable and effective link with the economy of the Slovak Republic;

c) in the Slovak Republic, but take editorial decisions in a State which is not a Member State of the European Union, provided that they employ a significant part of the workforce directly involved in the pursuit of broadcasting or in the provision of the on-demand audiovisual media service in the Slovak Republic;

d) in another Member State of the European Union, but take editorial decisions in the Slovak Republic, provided that they employ a significant part of the workforce directly involved in the pursuit of broadcasting or in the provision of the on-demand audiovisual media service in the Slovak Republic.

(4) The present Act shall also apply to legal persons or natural persons who are not broadcasters under paragraph (1)(a) to (c) or on-demand audiovisual media service providers under paragraph (1)(d), who are not subject to paragraph (3) and who are not deemed to be established in a Member State of the European Union or in a State party to the European Convention on Transfrontier Television⁸⁾ if they use

a) a satellite link-up situated in the Slovak Republic for broadcasting, retransmission or the provision of on-demand audiovisual media services; or

b) satellite capacity appertaining to the Slovak Republic for broadcasting, retransmission or the provision of on-demand audiovisual media services.”.

3. The following Sections 2a and 2b are inserted after Section 2:

“Section 2a

Where the personal scope of the present Act cannot be determined pursuant to Section 2(3) and (4), the competent Member State of the European Union shall be that in which the broadcaster or on-demand audiovisual media service provider is established within the meaning of a special regulation.²⁾

Section 2b

The obligations of an Internet broadcaster under the provisions of the present Act shall apply to an Internet broadcaster broadcasting a programme service exclusively over the Internet.”.

Footnote 2) reads: “2) Articles 43 to 48 of the Treaty establishing the European Community, as amended (OJ C 321, 29.12.2006).”.

4. In Section 3, the following subparagraphs (b) to (d) are inserted after subparagraph (a):

“b) ‘on-demand audiovisual media service’ means a service primarily economic in nature, intended for the viewing of programmes by means of electronic communications^{3aa)} at the moment chosen by the user at his individual request on the basis of a catalogue of programmes selected by the on-demand audiovisual media service provider, the principal purpose of which is to inform, entertain or educate the general public; the provision of sound recordings shall not be regarded as an on-demand audiovisual media service;

c) ‘on-demand audiovisual media service provider’ means a natural person or a legal person who has editorial responsibility for the choice of the audiovisual content of the on-demand audiovisual media service and determines the manner in which it is organized;

d) ‘editorial responsibility’ means the exercise of effective control over the selection of programmes and over their organization in a chronological schedule, in the case of broadcasts, or in a catalogue, in the case of an on-demand audiovisual media services;”.

The current subparagraphs (b) to (s) are renumbered as subparagraphs (e) to (v) respectively.

Footnote 3aa) reads: “3aa) Section 2 of Act No 610/2003.”.

5. In Section 3, subparagraph (i) reads:

“i) a ‘programme’ is

1. an audio communication, the content, form and function of which forms a complete whole in the broadcaster’s programme service; or

2. audiovisual, composed of moving images with or without sound constituting, in its content, form and function, an individual item in the broadcaster’s programme service or in the catalogue selected by the on-demand audiovisual media service provider.”.

6. In point 7 of Section 3(k), the words “citizens suffering from social hardship” are replaced by the words “persons in an adverse social situation”.

7. Footnote 5) reads: “5) Section 2(2) of Act No 448/2008 on social services and amending Act No 445/1991 on licensed trade (the Trade Licensing Act), as amended.”.

8. In Section 3(t), the words “(m) to (p)” are replaced by the words “(p) to (s)”.

9. In Section 4(1) and (3), the words “broadcasting and transmission” are replaced by the words “broadcasting, retransmission and the provision of on-demand audiovisual media services”.

10. In Section 4(2), the second sentence reads: “It supervises compliance with legislation governing broadcasting, retransmission and the provision of on-demand audiovisual media services and is responsible for the State administration of broadcasting, retransmission and the provision of on-demand audiovisual media services to the extent specified by the present Act.”.

11. In footnote 7), the citation “Act of the Slovak National Council No 80/1990 on elections to the Slovak National Council, as amended” is replaced by the citation “Act No 333/2004 on elections to the National Council of the Slovak Republic, as amended”.

12. In Section 5(1)(c), the word “discontinuance” is replaced by the word “suspension”.

13. In Section 5(1)(h), the words “broadcaster and transmitter” are replaced by the words “broadcaster, retransmitter and on-demand audiovisual media service provider”.

14. In Section 5(1)(j), the conjunction “and” is replaced by a comma, and the following words are added at the end: “information on on-demand audiovisual media service providers supplied in accordance with the notification requirement, including changes thereto, and information on Internet broadcasters supplied in accordance with the notification requirement under Section 63a, including changes thereto;”.

15. In Section 5(1)(k), the words “and on-demand audiovisual media service providers” are inserted after the word “broadcasters”.

16. In Section 5(1)(l), the following words are added at the end: “and statistics on the proportion of European works in the provision of on-demand audiovisual media services”.

17. In Section 5(2)(b) to (d), the words “broadcasting and transmission” are replaced by the words “broadcasting, retransmission and the provision of an on-demand audiovisual media service”.

18. Footnote 9) reads:

“9) Section 7(a) of Act No 16/2004.”.

19. Footnote 10) reads:

“10) Section 7(a) of Act No 619/2003.”.

20. In Section 5(2), the following subparagraphs (i) and (j) are inserted after subparagraph (h):

“i) to compile a report containing an analysis of advertising which accompanies or is included in programmes for minors under 12 years and to submit that report at the request of the Ministry of Culture of the Slovak Republic (hereinafter referred to as the ‘Ministry of Culture’);

j) to provide the Ministry of Culture and the Ministry of Education of the Slovak Republic with supporting documentation for a report assessing the situation and level of media literacy;”.

The current subparagraphs (i) and (j) are renumbered as subparagraphs (k) and (l) respectively.

21. In Section 5(2)(l), the words “Ministry of Culture of the Slovak Republic (hereinafter referred to as the ‘Ministry of Culture’)” are replaced by the words “Ministry of Culture”.

22. In Section 5(2), the following subparagraphs (m) and (h) are added:

“m) to cooperate with self-regulatory bodies in broadcasting, retransmission and the provision of on-demand audiovisual media services to establish effective self-regulatory systems;

n) to negotiate, pursuant to Section 5, in cooperation with the Ministry of Culture, with the competent authority of another Member State of the European Union.”.

23. In Section 5(3)(b), the conjunction “and” after the word “spectrum” is replaced by a comma, and the following words are added at the end: “and an overview of on-demand audiovisual media service providers and Internet broadcasters”.

24. Footnote 11) reads:

“11) Section 2(1) of Act No 167/2008 on periodicals and agency news and amending certain laws (the Press Act).”.

25. The following Section 5a, including the heading, is inserted after Section 5:

“Section 5a

Addressing Cross-border Problems

(1) The Council, in cooperation with the Ministry of Culture, shall send the Member State of the European Union under whose jurisdiction a broadcaster who provides a television broadcast wholly or mostly directed towards the Slovak Republic falls a reasoned request to resolve problems arising from such television broadcast if the broadcast fails to comply with the provisions of the present Act.

(2) If a Member State of the European Union sends a reasoned request concerning a broadcaster pursuant to the present Act who provides a television broadcast wholly or mostly directed towards the territory of another Member State of the European Union, the Council shall request that broadcaster to respect the rules of the Member State of the European Union towards whose territory its broadcast is wholly or mostly directed. Within two months of receiving a request under the preceding sentence, the Council, in cooperation with the

Ministry of Culture, shall inform the Member State of the European Union of the outcome of the handling of that request.

(3) If the handling of a request under paragraph (1) is not satisfactory and the Council considers that the broadcaster under paragraph (1) is established in another Member State of the European Union in order to circumvent stricter rules in force in the Slovak Republic, the Council may take appropriate, objectively necessary and reasonable measures against that broadcaster on a non-discriminatory basis.

(4) The Council may take measures pursuant to paragraph (3) only if it has notified the Commission and the Member State of the European Union in which the broadcaster under paragraph (1) is established of its intention to take such measures while duly substantiating the grounds therefor and the Commission has decided that the measures are compatible with Community law and that such measures are warranted. If the Commission decides that the measures are incompatible with Community law, the Council shall refrain from taking the proposed measures.”.

