

**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: Slovenia**

**Act on Audiovisual Media Services (AVMS)**

**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](http://www.medialaw.lu), where additional information on the comparative study may be found.

## **Member State: Slovenia**

### **Order to promulgate the Act on Audiovisual Media Services (AVMS)**

**Official Journal: Uradni list RS, number: 87/2011**

I hereby promulgate the Act on Audiovisual Media Services (AVMS), adopted by the Slovenian National Assembly at its session on 19th October, 2011.

Ljubljana, 27 October 2011

dr. Danilo Türk, President of the Republic of Slovenia

### **Act on Audiovisual Media Services (AVMS)**

#### **Chapter I**

#### **Introductory provisions**

#### **Article 1**

#### **(Purpose of the Act)**

(1) This Act establishes the rights, obligations and responsibilities of legal and natural persons engaged in the activity of providing audiovisual media services.

(2) This Act transposes Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (codified version) (OJ L No. 95, 15. 4. 2010) (hereinafter: Directive 2010/13/EU) into the legislation of the Republic of Slovenia.

#### **Article 2**

#### **(Scope)**

(1) The provisions of this Act shall apply to all audiovisual media services, i.e., television programmes and other linear audiovisual media services and on-demand audiovisual media services or non-linear audiovisual media services.

(2) In the event that programmes of the same provider (hereinafter: provider) of audiovisual media services are provided both in a linear and non-linear manner, such programmes shall satisfy the requirements for programme content provided in a linear manner.

(3) If various types of programmes or services, i.e. linear and non-linear, are provided simultaneously, and are clearly distinguished from each other, the provisions of this Act shall apply for each service according to its nature.

### **Article 3**

#### **(Definitions)**

The terms used in this Act shall have the following meanings:

1. Audiovisual media service means:

- the provision of audiovisual programming content, which is performed as an economic activity, including the activities of public service enterprises, and is under the editorial responsibility of the audiovisual media services provider, as well as through electronic communications networks to the general public in the form of linear or non-linear audiovisual media service for the purposes of information, entertainment and education, or

- audiovisual commercial communications.

The audiovisual media services may also contain text-based content, which accompanies the audio-visual programmes, for example subtitles and electronic programme guides.

2. Excluded from audiovisual media services are services whose principal purpose is not the provision of programming content, i.e. when the presence of audiovisual elements in the service is merely incidental, for example:

- a website with animated elements, short advertising spots or information related to a product or service that falls outside the scope of audiovisual media services;

- stand-alone text-based services;

- electronic versions of newspapers and magazines;

- games of chance involving money, lotteries, betting and other forms of gambling-related services;

- online games;

- search engines.

3. Audiovisual programme content shall mean a series of moving images with or without sound, constituting an individual item within a television schedule or a catalogue of a non-linear audiovisual media service, established by an audiovisual media service provider.

Examples of such programmes include daily news programmes, feature films, broadcasts of sports events, serials, series, documentaries, programmes for children and other similar types of programmes.

4. Editorial responsibility means the exercise of control over the selection, organization and scheduling of programme content in the television programme schedule or catalogue of audiovisual media services, subject to the exceptions contained in the law governing electronic commerce in the market.

5. A provider of audiovisual media services is a legal or natural person engaged in the activity of providing audiovisual media services and carries editorial and legal responsibility. A natural or legal person who merely broadcasts content for which a third person is editorially responsible is not a provider under this Act.

6. Television programme or the performance of television services shall mean a linear audiovisual media service of providing audiovisual programming for simultaneous monitoring according to the schedule established by the provider. Television programme includes in particular analogue and digital television, live streaming, webcasting and near-video-on-demand.

7. A broadcaster of a television programme (hereinafter: broadcaster) is a natural or legal person who is registered for performing television activities and who performs television activities pursuant to and in accordance with the permit to carry out broadcasting activities, as provided by the law governing the media. A broadcaster means a provider of audiovisual media services, who provides audiovisual programmes for simultaneous viewing according to a schedule.

8. On-demand audiovisual media service means a non-linear audiovisual media service providing audiovisual programme content on the basis of a catalogue, established by the provider, for viewing by the user at his personal request and at the time of his choice.

9. Audiovisual commercial communication and dissemination of audiovisual commercial communication mean the broadcasting of images with or without sound which are designed to directly or indirectly promote and facilitate legal transactions of goods, services, immovable property, rights or obligations, the acquisition of business partners or creation of the reputation and goodwill of a legal or natural person. Such images accompany or are included in the programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, television advertising, sponsorship, teleshopping and product placement.

10. Self-promotion means advertising designed to promote the sale, purchase or lease of a product or service, or to achieve any other advertising effect intended by the provider.

11. Television advertising means any form of communication that a natural or legal person broadcasts in return for payment or for similar consideration or for the purpose of self-promotion in connection with a trade, business, craft or profession, in order to promote the supply of goods and services including immovable property, rights and obligations, in return for money. Forms of television advertising are advertising, informative advertising, self-promotion, paid video messages and other forms of television advertising, defined by the Agency's general act.

12. Free-of-charge announcements related to the implementation of public services, cultural

events, health promotion, charity appeals and actions that are of general interest for public safety in the Republic of Slovenia, and other announcements in the broader public interest, free-of-charge announcements related to warnings against harmful foods and beverages and free-of-charge presentations of artistic works as well as free-of-charge references of producers, organizers, sponsors and donors of artistic works, cultural events and charity appeals in the media presentation of these works, events and appeals shall not be considered as television advertising under this Act.

13. Surreptitious audiovisual commercial communication means the representation in words or pictures of goods, services, name, trademark or activities of a producer of goods or provider of services in programmes when such representation is intended by the media service provider to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration.

14. Sponsorship means any form of contribution and any contribution made by a natural or legal person not engaged in the provision of audiovisual media services or in the production of audiovisual works, to the financing of audiovisual media services with a view to promoting or reinforcing their name or trade name, trademark, image, activities or products.

15. Teleshopping means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment.

16. Teleshopping window means a broader unit of teleshopping, lasting without interruption for at least 15 minutes, which the publisher broadcasts on the television programme not exclusively devoted to teleshopping.

17. Product placement means any form of audiovisual commercial communication consisting of the inclusion of a product, a service or a trademark thereof so that it is featured within a programme in return for payment or for similar consideration.