26. In Section 6a(1), the words “broadcasting and the provision of retransmission services” are replaced by the words “broadcasting, the provision of retransmission services and the provision of on-demand audiovisual media services”.

27. In Section 62(1)(g), the words “(Section 31(5))” are replaced by the words “(Section 31(8))”.

28. In Section 6a(1), subparagraph (i) reads:

“i) statistics on the channel transmitted, statistics on the broadcasting of European works and independent productions, and statistics on the proportion of European works in the provision of on-demand audiovisual media services, and an evaluation thereof [Section 5(1)(l)],”.

29. In Section 6a(1)(j), the following new point 2 is inserted after point 1:

“2. on-demand audiovisual media services;”.

The current points 2 to 7 are renumbered as points 3 to 8 respectively.

30. In Section 6a(1), the following point 9 is added to subparagraph (j):

“9. self-regulatory bodies and self-regulatory systems for the area covered by the present Act;”.

31. In Section 6a(1)(l), a comma and the words “on-demand audiovisual media service providers” are inserted after the word “retransmitters”.

32. In Section 6a(1)(n), the conjunction “and” is replaced by a comma, and at the end the full-stop is replaced by a comma and the following words are added: “on-demand audiovisual media service providers and Internet broadcasters.”.

33. In Section 6a(1) the word “Data” is replaced by the words “Statistics on the broadcasting of European works and independent productions”, and the following sentence is added at the end: “Upon request, but at least once every four years, the Council shall send the Commission and the Ministry of Culture statistics on the proportion of European works in the provision of on-demand audiovisual media services and an evaluation thereof.”.

34. Footnote 14) reads: “14) Section 10(1) of Act No 330/2007 on criminal records and amending certain laws.”.

35. In Section 7(3)(b), a comma and the words “an on-demand audiovisual media service provider” are inserted after the words “a retransmitter”.

36. In Section 7(3)(c) and (e), the word “or” after the word “broadcaster” is replaced by a comma and the words “an on-demand audiovisual media service provider” are inserted after the words “a retransmitter”.

37. In Section 7(3)(d), the conjunction “and” after the word “broadcasting” is replaced by a comma, and at the end the comma is deleted and the following words are added: “and the provision of an on-demand audiovisual media service;”.

38. Footnote 15) reads: “15) Act No 283/2002 on travel expenses, as amended.”.

39. Footnote 16) reads: “16) Act No 580/2004 on health insurance and amending Act No 95/2002 on insurance and amending certain other acts, as amended.”.

40. Footnote 17) reads: “17) Act No 461/2003 on social insurance, as amended.”.

41. The number “110c” in footnote 18) is replaced by the number “117”.

42. Footnote 19) reads: “19) Act No 523/2004 on the budgetary rules of public administration and amending certain laws, as amended.”.

43. Footnote 20) reads: “20) Act No 553/2003 on the remuneration of certain employees for the performance of work in the public interest and amending certain laws, as amended.”.

44. In Section 14, the conjunction “and” after the word “broadcasting” is replaced by a comma and the words “and the provision of on-demand audiovisual media services” are inserted after the word “retransmission”.

45. Footnote 21) reads: “21) E.g. Section 38(1) of Act No 575/2001 on the organization of government activities and the organization of central government, Section 8(1)(a) of Act No 610/2003.”.

46. In Section 14a, paragraph (2) reads:

“(2) It shall be clear from the complaint how the present Act is alleged to have been infringed. If an infringement of the present Act by the transmission or the provision of a programme, an element of a programme service or an element of an on-demand audiovisual media service is alleged, the complaint shall include the date and approximate time of the transmission or provision of the programme, element of the programme service or element of the on-demand audiovisual media service, and the name of the programme service or on-demand audiovisual media service within the scope of which the present Act is alleged to have been infringed.”.

47. The heading of Part Three reads:

“Fundamental rights and obligations of broadcasters, retransmitters and on-demand service providers.”

48. The following paragraph (3) is added to Section 15:

“(3) An on-demand audiovisual media service provider shall provide the on-demand audiovisual media service freely and independently. Interventions in the content thereof may be made only in accordance with and within the limits of the law.”.

49. In Section 15a(1), the words “in accordance with Section 2(2) and (4) and” are replaced by the words “in accordance with Section 2(3) and (4),”, and the following words are added at the end: “and Internet broadcasting”.

50. Section 16, including the heading, reads:

“Section 16 Fundamental Obligations of a Broadcaster and an On-demand Audiovisual Media Service Provider

(1) A broadcaster or on-demand audiovisual media service provider shall make easily, directly and permanently accessible to the public the following information in particular:

- a) the trade name, company name or first name and surname of the broadcaster or on-demand audiovisual media service provider;
- b) the address of the registered office, place of business or residence of the broadcaster or on-demand audiovisual media service provider;
- c) its telephone number, electronic mail address or website.

(2) A broadcaster or on-demand audiovisual media service provider shall

- a) suspend, pursuant to a decision by the Council, the broadcasting or provision of a programme or part thereof;

b) broadcast or provide audiovisual works only at the time and under the conditions agreed with the holders of rights to these works;

c) ensure that programmes and other elements of the programme service and on-demand audiovisual media service broadcast and provided in an election campaign are compatible with special regulations.²²⁾

(3) A broadcaster shall

a) ensure the universality of information and pluralism in the programme service broadcast;

b) ensure the objectivity and impartiality of news programmes and current affairs programmes; points of view and evaluative comments shall be separated from information taking the form of news;

c) commence broadcasting within 360 days of the date on which the decision granting the licence enters into force, except where the broadcaster is granted a licence under a special regulation,^{26a)} if broadcasting is stopped in connection with proceedings on the revocation of a licence and such proceedings are discontinued, the broadcaster shall have the same time limit in which to resume broadcasting;

d) broadcast in accordance with the licence granted;

e) ensure, in the broadcasting of programmes and other elements of the programme service, use of the official language, minority languages and foreign languages in accordance with special regulations;²⁶⁾

f) indicate at least once every hour, during the broadcasting of a radio programme service, its programme service by means of an unmistakable audio signal, provided that this does not undermine the integrity of the programme;

g) permanently display on-screen, during the broadcasting of a television programme service, the programme service by means of an unmistakable visual symbol (logo), except during the broadcasting of advertising and teleshopping;

h) register activity performed under the present Act as a business object in the Commercial Register; the broadcaster shall submit an application for the registration of such activity within 60 days from the date on which the decision granting the licence enters into force;

i) ensure that a programme in the broadcasting of a television programme service is not interrupted unless otherwise provided by the present Act; a programme may be interrupted by a broadcast of special news;

j) provide central government authorities, on request, free of charge, and in the overriding public interest, with the necessary transmission time to broadcast an important and urgent announcement, notice or decision to the extent provided for under special regulations²³⁾ or to broadcast civil protection information²⁴⁾ at a time and to an extent reducing to a minimum the risk constituted by delay;

k) broadcast a notice of an infringement of the law or other generally binding legislation (hereinafter referred to as a “notice of an infringement of the law”), and of the licence granted, to an adequate extent, in an adequate form and at an adequate transmission time determined by the Council;

l) keep, at an appropriate quality, continuous records of broadcasts for 45 days as of the date of the broadcasts; at the Council’s request, the broadcaster shall provide a recording of a

broadcast on a normal technical medium, the type of which shall be determined by the Council in the licence by agreement with the broadcaster;

m) keep statistics on programmes broadcast within the scope of the television programme service, containing an evaluation of the proportions of programme types, the proportion of programmes in the public interest, the proportions of programmes with multimodal access, the proportion of European productions and the proportion of European independent productions; statistics on the programme service for the calendar month shall be delivered to the Council within 15 days of the end of the calendar month by the broadcaster, apart from an Internet broadcaster or broadcaster licensed under the present Act for non-terrestrial broadcasting, who shall deliver these statistics within 15 days of receipt of the Council's request for such statistics.

(4) The provisions of paragraph (3)(a) to (e), (h) and (l) shall not apply to Internet broadcasting.”.

51. In footnote 22a), the citation “Act of the Slovak National Council No 80/1990, as amended” is replaced by the citation “Act No 333/2004, as amended”.

52. Footnote 23) reads:“23) E.g. Constitutional Act No 227/2002 on national security in a time of war, hostilities, a period of emergency or a state of emergency, as amended, Act No 319/2002 on the defence of the Slovak Republic, as amended, Act No 570/2005 on conscription and amending certain laws, as amended.”.

53. In Section 17(1), subparagraph (c) reads:

“c) retransmit a programme service only with the consent of the original broadcaster of that service;”.

54. Footnote 27) reads: “27) Sections 52 to 54 of the Civil Code.”.

55. The heading of Part Four reads:

“Specific obligations of a broadcaster and an on-demand audiovisual media service provider in the broadcasting and provision of programmes in the public interest and in safeguarding multimodal access to the programme service and the on-demand audiovisual media service”.

56. The heading of Section 18b reads: “Specific Obligations of a Broadcaster and an On-demand Audiovisual Media Service Provider when Indicating Programmes with Multimodal Access”.

57. In Section 18b(1), the words “and an on-demand audiovisual media service provider” are inserted after the word “broadcaster”, and the words “or provided” are inserted after the word “broadcast”.

58. The following paragraph (3) is added to Section 18b:

“(3) An on-demand audiovisual media service provider shall apply the indications pursuant to paragraph (1) in the catalogue of programmes.”.

59. Section 19, including the heading, reads:

“Section 19 Protection of Human Dignity and Humanity

(1) An on-demand audiovisual media service, a programme service and the elements thereof shall not

a) in the manner in which they are processed and in their content infringe upon human dignity and the fundamental rights and freedoms of others;

b) promote violence and explicitly or implicitly incite hatred, disparage or defame on grounds of sex, race, colour, language, belief and religion, political or other opinion, national or social origin, nationality or ethnic group;

c) promote war or describe cruel or otherwise inhuman acts in a manner inappropriately trivializing, excusing or approving them;

d) unreasonably depict scenes of real violence, where an undue emphasis is placed on the actual process of dying or where persons are depicted who are exposed to physical or psychological suffering in a manner that is considered an infringement upon human dignity; this shall apply even if the persons concerned have agreed to such a depiction;

e) explicitly or implicitly promote alcoholism, smoking, the use of narcotic drugs, poisons and precursors, or make light of the consequences of the use of those substances;

f) improperly depict minors who are exposed to physical or psychological suffering;

g) show child pornography or pornography containing pathological sexual practices.

(2) A spot for a programme in a television programme service shall not include excerpts from works depicting scenes of violence and sex, environmental devastation, or images, which could give the impression of implicitly promoting alcoholism, smoking and the use of narcotic drugs, poisons and precursors.”.

60. In Section 20, paragraph (2) reads:

“(2) An on-demand audiovisual media service provider shall ensure that the on-demand audiovisual media service and all elements thereof which could impair the physical, mental or moral development of minors, including, without limitation, those which contain pornography or gross, gratuitous violence, are accessible only in such a manner that, under normal circumstances, minors are unable to hear or see such an on-demand audiovisual media service or any elements thereof.

61. In Section 20(4), the words “a programme service broadcaster shall” are replaced by the words “a programme service broadcaster and an on-demand audiovisual media service provider shall”.

62. In Section 20, paragraphs (5) and (6) read:

“(5) A programme service broadcaster shall take into account the age appropriateness of programmes and other elements of the programme service for minors and ensure their scheduling in accordance with the conditions laid down in a special regulation.^{28a)}

(6) A programme service broadcaster shall apply a uniform system of labelling in its programme range, i.e. in the programme guide provides for publication to the periodical press and other mass media; a television programme service broadcaster shall also apply a uniform system of labelling in its own broadcasting.”.

63. In Section 20(8), the word “television” is deleted.

64. The following paragraph (9) is added to Section 20:

“(9) For the purposes of the present Act, the depiction of gratuitous violence shall mean the dissemination of messages, verbal expressions or images where violent content unduly gains prominence in light of the context of such messages, verbal expressions or images.”.

65. The heading of Part Six reads:

“European works and independent productions in a television programme service and the provision of an on-demand audiovisual media service”.

66. In Section 22(1), subparagraph (c) reads:

“(c) co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements, provided that works under subparagraph (a) are not subject to discriminatory measures in such third countries.”.

67. In Section 22(2)(a) to (c), a comma and the words “place of business or residence” are inserted after the words “registered office”.

68. In Section 22, paragraphs (3) and (5) are deleted.

The current paragraph (4) is renumbered as paragraph (3).

69. In Section 22(3), a comma and the words “place of business or residence” are inserted after the words “registered office”.

70. In Section 25(1), the words “a licensed broadcaster shall” are replaced by the words “a licensed broadcaster or Internet broadcaster shall”.

71. In Section 25(3), the words “or an Internet broadcaster” are inserted after the words “a licensed broadcaster”.

72. The following Section 27a, including the heading, is inserted after Section 27:

“Section 27a

European Works in an On-demand Audiovisual Media Service

An on-demand audiovisual media service provider shall provide the Council, on request, with a list of data on European works which are part its on-demand audiovisual media service, containing information about those titles which are European works, information on the proportion of European works in the catalogue of programmes, and information on other measures taken to promote European works.”.

73. Section 30, including the heading, reads:

“Section 30

Right to Short News Reports

(1) A television programme service broadcaster may, for the purposes of news reporting, produce and transmit a recording of an event of high interest to the public to which another broadcaster holds the exclusive broadcasting right.

(2) For the purposes of the production of a recording under paragraph (1), a broadcaster who holds the exclusive right to broadcast an event of high interest to the public shall ensure the free choice of extracts from its signal on a fair, reasonable, and non-discriminatory basis and only for compensation of purposefully incurred costs.

(3) A recording under paragraph (1)

a) may be broadcast only in a regularly broadcast news programme which is broadcast in the same form, even outside the time at which the event of high interest to the public takes place;

b) shall not exceed, upon transmission, a timeframe of 90 seconds;

c) shall not be broadcast before the event of high interest to the public can be broadcast or reported in a news programme by the broadcaster holding the exclusive right to broadcast the event;

d) shall be broadcast with an acknowledgement of the source holding the exclusive right to broadcast the event of high interest to the public.

(4) A recording under paragraph (1) may be repeatedly broadcast for up to 24 hours from the first transmission of the recording and only in a news programme. After this period, a recording may be used repeatedly only if the content thereof is directly related to another important event which is a subject of news.

(5) If an event of high interest to the public comprises several mutually independent parts, each of these parts shall be regarded as an event for the purposes of paragraph (1). If an event of high interest to the public takes place over two or more days, at least one day shall be regarded as an independent part.

(6) A television programme service broadcaster who produces a news recording of an event of high interest to the public shall reimburse reasonable costs incurred by the organizer of that event in connection with the provision of facilities and services for the activity concerned.

(7) A broadcaster who transmits a recording under paragraph (3) in a news programme may provide that programme, unchanged, through an on-demand audiovisual media service for which that broadcaster has editorial responsibility.

(8) If the exclusive right to broadcast an event of high interest to the public is acquired by a broadcaster having its registered office, place of business or residence in the Slovak Republic, any broadcaster who wishes to exercise the right to produce and transmit a recording under paragraph (1) and who has its registered office, place of business or residence in the Slovak Republic shall exercise this right, as a matter of priority, in respect of that broadcaster.”.

74. In Section 31(1), subparagraph (d) is deleted.

75. In Section 31, paragraphs (3) and (4) read:

“(3) The Council shall draw up a list of all broadcasters classifying broadcasters by the specific features, nature or technical parameters of their broadcasting as

a) broadcasters whose mode of transmission facilitates access for more than 80% of the population without requiring payment of a special fee; or

b) broadcasters with limited public access.

(4) The classification of broadcasters pursuant to paragraph (3) shall be determined by the Council in the licence granted.

76. In Section 31, the following new paragraphs (5) to (7) are inserted after paragraph (4):

“(5) A broadcaster classified in the group under paragraph (3)(b) who acquires the exclusive right to broadcast a major event shall enable a substantial part of the public to follow that major event, under fair, reasonable and non-discriminatory market conditions, via a broadcaster classified in the group under paragraph (3)(a) in a manner determined by the Council in the list under paragraph (2); for the purposes of the present Act, “substantial part of the public” means more than 80% of the population.