18. Broadcasting time under this Act means all broadcasts that a given television channel broadcasts in a given time unit.

19. Annual transmission time under this Act includes all broadcasts by a given television channel spanning the period from 1 January to 31 December of each year with the exception of programming exempted from annual transmission time under the present Law.

20. European audiovisual works under this Act are:

- works originating from Member States of the European Union;

- works originating from third European countries, which are party to the European Convention on Transfrontier Television of the Council of Europe, in which the audiovisual works of the Member States of the European Union are not subject to discriminatory measures and which comply with the provisions in point 21 of this paragraph;

- works originating from third European countries in which audiovisual works of the Member States of the European Union are not subject to discriminatory measures, which have been created entirely in a co-production of producers, established and registered in the Member States of the European Union, and producers from European countries with which the

European Union has concluded agreements in the audiovisual sector, if these works were primarily created by authors and workers from one or more European countries.

21. European works of the first and second indent of the preceding point, created primarily by the authors and workers residing in the countries from the two indents, if on of the following two conditions are met:

- If the producers of these works were established or registered in the said countries;
- If a given work was created under the authority and effective control of one or more producers from these countries;
- If the contribution of the co-producers from these countries was predominant and the co-production balance was not dominated by one or more producers, established or registered outside of these countries.

22. Independent producer (hereinafter: independent producer) of audiovisual works under this Act is a legal or natural person who meets the following four conditions:

- It is registered for carrying out the activities of producing audiovisual works and is established in the Republic of Slovenia or in one of the Member States of the European Union;
- It is not included in the organizational structure or legal entity of the broadcaster;
- The broadcaster has no more than a 25 percent capital share or management or voting rights in its property;
- It creates no more than one-half of its annual production commissioned by a single broadcaster.

23. An independent producer is also a legal or natural person, registered for performing activities of producing audiovisual works and established in a third European country, if European works constitute a major share of its audiovisual production during the previous three years and the conditions of the second and third indents of the previous point are also met.

24. An operator of electronic communications (hereinafter: operator of electronic communications) is under this Act a natural or legal person who transmits, broadcasts and propagates audiovisual media services through terrestrial networks, via satellite, via cable distribution or cable communications systems, or in any other way, and thus technically enables the dissemination of programming to the interested members of the public, under the conditions provided for by Act.

25. Local, regional, student and non-profit special interest television channels have the meaning as defined by the law governing the media.

26. Programme content of own production and Slovenian audiovisual works have the meaning as defined by the law governing the media.

## Article 4

### (Jurisdiction of the Republic of Slovenia)

(1) A provider under this Act is deemed to be under the jurisdiction of the Republic of Slovenia if both the provider and the editorship have a permanent residence in the Republic of Slovenia.

(2) Notwithstanding the provisions of the preceding paragraph, the provider is deemed to be under the jurisdiction of the Republic of Slovenia, if either the provider or the editorship has its head office in the Republic of Slovenia, the other being located in another Member State of the European Union, provided that the major share of the workforce, involved in the activity of broadcasting programmes, works in the Republic of Slovenia.

(3) If, in the event of the preceding paragraph, a significant part of the workforce involved in the pursuit of broadcasting programme content operates both in the Republic of Slovenia and another European Union Member State, it shall be deemed that the provider is under the jurisdiction of the Republic of Slovenia, if it has its head office in the Republic of Slovenia.

(4) If, in the event of the second paragraph of this article, a significant part of the workforce involved in the pursuit of broadcasting programme content does not operate either in the Republic of Slovenia or in another European Union Member State, it shall be deemed that the provider is under the jurisdiction of the Republic of Slovenia, if it first began its activity of broadcasting programme content in the Republic of Slovenia under this Act and maintains a stable and effective link with the economy of the Republic of Slovenia.

(5) Notwithstanding the provisions of the first paragraph of this article, it shall be deemed that the provider is under the jurisdiction of the Republic of Slovenia, if either the provider or the editorship has its head office in the Republic of Slovenia, while the other is located in a third country, provided that a significant part of the workforce involved in the pursuit of broadcasting programme content operates in the Republic of Slovenia.

(6) If the provisions of the preceding paragraphs cannot be applied to the provider, and if the provider does not fall under the jurisdiction of another European Union Member State or a State party to the European Convention on Transfrontier Television of the Council of Europe, the provider is considered to be under the jurisdiction of the Republic of Slovenia, if it:

- uses a frequency, allocated to it by the competent authority of the Republic of Slovenia;
- does not use the frequency from the previous indent, but uses a satellite ground station, which belongs to the Republic of Slovenia;
- uses neither the frequency nor the satellite ground station in the previous two indents, but uses satellite capacities belonging to the Republic of Slovenia.

(7) If the provider does not fall under the jurisdiction of the Republic of Slovenia according to the preceding paragraphs of this article, it shall be deemed to fall under the jurisdiction of the Member States of the European Union in which it has its head office within the meaning of articles 49 to 55 of the Treaty on the Functioning of the European Union (OJ EU No. 2010/C 83/01 of 30 March 2010).

(8) A provider does not fall under the jurisdiction of the Republic of Slovenia, if the

audiovisual media service is intended exclusively for reception in third countries, and which the public in one or more Member States of the European Union cannot receive directly or indirectly using standard user equipment.

## **Article 5**

### **(Use of more stringent rules)**

(1) The Agency for the Post and Electronic Communications (hereinafter: Agency) may order the broadcaster, which is under the jurisdiction of the Republic of Slovenia, while its programme is wholly or mostly directed towards the territory of another European Union Member States, to abide by this State's more detailed and stringent applicable rules of general public interest, and that in areas covered by Directive 2010/13/EU, if it is a reasonable requirement of that Member State of the European Union.

(2) Within two months after receiving a reasoned request of another European Union member state, referred to in the preceding paragraph, the Agency shall notify that state of the results it has achieved in connection with its request.

(3) The Agency may invite the contact committee, established in accordance with article 29 of Directive 2010/13/EU, to examine the case.

## **Article 6**

### **(Cooperation between the regulatory authorities of the Member States of the European Union)**

The Agency must, on the request of another European Union Member State or the Commission, submit the necessary information or data to carry out the procedures under articles 4 and 5 of this Act.

## **Article 7**

### **(Mandatory publication of information)**

(1) A provider shall ensure the publication in an appropriate manner of the following information (imprint) in its audiovisual media services:

- name and head office of the provider;
- e-mail address or website address of provider that allows the user to quickly contact the provider;
- name and surname of the responsible editor or responsible editors and the names and



surnames of the editors of each programme area, when this is consistent with the internal organisation of the editorial board;

- name, head office, e-mail address and website address of the body responsible for the supervision of the provisions of this Act.

(2) In cases where an audiovisual media service contains a table of contents or a listing according to the catalogue of the programme, these must also contain a reference of the location of the imprint.

(3) The identification of the audiovisual media services, as specified in the permit for carrying out a television activity or in the records of on-demand audiovisual service providers, must derive from the name of the audiovisual media service and enable the identification and unambiguous distinction between individual audiovisual services.

(4) A broadcaster must ensure permanent publication of identification in a conspicuous place in its programme. The provision of this paragraph shall apply *mutatis mutandis* to on-demand audiovisual media services.

(5) A broadcaster must ensure the publication of the following information at an appropriate place in each programme:

- name and surname of the author of the broadcast contribution, unless otherwise specified by each author;

- name and surname of the producer of the programme content and its relationship to the client;

- origin of the audiovisual work, or information about the fact that the work has been created as an independent production;

- production date (month and year);

- name and surname or company name of the holder of the material copyright regarding the broadcast of the programme in the case of an audiovisual media service;

- name and surname or company name of the natural or legal person that holds an item of cultural heritage or an archived item or a corresponding reproduction;

- name of the medium or audiovisual media service, from which a programme or a fragment thereof has been drawn, unless decided otherwise by mutual agreement.

(6) In cases where the broadcaster publishes the programme schedule on its website or on teletext or in other locations of its programme, it must also include information on the origin of the audiovisual work, or an indication that it is a Slovenian audiovisual work, a European Audiovisual work or a European audiovisual work, created as an independent production.

## **Article 8**

### **(Protection of copyright and related rights)**

(1) The protection of copyright and related rights to works, disseminated through the audiovisual media services, is governed by the law governing the protection of copyright and related rights, unless otherwise determined by this Act.

(2) Providers must not show cinematographic works outside the periods agreed with copyright holders.

## **Chapter II**

### **General principles**

## **Article 9**

### **(Prohibition of Incitement to Discrimination and Intolerance)**

(1) It is prohibited to promote national, racial, religious, sexual or other discrimination, violence and war, or incite national, racial, religious, sexual or other hatred and intolerance by means of audiovisual media services.

(2) It is prohibited to undermine the respect for human dignity by means of audiovisual media services.

## **Article 10**

### **(Protection of Children and Adolescents)**

(1) Children and adolescents enjoy special protection under this Act. The interests of children and adolescents have priority over all other rights and considerations.

(2) It is prohibited to undermine the physical, mental or moral development of children and adolescents by means of audiovisual media services.

(3) Children or adolescents must not be exposed to arbitrary or unlawful interference with their private life, family or home, or to unlawful attacks on their honour and reputation by means of audiovisual media services.

## **Article 11**

### **(Protection of vulnerable social groups)**

(1) In accordance with the law governing the media, the Republic of Slovenia encourages providers to progressively provide access to their services for visually and hearing impaired persons.

(2) In accordance with the law governing the media, the Republic of Slovenia promotes media literacy in terms of skill, knowledge and understanding that enable an efficient and safe use of media and audiovisual media services.

## **Article 12**

### **(Freedom of dissemination of audiovisual media services from other countries)**

The Republic of Slovenia ensures freedom of reception and dissemination of audiovisual media services from other EU member states and does not restrict their transmissions on its territory, except in cases specified in articles 3 and 4 of Directive 2010/13/EU.

## **Article 13**

### **(Right to correction and reply)**

The audiovisual media services guarantee the right to correction and reply in accordance with the law governing the media.

## **Chapter III**

### **Protection of children and adolescents**

## **Article 14**

### **(Protection of children and adolescents in television programmes)**

(1) Television programmes must not broadcast programme content, which could seriously impair the physical, mental or moral development of children and adolescents, particularly content involving pornography or showing gratuitous violence.

(2) Programme content which may impair the physical, mental or moral development of children and adolescents may be broadcast only on condition that it is restricted by a suitably selected time of broadcast or a technical protection, so that children and adolescents in

normal conditions do not have access to such content.

(3) Suitability of the selected time in the preceding paragraph shall be determined according to:

- the nature of programme content and its potential impact on the physical, mental and moral development of children and adolescents;
- the type of television programme in which the programme content is aired, and the viewers' expectations with respect to its normal schedule;
- the start and end times of the programme broadcast.

(4) Programme content from the second paragraph of this article not suitable for children and adolescents under 12 years may start airing after 9 pm, while programme content not suitable for children and adolescents under 15 years may start airing after 10 pm. Programme content which is not suitable for children and adolescents under 18 years, may be aired after midnight. Programme content in this paragraph may be aired only until 5 pm.

(5) Technical protection in the second paragraph of this article means restricting access to programme content with a PIN code system or any other equivalent protection that can not be removed by the user and allows access only by those who have viewing permission (the code).

(6) An operator of electronic communications, providing technical protection of the preceding paragraph, shall inform the users of the purpose of technical protection and provide them with precise instructions for its use.

(7) Before the start time of the programme from the second paragraph of this article, an appropriate acoustic and visual warning must be broadcast and an appropriate visual symbol must be displayed throughout the programme's duration.

(8) An acoustic and visual warning and a visual symbol from the previous paragraph shall indicate the unsuitability of the programme for specific age groups of children and adolescents, i.e. under 12 years, under 15 years and under 18 years, and a recommendation for parental guidance.

(9) The Agency's general act specifies the programme content of this article and article 15 of this Act, the level of its restriction and guidelines for its broadcast.

(10) The minister responsible for the media (hereinafter: minister responsible for the media) shall issue an implementing regulation defining the acoustic and visual warnings, the visual symbol from the seventh paragraph and the manner of their use.

## **Article 15**

### **(Protection of children and adolescents in on-demand audiovisual media services)**

(1) Programme content which might seriously impair the physical, mental or moral

development of children and adolescents may be available by way of on-demand audiovisual media services only in a manner ensuring that children and adolescents will not normally hear or see such programmes.