(6) A broadcaster classified in the group under paragraph (3)(b) who acquires the exclusive right to broadcast a major event shall be required, in particular, to inform all broadcasters classified in the group under paragraph (3)(a) of the opportunity to transmit the major event. Such information shall be provided in sufficient time before the event and shall contain information about the event, including, without limitation, the place and time of the event and the price sought by the broadcaster.

(7) A broadcaster classified in the group under paragraph (3)(b) who acquires the exclusive right to broadcast a major event shall be entitled to transmit the event only after entering into an agreement with at least one broadcaster classified in the group under paragraph (3)(a) on the provision of public access to the major event in accordance with paragraph (5), or if none of the broadcasters classified in the group under paragraph (3)(a) submits a written proposal to transmit the event under the conditions laid down in the information on the opportunity to transmit the major event pursuant to paragraph (6) within 14 days of receipt of such information pursuant to paragraph (6). If more than one broadcaster submits a written

proposal to transmit the major event, the broadcaster who has acquired the exclusive right to broadcast the major event shall enable at least one of them to transmit the event.”.

The current paragraphs (5) and (6) are renumbered as paragraphs (8) and (9) respectively.

77. The heading of Part Eight reads:

“Media commercial communications”

78. The following Section 31a, including the heading, is inserted after Section 31:

“Section 31a

Media Commercial Communications

(1) For the purposes of the present Act, ‘media commercial communications’ means audio, visual or audiovisual information which directly or indirectly promotes goods, services or the image of a natural person or legal person pursuing an economic activity and

a) is included in or accompanies a programme in return for payment or for similar consideration or for self-promotional purposes; or

b) is a programme service devoted exclusively to advertising and teleshopping, or a programme service devoted exclusively to self-promotion.

(2) Media commercial communications include, without limitation, advertising, teleshopping, sponsorship, product placement, programme services devoted exclusively to advertising and teleshopping, programme services devoted exclusively to self-promotion, and longer advertising communications pursuant to Section 35(8).

(3) “Surreptitious media commercial communications” means audio, visual or audiovisual information which directly or indirectly promotes goods, services, a trademark, a trade name or activity of a natural person or legal person pursuing an economic activity, where the broadcaster or on-demand audiovisual media service provider intentionally uses such information in a programme for promotional purposes and such information, by its nature, might mislead the public as to its substance. Such information shall be regarded as intentional in particular if it is used in return for payment or for other consideration.

(4) Surreptitious media commercial communications shall be prohibited.

(5) Media commercial communications shall be clearly distinguishable from other elements of a programme service or on-demand audiovisual media service.

(6) Media commercial communications using subliminal techniques shall be prohibited.

(7) Media commercial communications shall not

a) violate freedom and equality in human dignity and rights;

b) include or promote any discrimination on grounds of sex, race, colour, age, language, sexual orientation, disability, religion or belief, national or social origin, nationality or ethnic group;

c) encourage behaviour which harms or endangers health or safety;

d) encourage behaviour grossly prejudicial to the environment;

(8) Media commercial communications for cigarettes and other tobacco products shall be prohibited. Circumvention of the ban by using brand names, trademarks, emblems or other distinctive features of these products shall be prohibited.

(9) Media commercial communications for alcoholic beverages

a) shall not be aimed at minors;

b) shall not encourage immoderate consumption of alcoholic beverages.

(10) Media commercial communications for medicinal products available only on prescription and medical treatment covered by public health insurance under special regulations³²⁾ shall be prohibited.

(11) A broadcaster or on-demand audiovisual media service provider shall ensure that media commercial communications cannot cause physical or moral detriment to minors, and therefore media commercial communications shall not

a) directly exhort minors to buy or hire goods or services by exploiting their inexperience or credulity;

b) directly encourage minors to persuade their parents or other persons of the need to buy them the products or services being advertised;

c) exploit the special trust minors place in parents, teachers or other persons; or

d) unreasonably show minors in dangerous situations.”.

Footnote 32) reads: “32) Act No 577/2004 on the scope of health care covered by public health insurance and on the coverage of services related to health care, as amended.”.

79. In Section 32(2), subparagraphs (a) and (b) read:

“a) a teleshopping spot;

b) a teleshopping window of a minimum duration of 15 minutes;”.

80. In Section 32(2), subparagraph (c) is deleted.

81. In Section 32(3), the following words are added at the end: “or a teleshopping window”.

82. In Section 32, paragraph (4) is deleted.

The current paragraphs (5) to (14) are renumbered as paragraphs (4) to (13) respectively.

83. In Section 32, paragraph (5) reads:

“(5) Advertising and teleshopping shall not encourage minors to purchase goods, the sale of which to such persons is prohibited under special regulations.²⁹⁾”.

Footnote 29) reads: “29) E.g. Section 36d(14) of Act of the Slovak National Council No 51/1988 on mining activities, explosives and on the State Mining Authority, as amended by Act No 577/2007.”.

84. In footnote 30), the citation “Act of the Slovak National Council No 80/1990, as amended” is replaced by the citation “Section 24 of Act No 333/2004.”.

85. In Section 32, paragraph (11) reads:

“(11) Paragraph (9) shall not apply to Internet broadcasting.”.

86. In Section 32, paragraphs (12) and (13) are deleted.

87. In Section 33, paragraphs (1) and (7) are deleted.

The current paragraphs (2) to (6) and (8) are renumbered as paragraphs (1) to (6) respectively.

88. In Section 33, paragraph (1) reads:

“(1) The broadcasting of advertising and teleshopping for alcoholic beverages except beer and wine shall be prohibited between 6:00 a.m. and 10:00 p.m. The broadcasting of advertising and teleshopping for wine shall be prohibited between 6:00 a.m. and 8:00 p.m.”.

89. In Section 33(2)(a), the words “be aimed at minors and in particular shall not” are deleted.

90. In Section 33(3), the words “and medicinal products available on prescription” are deleted.

91. In footnote 31), the citation “Section 188a” is replaced by the citation “Section 174”.

92. Footnote 33) reads: “33) Act No 190/2003 on firearms and ammunition and amending certain laws, as amended.”

93. In Section 33(4), the words “pursuant to paragraph (4)” are replaced by the words “pursuant to paragraph (3) and Section 31a(10)”.

94. The following paragraph (7) is added to Section 33:

“(7) Paragraph (1) shall not apply to Internet broadcasting.”.

95. In Section 34(1), the words “or spatial” are inserted after the words “audiovisual”.

96. In Section 34(2), the second sentence reads: “The broadcasting of isolated advertising and teleshopping spots shall be permitted in transmissions of sports events, and in other cases shall be permitted only in exceptional circumstances.”.

97. The following paragraph (5) is added to Section 34:

“(5) Paragraph (3) shall not apply to Internet broadcasting.”.

98. In Section 35, paragraphs (3) to (5) read:

“(3) The broadcasting of news programmes or audiovisual works,³⁴⁾ excluding serials, series, documentaries, children’s programmes and religious services, may be interrupted by advertising or teleshopping once for each 30-minute period, even if the scheduled duration of the news programme or audiovisual work does not exceed 30 minutes; the broadcasting of serials, series, and documentaries may be interrupted by advertising or teleshopping irrespective of their duration.

(4) The broadcasting of children’s programmes of a duration exceeding 30 minutes may be interrupted by advertising or teleshopping once for each 30-minute period.

(5) The broadcasting of religious services shall not be interrupted by advertising or teleshopping.”.

Footnote 34) reads: “34) Section 5(2) of Act No 618/2003 on copyright and related rights (the Copyright Act).”.

99. Footnote 35) reads: “35) Act No 618/2003, as amended.”.

100. In Section 35(7) and (9), the words “paragraphs (1) to (6)” are replaced by the words “paragraphs (1) to (4) and (6)”.

101. In Section 36, paragraphs (1) and (5) are deleted.

The current paragraphs (2) to (4) and (6) are renumbered as paragraphs (1) to (4) respectively.

102. In Section 36, paragraph (3) reads:

“(3) The restrictions under paragraph (2) shall not apply to the broadcasting of a teleshopping window by a licensed broadcaster.”

103. In Section 36(4), the words “Teleshopping programmes” are replaced by the words “Teleshopping windows”.

104. In Section 37a, the following subparagraph (e) is added to paragraph (1):

“e) the identification of the sponsor of a programme broadcast pursuant to Section 38(2) and the identification of product placement pursuant to Section 39a(5)(d).”.