(2) Programme content in on-demand audiovisual media services which might impair the physical, mental or moral development of minors must carry appropriate acoustic and visual warnings and the corresponding visual symbol from the seventh paragraph of the preceding article, i.e. that such programme is not suitable for children and adolescents of different age groups, as defined in the eighth paragraph of the preceding article.

(3) A provider of on-demand audiovisual media services shall provide information in the programme catalogue for adults, which will enable adults to evaluate the programme content in this article.

(4) An operator of electronic communications providing technical protection from the preceding article must inform the users of the purpose of technical protection and provide precise instructions for its use.

(5) An operator of electronic communications, providing on-demand audiovisual media services in return for payment, shall provide an invoice breakdown, detailing for each billing period the orders and payments for each service, including the amount, date and time of purchase, viewing or listening.

(6) The invoice breakdown in accordance with the preceding paragraph shall be sent to subscribers free of charge with each invoice, unless the subscriber informs the operator of electronic communications that he or she does not wish to receive such invoice breakdowns.

## **Chapter IV**

### **Promotion of distribution and production of European audiovisual works**

#### **Article 16**

##### **(Proportion of European audiovisual works)**

(1) The proportion of European audiovisual works in any television programme shall account for at least 50 percent of the annual transmission time.

(2) The proportion of European audiovisual works in any on-demand audiovisual media service shall account for at least 10 percent of European audiovisual works in the programme catalogue in any calendar year, unless stipulated otherwise by this Act.

(3) A provider of on-demand audiovisual media services who fails to meet the proportion of the preceding paragraph must provide a financial contribution for the production or acquisition of rights to European audiovisual works of at least one percent of total annual revenues from its audio-visual media services generated in a calendar year.

(4) The annual transmission time of the first paragraph of this article shall not include the time devoted to news reports, sports events, games, advertising, teleshopping and videopages.

(5) The catalogue of programmes in any calendar year from the second paragraph of this article shall not include news reports, live broadcasts and retransmissions of sports events, games, advertising, teleshopping and videopages.

(6) Works which are not European works according to points 20 and 21 in article 3 of this Act, but have been produced in the framework of bilateral co-production agreements, concluded between Member States of the European Union and third countries, are deemed to be European works if the major share of all production costs is borne by the co-producers from the European Union, and if the production is not controlled by one or more producers, established or registered outside the territory of the Member States of the European Union. These works are included in the proportion of European audiovisual works.

(7) With regard to works that are not European works according to points 20 and 21 of the third paragraph of this Act, but have been created primarily by the authors and workers residing in one or more Member States of the European Union, it is deemed that such works are European works in direct proportion to the joint share of co-producers from the European Union to cover the total costs of production. Such works are included in the proportion of European audiovisual works in direct proportion to the total share of co-producers from the European Union in covering the total costs of production.

(8) The provision of the first paragraph of this article shall not apply to local broadcasters with special interest status and broadcasters whose programmes are intended for local audiences and are not included in the programme network reaching more than 50 percent of the population of the Republic of Slovenia.

(9) The provisions of this article shall not apply to television programmes exclusively devoted to advertising and teleshopping as well as to television programmes intended exclusively for self-promotion.

## **Article 17**

### **(Proportion of European audiovisual works of independent producers)**

(1) The proportion of European audiovisual works of independent producers in any television programme must account for at least ten percent of the annual transmission time.

(2) At least half of the works from the preceding paragraph must be produced in the last five years.

(3) The annual transmission time in this article shall not include the time devoted to news reports, sports events, games, advertising, teleshopping and videopages.

(4) Restriction of this article shall not apply to local broadcasters with special interest status and television broadcasters whose programmes are intended for local audiences and are not included in the programme network reaching more than 50 percent of the population of the Republic of Slovenia.

(5) The restrictions of this article shall not apply to special television programmes intended for live broadcasts from the National Assembly and for television programmes intended for the autochthonous Italian or Hungarian national community.

(6) The provisions of this article shall not apply to television programmes exclusively devoted to advertising and teleshopping as well as to television programmes intended exclusively for self-promotion.

## **Article 18**

### **(Annual reports on attained proportions)**

(1) By the end of February of each year a broadcaster shall submit to the ministry responsible for the media and to the Agency a breakdown of the attained proportion of European audiovisual works in the annual transmission time for the previous year. This proportion must detail the figures on the amount of the annual transmission time, data on the proportion of own production, of Slovenian audiovisual works and of audiovisual works of independent producers as well as data on the proportion of new audiovisual works from the second paragraph of article 17 of this Act.

(2) By the end of February of each year a provider of audiovisual media services shall submit to the ministry responsible for the media and to the Agency a report on the implementation of the requirements of the second or third paragraph of article 16 of this Act, which must contain a breakdown of data on the attained proportion of European audiovisual works in the programme catalogue during the preceding calendar year, or information on the share of financial contribution that the provider intended in the preceding calendar year for the production or acquisition of rights to European audiovisual works offered through its audiovisual media services.

(3) A broadcaster who does not meet the proportion of European audiovisual works from article 16 of this Act and the proportion of European audiovisual works of independent producers from article 17 of this Act, or a provider of on-demand audiovisual media services who does not meet the requirements of the second or third paragraph of article 16 of this Act, must submit, within the deadlines specified in the preceding paragraphs, a report to the ministry responsible for the media and to the Agency, stating the objective reasons for its inability to meet its legal obligations. In this event the Agency, through an inspection procedure, asks the ministry responsible for the media for an opinion on the merits of the reasons for noncompliance regarding the proportions or requirements.

(4) The provisions of this article shall not apply to local broadcasters with special interest status and broadcasters whose programmes are intended for local audiences and are not included in the programme network reaching more than 50 percent of the population of the Republic of Slovenia.

(5) The provisions of this article shall not apply to television programmes exclusively devoted to advertising and teleshopping as well as to television broadcasts intended exclusively for self-promotion.

## **Chapter V**

### **Audiovisual commercial communications**

#### **Article 19**

##### **(Visibility of audiovisual commercial communications)**

- (1) Audiovisual commercial communications must be clearly identified as such.
- (2) Surreptitious audiovisual commercial communication is prohibited.
- (3) Audiovisual commercial communications must not use technical procedures that would prevent users from consciously recognizing such communications.

#### **Article 20**

##### **(Prohibited audiovisual commercial communications)**

Audiovisual commercial communications must not:

- prejudice respect for human dignity;
- include or promote any discrimination based on sex, race or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
- encourage behaviour or actions prejudicial to human health or safety, environmental protection or cultural heritage.

#### **Article 21**

##### **(Protection of minors regarding audiovisual commercial communications)**

Audiovisual commercial communications must not cause physical, mental or moral detriment to minors. Therefore audiovisual commercial communications shall not in particular:

- encourage minors to buy or hire a product or service by exploiting their inexperience or credulity;
- encourage minors to persuade their parents or others to purchase the advertised goods or services;
- exploit the trust minors place in parents, teachers or other persons;
- unreasonably show minors in dangerous situations.



## **Article 22**

### **(Prohibition of audiovisual commercial communications)**

(1) Audiovisual commercial communications for tobacco and tobacco products, medicinal products and alcoholic beverages are governed by special rules.

(2) Audiovisual commercial communications for health care activities, health services or health care service providers are prohibited, unless otherwise provided by a special law.

## **Article 23**

### **(Audiovisual commercial communications for foods in children's programmes)**

(1) Providers shall develop a code of conduct regarding inappropriate audiovisual commercial communication, accompanying or included in children's programmes, of foods containing nutrients and substances with a nutritional or physiological effect, as, in particular those such as fat, trans fatty acids, salt/sodium and sugars, excessive intakes of which in the overall diet are not recommended (hereinafter: code of conduct), and shall make it public.

(2) The code of conduct must be designed in a manner to enable children the development of healthy eating habits in accordance with dietary guidelines published by the minister of health.

(3) Providers must submit a copy of the code of conduct to the ministry responsible for the media and to the Agency within 15 days of its adoption, and notify them of any amendment thereof within the same period.

## **Article 24**

### **(Requirements and restrictions regarding sponsorship)**

(1) In the case of sponsorship of audiovisual media services or programmes, their content and in the case of television programmes their scheduling shall not be influenced in such a way as to affect the responsibility and editorial independence of the provider.

(2) Audiovisual media services or programmes that are sponsored shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services.

(3) The placement of products, services or trade marks of the programme's sponsor in the sponsored programme is not permitted, except in cases from the fourth paragraph of article 26 of this Act, which are not considered as product placement.

(4) Viewers shall be clearly informed of the existence of sponsorship (sponsorship announcement). Sponsored programmes shall be clearly identified as such by the sponsor's name, logo or any other of its symbols or distinctive signs.

(5) The sponsor's name, logo or any other of its symbols or distinctive signs shall be displayed at the beginning, after any breaks and at the end of the sponsored programme.

## **Article 25**

### **(No sponsorship)**

(1) News and information programmes may not be sponsored, unless otherwise stipulated by the law regulating elections and referendum campaigns.

(2) The sponsorship of audiovisual media services or programmes by a natural or legal person whose activities include the manufacture or sale of medicinal products and health care services may promote the name or image of these persons, but it is prohibited to promote health care services or medicinal products available and dispensed only on prescription.

(3) Sponsorship by natural or legal persons whose activity is the manufacture or sale of tobacco and tobacco products is governed by special regulations.

## **Article 26**

### **(Product placement)**

(1) Product placement, except in cases established by this Act, is prohibited.

(2) Product placement in accordance with this Act shall not be considered as surreptitious commercial communication.

(3) Product placement is permitted:

- in cinematographic works, films, feature-documentary films, in series and serials produced for audiovisual media services, and in sports and entertainment programmes, or

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

(4) If the value of goods or services from the second indent of the preceding paragraph is negligible in proportion to the production costs of programmes, it is considered that no product placement has occurred under this Act.

(5) Programmes that contain product placement shall meet the following requirements:

- their content and, in the case of television broadcasting, their scheduling shall in no circumstances be influenced by product placement in such a way as to affect the responsibility and editorial independence of the provider;

- product placement shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods and services;

- product placement shall not give undue prominence to goods or services;

- programmes containing product placement shall be appropriately identified at the start and at the end of the programme, and when a programme resumes after a break, in order that the viewer is clearly informed of the fact that the programme contains product placement. The identification obligation shall not apply to programmes that have neither been created nor commissioned by the broadcaster itself or a person affiliated to it.

(6) Notwithstanding the provision of the first indent of the third paragraph of this article product placement is not allowed in programmes aimed at children.

(7) Notwithstanding the provision of the third paragraph of this article the placement of products, which are under the prohibition of advertisement, or the placement of audiovisual commercial communications is prohibited under this Act or other laws.

(8) The provisions of this article shall not apply to programmes created before 19th December 2009.

(9) The Agency's general act shall in more detail define the terms used in this article, the manner of determining the value of goods or services from the fourth paragraph of this article and the manner of identifying the programmes from the third paragraph of this article.

## **Chapter VI**

### **Television advertising and teleshopping**

#### **Article 27**

##### **(Visibility and differentiation between television advertising and teleshopping)**

(1) Television advertising and teleshopping shall be readily recognizable, so that they can be distinguishable from editorial content.

(2) Television advertising and teleshopping shall be aired in special time slots, so that they are visually and audibly clearly separated from other programmes.

(3) Free-of-charge advertising shall be distinctly identified as such.

#### **Article 28**

##### **(Restrictions on television advertising and teleshopping)**

(1) Television advertising and teleshopping must not be aired in a television programme:

- during individual programme units or programmes, unless they are broadcast in such a way that the content integrity of the programme does not suffer, taking into account the nature and length of the programme and breaks in the duration of the programme intended for that purpose;

- in a manner that would infringe the rights of holders of copyright and related rights.

(2) When broadcasting a programme unit or a programme, consisting of separate, independent parts (e.g. sporting events), the television channel may broadcast television advertising and teleshopping only between the end of one independent section and the beginning of the next or during interruptions and breaks.

(3) Television advertising and teleshopping shall not be allowed during the coverage of state or religious ceremonies.

(4) The transmission of audiovisual works such as feature films, films made for television, and cultural and audiovisual works (excluding serial films, serials, series and entertainment programmes) may be interrupted by television advertising and teleshopping once in each scheduled period of at least 30 minutes.

(5) Television news and documentaries, religious programmes and children's programmes less than 30 minutes in duration shall not be interrupted by television advertising or teleshopping. If their duration is longer than 30 minutes, the provisions on scheduled period interruptions from the previous paragraph shall apply.