105. In Section 37a(2), the words “or indirectly” are deleted.

106. Sections 38 and 39, including their headings, read:

“Section 38

Sponsorship

(1) For the purposes of the present Act, ‘sponsorship’ means any contribution intended for the direct or indirect financing of a programme, programme service or on-demand audiovisual media services with a view to promoting a trade name, company name, trademark, image, products or activities of the legal person or natural person providing the contribution. A contribution as set forth in the first sentence which is provided by a legal person or a natural person who is a broadcaster or on-demand audiovisual media service provider or who produced the programme shall not be regarded as sponsorship.

(2) A programme or series of programmes which is sponsored in part or in whole shall be clearly identified by the broadcaster and on-demand audiovisual media service provider with the trade name, if a legal person, or company name or first name and surname, if a natural person, of the person who provided the contribution at the beginning and end of the programme. At the beginning and end of the programme, a broadcaster and on-demand audiovisual media service provider may, instead of the identification under the first sentence, identify a sponsored programme or series of programmes with the logo of the sponsor or a reference to a product or service of the sponsor.

(3) A sponsor shall not influence content of a sponsored programme, programme service or on-demand audiovisual media service, or the scheduling of sponsored programmes, in such a as to affect the editorial responsibility or editorial independence of the broadcaster or on-demand audiovisual media service provider.

(4) A broadcaster and on-demand audiovisual media service provider shall ensure that a sponsored programme, sponsored programme service or sponsored on-demand audiovisual media service does not directly encourage the sale, purchase or rental of the goods or services of the sponsor or a third person, in particular by making special promotional references to those goods or services in such programmes, programme service, or on-demand audiovisual media services.

(5) Section 34(3) and (5) shall apply mutatis mutandis to the identification of the sponsor pursuant to paragraph (2) in the broadcasting of a programme service.

(6) A broadcaster and on-demand audiovisual media service provider shall ensure that the public is clearly informed of the sponsorship of the programme service or on-demand audiovisual media service.

Section 39

Restrictions on Sponsorship

(1) The sponsor of a programme or programme service shall not be a legal person or a natural person whose principal activity is the manufacture, sale or rental of goods or the provision of services, the advertising of which is prohibited under Section 33(3) and (6). A person whose principal activity is the manufacture, sale or rental of goods or the provision of services, the advertising of which is restricted under Section 33(1) and Section 32(6), shall not be a sponsor of a programme or programme service broadcast during such a restriction.

(2) For the purposes of the present Act, “principal activity” shall mean an activity generating income equal to more than 51% of the total income of a legal person or natural person, who has this activity registered as a business object in the commercial register and is known to the public for such activity.

(3) A programme, programme service or on-demand audiovisual media service sponsored by a legal person or a natural person who is engaged in the manufacture or sale of medicinal products or the provision of medical treatment may promote the name or image of the undertaking, but shall not promote the sale of medicinal products available only on prescription or medical treatments covered by public health insurance under special legislation.³²⁾

(4) The sponsorship of news programmes and current affairs programmes shall be prohibited. Programmes containing only information about the weather, traffic conditions or sport shall be exempted.

(5) The sponsorship of supplementary broadcasting shall be prohibited in the broadcasting of a television programme service.

(6) The sponsorship of supplementary broadcasting, apart from announcements of the present time, shall be prohibited in the broadcasting of a radio programme service; Paragraphs (1) to (3) and (7) and Section 38 shall apply mutatis mutandis to the sponsorship of announcements of the present time.

(7) A programme, programme service or on-demand audiovisual media service shall not be sponsored by a legal person or a natural person whose principal activity is the manufacture or sale of cigarettes or other tobacco products.”.

107. The following Section 39a, including the heading, is inserted after Section 39:

“Section 39a

Product Placement

(1) Product placement is audio, visual or audiovisual information about goods, services or trade marks incorporated into a programme in return for payment or for similar consideration.

(2) Product placement shall be permitted only under the conditions laid down in the present Act.

(3) Product placement shall be admissible where certain goods or services, in particular props or competition prizes, are provided free of charge. This is without prejudice to the conditions laid down in paragraph (5).

(4) Product placement other than free product placement pursuant to paragraph (3) shall be admissible in cinematographic works, films, series, sports programmes and entertainment programmes.

(5) Product placement pursuant to paragraphs (3) and (4) shall be admissible in programmes which meet the following requirements:

a) their content and scheduling shall not be influenced in such a way as to affect the editorial responsibility and editorial independence of the broadcaster or on-demand audiovisual media service provider;

b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special references to those goods or services;

c) they shall not give undue prominence to the goods or services in question;

d) the public shall be clearly informed of the existence of product placement by means of an indication thereof at the start and end of the programme, and when a programme resumes after a break for media commercial communications. This shall not apply to a programme which has not been not commissioned or produced by the broadcaster or on-demand audiovisual media service provider broadcasting or providing the programme.

(6) Product placement in programmes for the age group of minors under 12 years of age³⁶⁾ shall be prohibited.

(7) Product placement shall be prohibited in connection with a natural person or a legal person whose principal activity is the manufacture or sale of cigarettes or other tobacco products.”.

Footnote 36) reads: "36) Section 3(1) Decree of the Ministry of Culture of the Slovak Republic No 589/2007 laying down details on a single labelling system for audiovisual works, sound recordings of artistic performances, multimedia works, programmes or other elements of a programme service, and the method of application thereof.”.

108. The heading of Part Nine reads:

“Programme service devoted exclusively to self-promotion, advertising and teleshopping”.

109. In Section 40, the word “Nine” and the words “in Section 36(1) and (3)” are replaced by the words “in Section 36(2)”.

110. Section 41, including the heading, reads:

“Section 41

Programme Service Devoted Exclusively to Advertising and Teleshopping

The relevant provisions of Part One, Three, Four, Five, Eight, Nine, Eleven, Thirteen and Fourteen shall apply to the broadcasting of a programme service devoted exclusively to the broadcasting of advertising and teleshopping. Section 36(2) shall not apply.”.

111. In Section 46(2), subparagraph (d) is deleted.

The current subparagraphs (e) to (l) are renumbered as subparagraphs (d) to (k) respectively.

Footnote 25) is deleted.

112. In footnote 38), the citation “Act of the Slovak National Council No 73/1992 on auditors and the Slovak Chamber of Auditors, as amended.” is replaced by the citation “Act No 540/2007 on auditors, auditing and the oversight of auditing and amending Act No 431/2002 on accounting, as amended.”.

113. In Section 49(4)(j), the words “Section 16(e)” are replaced by the words “Section 16(3)(l)”.

114. Footnote 45) reads:

“45) Act No 7/2005 on bankruptcy and restructuring and amending certain laws, as amended.”.

115. In Section 54(2), subparagraph (d) is deleted.

The current subparagraph (e) is renumbered as subparagraph (d).

116. In Section 54(2)(d), the words “Section 16(p)” are replaced by the words “Section 16(3)(h)”.

117. Footnote 47) is deleted.

118. In Section 56(4)(c), the reference 35b after the word “legislation” is replaced by the word reference 21c.

119. In Section 56, the following subparagraph (e) is added to paragraph (4):

“e) in cases of the exclusive retransmission of a programme service of an Internet broadcaster which broadcasts its programme service solely over the Internet.”.

120. In Section 57(2), subparagraph (d) is deleted.

The current subparagraphs (e) to (j) are renumbered as subparagraphs (d) to (i) respectively.

121. In Section 60(1), a comma and the words “apart from the information referred to in Section 57(1)(g),” are inserted after the words “registration of retransmission”.

122. The following paragraphs (8) and (9) are added to Section 60:

“(8) A retransmitter shall notify the Council of any change in the information referred to in Section 57(1)(g) collectively for its whole territorial coverage once a year by 31 January, based on the situation as at 1 January of the calendar year. A retransmitter shall also comply with the Council’s request to report on the current status of the information referred to in Section 57(1)(g) separately for each part of its geographical coverage, particularly with regard to verification of compliance with the obligations under Section 17(1)(a) and (b).

(9) If a retransmitter incorporates radio or television programme services into its programme range which were not previously included, in the discharge of obligations under paragraph (8) it shall also provide the information referred to in Section 57(2)(e).”.