(6) The provisions of the fourth paragraph of this article shall not apply to television broadcasts of Radiotelevizija Slovenija and to local, regional, student and non-commercial television broadcasts.

(7) The provisions of this article shall not apply to television programmes exclusively devoted to advertising and teleshopping as well as to television programmes exclusively devoted to self-promotion.

## **Article 29**

### **(Restrictions on advertising to specific television programmes)**

(1) Radiotelevizija Slovenija shall not interrupt television programme units, such as feature films or films made for television (excluding series, serials, series and documentaries), daily news programmes and programmes of a cultural, artistic, scientific or educational nature, with television advertising and teleshopping, regardless of the duration of an individual programme unit from this article.

(2) The provisions of the preceding paragraph shall also apply to local, regional, student and non-commercial television programmes that enjoy special interest status.

## **Article 30**

### **(Prohibition of television advertising and teleshopping)**

Teleshopping for medicinal products, which require a commercial permit under the rules governing medicinal products, as well as teleshopping for health care services are prohibited.

## **Article 31**

### **(Special Provisions)**

(1) Teleshopping shall comply with the criteria from article 21 of this Act and thereby shall not offer minors the opportunity to contract for the purchase or rental of goods or services.

(2) If broadcasters are contractual partners of a client of advertising content, they may not also act as its agents in the procurement of goods and services.

(3) The provisions of this Act governing television advertising shall apply mutatis mutandis to teleshopping, unless otherwise provided by law.

(4) The provisions of this Act governing teleshopping shall apply mutatis mutandis to teleshopping windows, unless otherwise provided by law.

(5) Television programmes exclusively designed for advertising and teleshopping as well as television programs designed solely for self-promotion may not broadcast conventional programmes such as news and other informative content, sports events, films, series and serials, documentaries or other similar programmes.

(6) The provisions of this Act shall apply mutatis mutandis to television programmes exclusively designed for advertising and teleshopping as well as to television programmes exclusively designed for self-promotion, unless otherwise provided by law.

## **Article 32**

### **(Restricted scope of television advertising and teleshopping)**

(1) The total amount of television advertising and teleshopping in a television programme may not exceed 12 minutes within each hour, unless otherwise provided by this Act.

(2) The total amount of television advertising and teleshopping within a single television programme of Radiotelevizija Slovenija shall not exceed ten minutes within each hour and shall not exceed seven minutes within each hour between 6 pm and 11 pm.

(3) Between 6 pm and 11 pm an individual television programme of Radiotelevizija Slovenija is not allowed to air teleshopping windows.

(4) The first and second paragraphs of this article shall not apply to announcements aired by the broadcaster in its own channel regarding its own programmes on that channel and to ancillary products directly derived from them (i.e., products that are specifically designed for listeners or viewers to benefit fully from these programmes or to interact with them), as well as to sponsorship messages and product placement.

(5) Restrictions from the first and second paragraphs of this article shall not apply to teleshopping windows.

(6) Restrictions of this article shall not apply to content, which is not considered as television advertising according to this Act.

(7) The provisions of this article shall not apply to television programmes exclusively devoted to advertising and teleshopping as well as to television programmes exclusively devoted to self-promotion.

## **Chapter VII**

### **Exclusive rights and the right to short news reports in television programmes**

#### **Article 33**

##### **(The right to short news reports in television programmes)**

(1) Every broadcaster established in a Member State of the European Union has the right, on conditions that are fair, reasonable, non-discriminatory and announced in a timely manner, to broadcast short news reports about all significant events and other events in the public interest, exclusively transmitted by the broadcaster under the jurisdiction of the Republic of Slovenia.

(2) Notwithstanding the provisions of the preceding paragraph, a broadcaster established in a Member State of the European Union shall apply to the broadcaster under the jurisdiction of the same Member State of the European Union, who has acquired exclusive rights, to obtain access.

(3) A short news report under this article shall be a maximum of 90 second-long extract from the broadcaster's signal, who exclusively broadcasts the event. Extracts may be used solely for general news programmes and in a non-linear manner only if the same programme is offered on a deferred basis by the same broadcaster.

(4) Broadcasters may exercise their right to freely choose extracts from short news reports but must indicate their source.

(5) Where compensation for access to the extract is provided for, it shall not exceed the actual additional costs directly incurred in providing access.

## **Article 34**

### **(Public right to coverage of important events)**

(1) A broadcaster shall not broadcast, on the basis of exclusive rights, a specific event which is regarded as being of major importance for the public in the Republic of Slovenia or in another Member State of the European Union or in a signatory to an international agreement, which is binding on the Republic of Slovenia, in such a way as to deprive a substantial proportion of viewers in that area of the possibility of following such events in a free-of-charge television programme.

(2) Broadcasting under this article shall mean whole or partial live or deferred coverage, where necessary for objective reasons or in the public interest.

(3) It is in contravention of this Act if an event from the first paragraph is broadcast on the basis of the exclusive rights of the broadcaster whose television programme can be followed by less than 75 percent of the population of the Republic of Slovenia, or if an additional payment is required to follow its programme (pay television).

(4) The government shall adopt an act stipulating the manner and measures for drawing up a list of events of major importance under this article and the procedure for compulsory consultations between the interested parties.

(5) On the proposal of the Broadcasting Council, the government shall adopt a list of events of major importance from the first paragraph of this article and shall in this respect adopt other appropriate measures in accordance with international agreements that are binding on Slovenia.

## **Chapter VIII**

### **Performance of the activity of providing audiovisual media services**

## **Article 35**

### **(Television activity)**

A broadcaster carries out the television activity pursuant to and in accordance with the permit to perform television activities, as provided by the law governing the media.

## **Article 36**

### **(Notification of on-demand audiovisual media services)**

(1) The provider of on-demand audiovisual media services shall notify the Agency in advance

and in writing that it has commenced, modified or terminated the service it provides.

(2) The notification from the preceding paragraph must contain the information that the Agency requires to maintain official records of service providers and for their control according to this Act, namely:

- name of the service and its identification;
- name, address, tax and registration number for natural persons;
- company name, head office, tax number, registration number and reference of the legal representative for legal persons;
- type of service and a brief description thereof;
- expected date of commencement, modification or termination of service provision.

(3) The modification of information from the second and third indent of the preceding paragraph must be submitted by the provider to the Agency within 30 days of its occurrence, while the modification of information from the first, fourth and fifth indents of that paragraph must be submitted before the set date.