123. Section 61, including the heading, reads:

“Section 61

Suspension of the Retransmission of a Programme Service

(1) In accordance with the obligations of international treaties binding upon the Slovak Republic, the Council may decide to suspend the retransmission of a programme service, the content of which manifestly, seriously and gravely endangers the physical, mental or moral development of minors or manifestly, seriously and gravely incites hatred on grounds of race, sex, religion, or nationality.

(2) The Council may decide to suspend the retransmission of a programme service if, during the previous 12 months, a broadcaster has committed the infringement referred to in paragraph (1) at least twice. Prior to suspending the retransmission of a programme service, the Council shall notify the broadcaster, the broadcaster’s State and the Commission of its intention to suspend the retransmission of the programme services pursuant to paragraph (1). If, within 15 days of notification of the intention, negotiations with the broadcaster’s State and the Commission do not result in the settlement of the dispute and the alleged infringement persists, the Council may decide to suspend the retransmission of the programme service.

(3) In its decision under paragraph (1), the Council shall set a time limit within which the retransmitter shall suspend the retransmission of the programme service.

(4) The retransmitter may appeal against a decision to suspend the retransmission of a programme service to the Supreme Court within 15 days of service of the Council’s decision.

(5) If, within two months of notification of a decision to suspend the retransmission of a programme service, the Commission decides that the measures are incompatible with the legislation of the European Community, the Council shall annul the decision to suspend the retransmission of the programme service.

(6) Paragraphs (2) and (5) shall apply if a broadcaster falling under the jurisdiction of a Member State of the European Union engages in the conduct under paragraph (1).”.

124. In Section 63(1)(c), the word “discontinued” is replaced by the word “suspended”.

125. The following Section 63a, including the heading, is inserted after Section 63:

“Section 63a

Notification Requirement

(1) An Internet broadcaster and on-demand audiovisual media service provider shall, no later than the date of commencement of Internet broadcasting or the provision of the on-demand audiovisual media service, notify the Council in writing or electronically of

a) the commencement of Internet broadcasting or the provision of an on-demand audiovisual media service;

b) his given name and surname, residential address and date of birth, if a natural person;

c) his company name, place of business and registered number, if a natural person – entrepreneur;

d) its trade name, registered office, legal form and registered number, if a legal person, and the given name, surname and date of birth of persons who are the governing body thereof or members of the governing body thereof; a foreign legal person carrying on activities in the Slovak Republic shall also provide the address of the place of business of the undertaking or the organizational unit of the undertaking in the Slovak Republic, including the given name, surname, residential address and date of birth of the manager of the undertaking or the organizational unit of the undertaking;

e) the identity of the website on which the on-demand audiovisual media service or broadcasting is provided, and the identity of the multiplex provider if the on-demand audiovisual media service is to be provided via a terrestrial multiplex;

f) a geographical breakdown of frequency allotment, if the on-demand audiovisual media service is to be provided via terrestrial multiplex;

g) the information under Section 16(1)(b) and (c);

h) the State in which editorial decisions are taken;

i) the State in which the workforce directly involved in Internet broadcasting or in the provision of the on-demand audiovisual media service is employed.

(2) An Internet broadcaster and on-demand audiovisual media service provider shall notify the Council of any and all changes in the information referred to in paragraph (1) within 30 days of the occurrence of such changes.”

126. In Section 64(1)(c), the words “or provision” are inserted after the word “broadcasting”.

127. In Section 64, paragraph (2) reads:

“(2) The Council shall impose the penalty under paragraph (1)(d) if a broadcaster, retransmitter, on-demand audiovisual media service provider or legal person or natural person under Section 2(3) and (4) repeatedly breaches an obligation despite written warning from the Council. The Council shall impose a fine without prior warning if an obligation under Section 19 is breached. The Council may impose a fine without prior warning if an obligation under Section 16(2)(a) and (c), Section 20(1) and (3), or Section 30 is breached, or in case of unauthorized broadcasting [Section 2(1)(b)] or unauthorized retransmission [Section 2(1)(e)].”

128. In Section 64, the following new paragraph (3) is inserted after paragraph (2):

“(3) The Council shall set a fine based on the seriousness of the matter, the method, duration and consequences of the infringement, and the degree of culpability, with consideration for the scope and impact of the broadcasting, the provision of on-demand audiovisual media services and retransmission, unjust enrichment, and any penalty already imposed by a self-regulatory body in a field covered by the present Act within its own self-regulatory system.”

The current paragraphs (3) to (6) are renumbered as paragraphs (4) to (7) respectively.

129. The following sentence is attached to the end of Section 64(4): “The date on which a report on an inspection of compliance with obligations under the present Act is consulted at a Council meeting shall be regarded as the date on which the Council learned of an infringement pursuant to paragraph (1).”.

130. In Section 64(7), the words “paragraph (5)” are replaced by the words “paragraph (6)”.

131. In Section 65, the words “Section 16(a) to (c)” are replaced by the words “Section 16(2)(c), (3)(a) and (b)”.

132. The following Section 65a, including the heading, is inserted after Section 65:

“Section 65a

Notice of an Infringement of the Law in Internet Broadcasting

The obligation to broadcast a notice of infringement may be imposed by the Council on an Internet broadcaster if the Internet broadcaster broadcasts programmes or other elements of the programme service in contravention of Section 16(2)(c), Section 19 and Section 20 (1) and (3) and it is useful and necessary to make the public aware of the infringement; the scope, format and transmission time shall be set by the Council.”.

133. In Section 66, the words “Section 16(b) and (c)” are replaced by the words “Section 16(2)(c) and (3)(b)”.

134. The following Sections 66a and 66b, including their headings, are inserted after Section 66:

“Section 66a

Suspension of the Broadcasting of All or Part of a Programme Broadcast via the Internet

If an Internet broadcaster, by broadcasting a programme, seriously breaches the obligations under Section 16(2)(c), Section 19 and Section 20(1) and (3), the Council shall suspend the broadcasting of the programme or part thereof for up to 30 days.

Section 66b

Suspension of the Provision of a Programme via an On-demand Audiovisual Media Service

If an on-demand audiovisual media service provider, by providing a programme, seriously breaches the obligations under Section 19 and Section 20(2), the Council shall suspend the provision of that programme.”.

135. In Section 67(1)(b), the words “Section 60(1)” are replaced by the words “Section 60(1), (8) and (9)”.

136. In Section 67(2) to (6), the words “apart from an Internet broadcaster” are inserted after the words “a television programme service broadcaster” in the first sentence.

137. In Section 67(2), subparagraph (a) is deleted.

The current subparagraphs (b) to (m) are renumbered as subparagraphs (a) to (l) respectively.

138. In Section 67(2)(a), the words “[Section 5(1)(m)]” are replaced by the words “[Section 16(3)(l)]”.

139. In Section 67(2)(b), the words “[Section 16(k) and (l)]” are replaced by the words “[Section 16(3)(f) and (g)]”.

140. In Section 67(2)(d), the words “[Section 16(m)]” are replaced by the words “[Section 16(3)(m)]”.

141. In Section 67(2), subparagraph (h) is deleted.

The current subparagraphs (i) to (l) are renumbered as subparagraphs (h) to (k) respectively.

142. In Section 67(2)(k), the words “Section 16(g)” are replaced by the words “Section 16(3)(e)”.

143. In Section 67, the following subparagraph (l) is added to paragraph (2):

“l) breaches the obligations referred to in Section 16(1).”.

144. In Section 67(3)(b), the words “[Section 16(d)]” are replaced by the words “[Section 16(3)(j)]”.

145. In Section 67(3), subparagraph (c) reads:

“c) fails to classify and label programmes or other elements of a programme service (Section 20(4)) or fails to schedule programmes or other elements of a programme service in accordance with the conditions laid down in special legislation^{28a)} (Section 20(5));”.

146. In Section 67(3)(d), the words “and a sponsored programme service” are inserted after the word “programmes”.

147. In Section 67(3)(e), the words “Section 16(c)” are replaced by the words “Section 16(2)(c)”.

148. In Section 67, the following subparagraph (f) is added to paragraph (3):

“f) breaches the conditions of product placement (Section 39a).”.

149. In Section 67(4), the words “[Section 16(q)]” are replaced by the words “[Section 16(3)(i)]”.

150. In Section 67(5)(a), the word “advertising” is replaced by the words “medial commercial communications, including advertising”.

151. In Section 67(5)(b), the words “advertising and” are inserted after the words “devoted to self-promotion or”.

152. In Section 67(5)(e), the words “parts” is replaced by the word “elements”.

153. In Section 67(5)(f), the words “[Section 16(h)]” are replaced by the words “[Section 16(3)(k)]”.

154. In Section 67(5)(g), the words “[Section 16(i)]” are replaced by the words “[Section 16(2)(a)]”.

155. In Section 67(6), the words “and a fine of between EUR 100 and EUR 5,000 inclusive on an on-demand audiovisual media service provider” are inserted after the words “EUR 19,916”, and the words “breaches any of the specific obligations” are replaced by the words “has breached specific obligations”.

156. In Section 67(7)(d), the words “Section 16(n)” are replaced by the words “Section 16(3)(d)”.

157. In Section 67(8), the words “Section 2(2) and (4)” are replaced by the words “Section 2(3) and (4)”.

158. In Section 67, the following new paragraphs (10) to (15) are inserted after paragraph (9):

“(10) The Council shall impose a fine of between EUR 30 and EUR 1,200 inclusive on an Internet broadcaster who

a) fails to label the programme service broadcast by the Internet broadcaster [Section 16(3)(g)];

b) fails to comply with the obligation under Section 16(1) or Section 63a(1) and (2);

c) breaches the conditions for the broadcasting of short news reports (Section 30);

d) fails to keep statistics on programmes broadcast [Section 16(3)(m)];

e) fails to provide the Council with information on the broadcasting of European works and independent productions (Section 27);

f) fails to comply with the obligations concerning the broadcasting of European works or independent productions (Sections 23 and 25);

g) breaches the specific obligations of a broadcaster in the indication of multimodal access to a programme service (Section 18b);

h) fails to comply with the obligation under Section 76dc(3).

(11) The Council shall impose a fine of between EUR 100 and EUR 20,000 inclusive on an Internet broadcaster who

a) breaches the conditions for the broadcasting of media commercial communications, including advertising and teleshopping;

b) fails to broadcast a notice of infringement or fails to comply with the conditions for the publication thereof as determined by the Council [Section 16(3)(k)];

c) breaches the conditions for the broadcasting of sponsored programmes and sponsored programme services;

d) breaches the conditions of product placement (Section 39a);

e) fails to classify and label programmes or other elements of a programme service (Section 20(4)) or fails to schedule programmes or other elements of a programme service in accordance with the conditions laid down in special legislation^{28a)} (Section 20(5));

f) fails to provide transmission time in the overriding public interest [Section 16(3)(j)];

g) broadcasts programmes and other elements of a programme service, the content of which is contrary to the obligation pursuant to Section 16(2)(c).

h) breaches the conditions for the broadcasting of major events (Section 31) or breaches the obligation not to interrupt a programme by another broadcast [Section 16(3)(i)];

i) broadcasts programmes and other elements of a programme service which could endanger the physical, mental or moral development of minors or disturb their mental health or emotional state from 6.00 a.m. to 10.00 p.m. (Section 20(3));

j) breaches the conditions for the broadcasting of programme services devoted to self-promotion or to advertising and teleshopping (Sections 40 and 41).

(12) The Council shall impose a fine of between EUR 500 and EUR 60,000 inclusive on an Internet broadcaster who

a) broadcasts programmes and other elements of a programme service, the content of which is contrary to the obligations pursuant to Section 19 or Section 20(1);

b) fails to suspend the broadcasting of a programme or part thereof, or fails to comply with the conditions for the suspension of a programme or part thereof as determined by the Council [Section 16(2)(a)].

(13) The Council shall impose a fine of between EUR 30 and EUR 1,000 inclusive on an on-demand audiovisual media service provider who

a) breaches the conditions under Section 16(1);

b) fails to comply with the obligation under Section 63a(1) and (2);

c) provides programmes via an on-demand audiovisual media service, the content of which is contrary to the obligation pursuant to Section 16(2)(c);

d) breaches the specific obligations of an on-demand audiovisual media service provider in the indication of multimodal access to a programme service (Section 18b);

e) fails to provide the Council with the information referred to in Section 27a;

f) fails to comply with the obligation under Section 76dc(3).

(14) The Council shall impose a fine of between EUR 100 and EUR 10,000 inclusive on an on-demand audiovisual media service provider who

a) breaches the conditions of media commercial communications;

b) breaches the conditions for sponsored programmes and sponsored on-demand audiovisual media services;

c) breaches the conditions of product placement (Section 39a);

d) fails to classify and label programmes (Section 20(4)) in the catalogue of the programmes in its on-demand audiovisual media service.

(15) The Council shall impose a fine of between EUR 500 and EUR 40,000 inclusive on an on-demand audiovisual media service provider who

a) provides, through its on-demand audiovisual media service, programmes and other elements of an on-demand audiovisual media service, the content of which is contrary to the obligations pursuant to Section 19;

b) provides, through its on-demand audiovisual media service, programmes and other elements of an on-demand audiovisual media service, the content of which is contrary to the obligations pursuant to Section 20(2);

c) fails to suspend the provision of a programme [Section 16(2)(a)].”.

The current paragraphs (10) and (11) are renumbered as paragraphs (16) and (17) respectively.

159. In Section 67(16), the words “(1) to (9)” are replaced by the words “(1) to (15)”.

160. In Section 67a(1), the words “Section 19(2)(a) or (c)” are replaced by the words “Section 19(1)(b) or (c)”.

161. The following paragraph (5) is added to Section 71:

“(5) Special legislation^{50a)} shall apply to the provision of on-demand audiovisual media services, unless otherwise provided by the present Act.”.

Footnote 50a) reads: “50a) Act No 22/2004 on electronic commerce and amending Act No 128/2002 on State control of the internal market in consumer protection matters and amending certain laws, as amended by Act No 284/2002, as amended by Act No 160/2005.”.

162. The following Section 71c is inserted after Section 71b:

“Section 71c

Where the generally binding regulations use the terms ‘relation’ [*relácia*] and ‘broadcasting relation’ [*relácia vysielania*], except for the terms ‘pay relations’ [*platová relácia*] and ‘transportation relations’ [*prepravná relácia*], this shall mean ‘programme’.”

163. The following Section 76dc, including the heading, is inserted after Section 76db:

“Section 76dc

Transitional Provisions for Amendments Effective as of 15 December 2009

(1) The Council shall send the Commission and the Ministry of Culture statistics on the promotion of European works in the provision of on-demand audiovisual media services for the first time by 19 December 2011.

(2) Section 39a shall apply only to programmes produced after 19 December 2009.

(3) An Internet broadcaster and on-demand audiovisual media service provider broadcasting or providing an on-demand audiovisual media service as at 15 December 2009 shall fulfil the obligation under Section 63a by 28 February 2010.”.

164. The Annex to the Act reads:

“Annex to Act No 308/2000

List of transposed legal acts of the European Communities and the European Union

1. Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ Special Edition, Chapter 6 Volume 1; OJ L 298, 17.10.1989), as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 (OJ Special Edition, Chapter 6 Volume 2; OJ L 202, 30.7.1997) and Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 (OJ L 332, 18.12.2007).”.

Article II

Act No 220/2007 on the digital broadcasting of programme services and the provision of other content services via digital broadcasting and amending certain laws (the Digital Broadcasting Act), as amended by Act No 654/2007, is amended as follows:

1. In Section 1(2), the following new subparagraph (d) is inserted after subparagraph (c):

“d) Internet broadcaster;”.

The current subparagraphs (d) to (g) are renumbered as subparagraphs (e) to (h) respectively.

2. In Section 1, paragraph (3) is deleted.

3. In Section 2, paragraph (5) is deleted.

The current paragraphs (6) to (15) are renumbered as paragraphs (5) to (14) respectively.

4. In Section 3, paragraph (1) reads:

“(1) A programme service is a service primarily economic in nature comprising the intentional scheduling of programmes and other elements of the service to form a closed, simultaneously receivable whole, and provided by a broadcaster in order to inform, entertain or educate the general public.”.

5. In Section 3, paragraph (6) reads:

“(6) The dissemination of information or other communications over the Internet shall not be regarded as the broadcasting of a radio programme service.”.

6. In Section 4(1)(b), the words “video service” are replaced by the words “audiovisual media service”.

7. In Section 14(1), a comma and the words “an on-demand audiovisual media service” are inserted after the word “multiplex”.