(4) Within seven days of receipt of notification containing all the necessary information from the second paragraph of this article, the Agency enters the modifications in the official records and sends the provider a confirmation of the facts in the official records.

(5) Within seven days after receipt of notification, which does not contain all the necessary information from the second paragraph of this article, the Agency shall invite the provider to supplement the notification within a period of not less than eight days.

(6) The Agency's general act shall specify in more detail the content and format of the notification from the first paragraph of this article and content of information from the second paragraph of this article. The Agency's general act shall also determine the form and content of the confirmation from the fourth paragraph of this article.

## **Article 37**

### **(Official records)**

(1) The Agency shall keep official records of the following:

- a register of holders of permits for carrying out television activities;
- a register of on-demand audiovisual media services providers.

(2) The official register from the preceding paragraph is kept by the Agency as an interlinked computerized database.



(3) The Agency shall keep the following information in the official records of the holders of permits for carrying out television activities:

- name of the television channel and its identification;
- name, address and tax number for natural persons;
- company name, head office, tax number, registration number and the legal representative for legal persons;
- starting date of the permit's validity;
- number of the permit decision;
- settlement of obligations of the holder of permit decision as required by this Act;
- sanctions against the holder of the permit decision for violating the provisions of this Act.

(4) The Agency shall keep the following information in the official records of on-demand audiovisual media services:

- name of the service and its identification;
- name, address and tax number for natural persons;
- company name, head office, tax number, registration number and legal representative for legal persons;
- notification of commencement of service provision;
- date of commencement, modification or termination of the service provided;
- settlement of obligations of providers as required by this Act;
- sanctions for violating the provisions of this Act.

(5) The Agency may also obtain information, specified in this article, from the official records of other state agencies and via a direct computer or electronic link.

(6) The Agency shall keep the information in this article as long as the broadcaster is carrying out its television service, or as long as the provider is providing its service, and then keeps them permanently.

(7) When dealing with information which is considered a tax secret, the Agency must take into account the provisions of the law regulating the tax procedure.

## Article 38

### (Payment on the basis of a license or registration)

(1) On the basis of a valid permit for performing television activities or a registration in the official records of on-demand audiovisual media service providers, the broadcasters or providers shall be required to pay an annual fee. Payments under this article shall cover the costs incurred by the Agency in exercising its competencies under this Act.

(2) The method of calculating payments under this article shall be determined by the minister responsible for the electronic communications sector without restricting competition. He must take into account the annual revenue generated by the broadcaster through the performance of television activities or by the provider through the provision of on-demand audiovisual media services, and the type of program or service. Broadcasters or providers are grouped into classes according to their annual income and type of service. The payment of broadcasters or providers, grouped in the same class, is the same for each class.

(3) A broadcaster or provider shall inform the Agency by no later than 31 March of each year of their revenues from the preceding paragraph for the previous year. If the broadcaster or provider fails to do so by the said deadline, the Agency shall deem that the revenue from the preceding paragraph is the total revenue of the broadcaster or provider in the previous year, based on data obtained from the Agency of the Republic of Slovenia for Public Legal Records and Related Services.

(4) If the Agency has reason to doubt the veracity of information supplied by the broadcaster or provider, the Agency or a certified auditor (hereinafter: auditor) may review the data according to the selection by the Agency and estimate the revenue. In the event that doubt about the veracity of the information proves to be valid, the broadcaster or provider shall bear the costs of data audit and estimation of revenue, while in the opposite case these costs shall be borne by the Agency. If the estimated revenue significantly deviates from the reported revenue in the second paragraph, the Agency shall take into account the estimated revenue in the calculation.

(5) The amount of payments under this article shall be determined by the rate specified in the Agency's general act. When issuing the rates, the Agency takes into account the necessary coverage of costs from the first paragraph of this article in relation to the planned objectives and tasks specified in the Agency's activities programme and the balance of financial assets from the previous year. The rates include a special explanation of the reasons for the adoption or amendment of the rate and the objectives to be achieved in this way. The rates shall be published in the Official Gazette of the Republic of Slovenia, together with the explanation, and shall take effect after their publication.

(6) Prior to the publication or amendment of the rates, it is necessary to establish or estimate the costs from the first paragraph of this article and specify a period of no less than 15 days and no longer than two months, in which the persons concerned from the first paragraph of this article are invited to submit their views, comments and suggestions regarding the planned publication or revision of the rates. The government's consent must be obtained prior to publication or amendment of the rates.

## Chapter IX

### Supervision

#### Article 39

##### **(Administrative supervision and inspection of the implementation of the Act)**

(1) Administrative supervision and inspection of the implementation of this Act is carried out by the Agency.

(2) The authorized person of the Agency, as provided by the law governing electronic communications, shall have the right and duty to do the following in the event of violation of the provisions of this Act, unless otherwise determined by this Act:

- order measures to remedy the irregularities and deficiencies in a manner and within the deadline set by himself;
- carry out procedures in accordance with the law on misdemeanours;
- report a crime or a criminal complaint for an offense that is punishable by law;
- propose to a competent authority to take action.

(3) The Agency may, in case of violations of the provisions of this Act, in the framework of inspection:

- suspend the permit of the broadcaster;
- revoke the permit of the broadcaster.

(4) In cases where a provider who does not fall under the jurisdiction of the Republic of Slovenia or under the jurisdiction of another European Union Member States or Party to the European Convention on Transfrontier Television of the Council of Europe, broadcasts programmes which clearly seriously or grossly violate the protection of children and adolescents, as provided by this Act and in accordance with applicable law in the Republic of Slovenia, or where such a provider by disseminating programmes promotes national, racial, religious, sexual or other inequality, violence and war, and incites to ethnic, racial, religious, sexual or other hatred and intolerance or otherwise clearly seriously or grossly violates the law of the Republic of Slovenia, the authorized person of the Agency for electronic communications may impose on the operator, who enables such dissemination, measures from the second paragraph of this article.

(5) The provisions of the law governing inspection shall apply to the procedure of supervision under this Act, unless otherwise provided by this Act.

## **Article 40**

### **(Mandatory retention of recordings and information)**

(1) Broadcasters must keep at least six months of recordings for each day of the programme containing all programme, advertising and other content as they were aired consecutively during 24 hours, and that in the form and manner prescribed by the Agency in more detail.