8. In Section 38(5) the words “broadcasting of a programme service or retransmission thereof” are replaced by the words “retransmission of a programme service”.

9. In Section 59(1) and (2), the amount “SKK 5,000” is replaced by the amount “EUR 165”.

10. In Section 60(1)(a), the amount “SKK 200,000” is replaced by the amount “EUR 6,638”.

11. In Section 60(1)(b), the words “SKK 10,000 to SKK 100,000” are replaced by the words “EUR 331 to EUR 3,319”.

12. In Section 60(1)(c), the words “SKK 10,000 to SKK 1,000,000” are replaced by the words “EUR 331 to EUR 33,193”.

13. In Section 60(1)(d), the words “SKK 1,000 to SKK 200,000” are replaced by the words “EUR 33 to EUR 6,638”.

14. In Section 60(1)(e), the words “SKK 20,000 to SKK 200,000” are replaced by the words “EUR 663 to EUR 6,638”.

15. In Section 60(1)(f), the words “SKK 20,000 to SKK 500,000” are replaced by the words “EUR 663 to EUR 16,596”.

16. In Section 60(1)(g), the words “SKK 1,000 to SKK 100,000” are replaced by the words “EUR 33 to EUR 3,319”.

17. In Section 60(1)(h), the words “SKK 10,000 to SKK 100,000” are replaced by the words “EUR 331 to EUR 3,319”.

18. In Section 60(2), the words “SKK 10,000 to SKK 5,000,000” are replaced by the words “EUR 331 to EUR 165,969”.

19. In Section 60(3)(a), the words “SKK 5,000 to SKK 50,000” are replaced by the words “EUR 165 to EUR 1,659”.

20. In Section 60(3)(b), the words “SKK 10,000 to SKK 200,000” are replaced by the words “EUR 331 to EUR 6,638”.

21. In Section 60(3)(c), the words “SKK 5,000 to SKK 200,000” are replaced by the words “EUR 165 to EUR 6,638”.

22. In Section 60(4), the words “SKK 10,000 to SKK 5,000,000” are replaced by the words “EUR 331 to EUR 165,969”.

23. In the Annex to the Act, the first paragraph reads:

“1. Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ Special Edition, Chapter 6 Volume 1; OJ L 298,

17.10.1989), as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 (OJ Special Edition. Chapter 6 Volume 2; OJ L 202, 30.7.1997) and Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 (OJ L 332, 18.12.2007).”.

Article III

Act No 343/2007 on conditions for the registration, public distribution and preservation of audiovisual works, multimedia works and sound recordings of artistic performances and amending certain laws (the Audiovisual Act) is amended as follows:

1. In Section 2(17), the following words are added at the end: “or a person who publicly disseminates copies of an audiovisual work by means of an on-demand audiovisual media service.^{10a)}”.

Footnote 10a) reads: “10a) Section 3(c) of Act No 308/2000, as amended by Act No 498/2009.”.

2. In Section 12(1), a comma and the words “programmes provided by means of an on-demand audiovisual media service” are inserted after the word “multimedia works”.

3. In Section 12(3)(c), a comma and the words “programmes provided by means of an on-demand audiovisual media service” are inserted after the word “multimedia works”.

4. The heading of Part Five reads:

“Advertising and product placement”.

5. The following Section 21a, including the heading, is inserted after Section 21:

“Section 21a

Product Placement

(1) For the purposes of the present Act, “product placement” means audio, visual or audiovisual information about goods, services or trade marks incorporated into an audiovisual work in return for payment or for similar consideration which directly or indirectly promotes goods, services or the image of a natural person or legal person pursuing an economic activity.

(2) Product placement shall be permitted only under the conditions laid down in the present Act.

(3) Product placement shall be admissible where certain goods or services, in particular props, are provided free of charge. This is without prejudice to the conditions laid down in paragraph (5).

(4) Product placement other than free product placement pursuant to paragraph (3) shall be admissible in cinematographic works, films and series.

(5) In respect of product placement pursuant to paragraphs (3) and (4), a producer of a Slovak audiovisual work shall ensure that the Slovak audiovisual work produced meets the following requirements:

a) the content is not influenced in such a way as to affect the independence of the producer of the Slovak audiovisual work;

b) it does not directly encourage the purchase or rental of goods or services, in particular by making special references to those goods or services;

c) it does not give undue prominence to the goods or services in question;

d) the public is clearly informed of the existence of product placement by means of an indication thereof at the start and end of the audiovisual work.

(6) Product placement shall be prohibited

a) where it concerns medicinal products available only on prescription and medical treatment covered by public health insurance under special regulations;^{16a)}

b) where it concerns cigarettes and other tobacco products;

c) in connection with a natural person or a legal person whose principal activity is the manufacture or sale of cigarettes or other tobacco products;

d) in audiovisual works intended for minors up to 12 years of age.”.

Footnote 16a) reads: “16a) Act No 577/2004 on the scope of health care covered by public health insurance and on the coverage of services related to health care, as amended.”.

6. In Section 42(c), the words “(18) to (21)” are replaced by the words “(18) to (21a)”.

7. In Section 43(3), the amount “SKK 5,000” is replaced by the amount “EUR 165”.

8. In Section 45(2)(a), the words “SKK 1,000 to SKK 5,000” are replaced by the words “EUR 33 to EUR 165”.

9. In Section 45(2)(b), the words “SKK 20,000 to SKK 1,000,000” are replaced by the words “EUR 663 to EUR 33,193”.

10. In Section 45(2)(c), the words “SKK 2,000 to SKK 50,000” are replaced by the words “EUR 66 to EUR 1,825”.

11. In Section 45(3)(a), the words “SKK 10,000 to SKK 100,000” are replaced by the words “EUR 331 to EUR 3,319”.

12. In Section 45(3)(b), the words “SKK 10,000 to SKK 2,000,000” are replaced by the words “EUR 331 to EUR 66,387”.

13. In Section 45(3)(c), the words “SKK 10,000 to SKK 2,000,000” are replaced by the words “EUR 331 to EUR 66,387”.

14. In Section 45(3)(d), the words “SKK 2,000 to SKK 50,000” are replaced by the words “EUR 66 to EUR 1,825”.

15. In Section 45(4)(a), the words “SKK 10,000 to SKK 1,000,000” are replaced by the words “EUR 331 to EUR 33,193”.

16. In Section 45(4)(b), the words “SKK 5,000 to SKK 500,000” are replaced by the words “EUR 165 to EUR 16,596”.

17. In Section 45(4)(c), the words “SKK 1,000 to SKK 20,000” are replaced by the words “EUR 33 to EUR 663”.

18. In Section 45(4)(d), the words “SKK 5,000 to SKK 20,000” are replaced by the words “EUR 165 to EUR 663”.

19. In Section 45(4)(e), the words “SKK 1,000 to SKK 20,000” are replaced by the words “EUR 33 to EUR 663”.

20. In Section 45(4)(f), the words “SKK 1,000 to SKK 20,000” are replaced by the words “EUR 33 to EUR 663”.

21. In Section 45(4)(g), the words “SKK 10,000 to SKK 500,000” are replaced by the words “EUR 331 to EUR 16,596”.

22. In Section 45(4)(h), the words “SKK 5,000 to SKK 100,000” are replaced by the words “EUR 165 to EUR 3,319”.

23. In Section 45, the following subparagraph (i) is added to paragraph (4):

“i) Section 21a, a fine of between EUR 100 and EUR 10,000 inclusive.”.

24. In Section 45(5), the amount “SKK 5,000” is replaced by the amount “EUR 165”.

25. The following paragraph (7) is added to Section 46:

“(7) Section 21a shall not apply to Slovak audiovisual works produced before 19 December 2009.”.

Article IV

The Chairman of the National Council of the Slovak Republic is authorized to promulgate, in the Collection of Laws of the Slovak Republic, the consolidated version of Act No 308/2000 on broadcasting and retransmission and amending Act No 195/2000 on telecommunications further to the amendments implemented by Act No 147/2001, Act No 206/2002, Act No 289/2005, Act No 95/2006, Act No 121/2006, Act No 13/2007, Act No 220/2007, Act No 343/2007, Act No 654/2007, Act No 167/2008, Act No 287/2008, Act No 516/2008, Act No 77/2009, Act No 318/2009 and the present Act.

Article V

This Act shall enter into effect on 15 December 2009.