(2) On-demand audiovisual media service providers must keep for at least six months all recordings of broadcasts and accompanying advertising and other content after these were last offered for viewing or listening, including the accompanying information, and that in the form and manner prescribed by the Agency in more detail.

(3) In addition to the recordings from the first paragraph of this article, broadcasters shall also keep, for at least six months and for each separate day, information on all broadcast programmes, advertising and other content. The information must include the date of broadcast, start time, duration, title, type and genre of content as well as information on the type of production and producer, as provided in more detail by the Agency.

(4) In addition to the recordings from the second paragraph of this article, on-demand audiovisual media service providers shall also keep, for at least six months and for each separate day, information on all broadcast programmes, advertising and other content. The information must include the address, the period when the content was available to users, duration of the content, type and genre of content as well as information on the type of production and producer, as provided in more detail by the Agency.

(5) Broadcasters and on-demand audiovisual media service providers shall keep, for at least one year, records on the broadcasts of European audiovisual works and European audiovisual works of independent producers in the annual transmission time for the previous calendar year. The information must include the date and time when they were aired or available for viewing, the time, address, type and genre of the work as well as the type of production and producer, as provided in more detail by the Agency.

(6) In the event of technical failure, due to which the broadcaster or provider did not save a specific part of broadcast audiovisual content, the broadcaster or provider is required to notify the Agency in writing within three days of the malfunction and the extent of unrecorded broadcast or offered programmes.

## **Article 41**

### **(Transmission of information and access to content or services)**

(1) Providers and electronic communications operators are required to send true and complete information in their possession when this information is required for the exercise of the Agency's competencies and fulfilment of programme requirements and restrictions imposed by this Act, and for clearly defined statistical purposes and analysis in connection with the exercise of the Agency's competencies in the field of audiovisual media services.

(2) Providers and electronic communications operators are required to allow the Agency unrestricted access to programmes and services offered to users when these are necessary

for the exercise of the Agency's competencies and fulfilment of programme requirements and restrictions imposed by this Act.

(3) Information and programmes and services are transmitted or made available to the Agency upon a written request, and that free of charge, to the extent and within a period as well as in a form and manner specified in the request.

(4) The required information must be proportionate to the purpose for which it will be used. The Agency's request must specify the purpose of the requested information.

(5) The provisions of this article shall apply also to transmission of recordings of programmes or information, which is subject to the obligation of retention from the previous article.

(6) The government's regulation shall specify in more detail the type and content as well as the form and manner of transmission of information from this article, or recordings and information from the previous article.

## **Article 42**

### **(Methodology of supervision of audiovisual media services)**

(1) The Agency's general act shall specify the following in more detail:

- the method of determining compliance with the requirements and restrictions for audiovisual media services under this Act;
- the classification of programmes, audiovisual commercial communications and other content, resulting from this Act.

(2) The Agency's general act may also regulate in more detail any other issues that arise in the implementation of individual provisions of this Act and in the exercise of the Agency's competencies.

## **Chapter X**

### **Penalty provisions**

## **Article 43**

(1) A fine of 6,000 EUR to 60,000 EUR shall be imposed on a provider who is a legal person or a provider who is a sole proprietor:

1. if, by means of audiovisual media services, it undermines the physical, mental or moral development of children and adolescents (second paragraph of article 10) or if by means of

audiovisual media services it exposes the child or adolescent to arbitrary or unlawful interference with their private life, family or home, or to unlawful attacks on their honour and reputation (third paragraph of article 10);

2. if, by means of television programme, it broadcasts programmes which could seriously impair the physical, mental or moral development of children and adolescents, particularly content involving pornography or showing gratuitous violence (first paragraph of article 14);

3. if, by means of a television programme, it broadcasts content, which may impair the physical, mental or moral development of children and adolescents, whereby the broadcast of such content is not restricted by suitably selected time of broadcast or a technical protection, so that children and adolescents in normal conditions do not have access to such content (second paragraph of article 14);

4. if, by means of a television channel, it broadcasts programmes from the second paragraph of article 14 of this Act in violation of time restrictions, set out in the fourth paragraph of article 14 of this Act, or if before the broadcast of programmes from the second paragraph of article 14 of this Act, whose broadcast by means of a television channel is not restricted by technical protection, it fails to broadcast the relevant acoustic and visual warnings, or if during the broadcast it fails to display the appropriate visual symbol throughout the duration of the broadcast (seventh paragraph of article 14);

5. if, by means of its on-demand audiovisual media services, it offers programmes which could seriously impair the physical, mental or moral development of children and adolescents in violation of the first paragraph of article 15 of this Act;

6. if it fails to accompany its programmes in its on-demand audiovisual media services, which may impair the physical, mental or moral development of children and adolescents, according to the second paragraph of article 15 of this Act;

7. if the share of European audiovisual works does not account for at least 50 percent of the annual transmission time of its television programme (first paragraph of article 16);

8. if the share of European audiovisual works does not account for at least ten percent of the programmes in the catalogue of its on-demand audiovisual media services (second paragraph of article 16), or if it fails to provide a financial contribution of at least one percent of total revenues from its audio-visual media services during the same calendar year for the production or acquisition of rights to European audiovisual works offered by means of its audio-visual media services in any calendar year (third paragraph of article 16);

9. if it fails to attain at least a ten percent proportion of European audiovisual works of independent producers in the annual transmission time of its television programme (first paragraph of article 17), or if at least half of European audiovisual works of independent producers in its television programme are not produced in the previous five years (second paragraph of article 17);

10. if it broadcasts audiovisual commercial communications which are not clearly identifiable as such (first paragraph of article 19) or, if it airs surreptitious audiovisual commercial communications (second paragraph of article 19), or if, when broadcasting audiovisual commercial communications, it employs technical procedures that prevent users from consciously recognising such communications (third paragraph of article 19);

11. if the broadcast of audiovisual commercial communications prejudices respect for human dignity (first indent of article 20) or if it includes or promotes any discrimination based on sex, race or ethnic origin, nationality, religion or belief, disability, age or sexual orientation (second indent of article 20) or if it encourages behaviour or actions prejudicial to human health or safety, environmental protection or cultural heritage (third indent of article 20);

12. if the broadcast of audiovisual commercial communication causes physical, mental or moral detriment to minors (first paragraph of article 21), particularly if it exhorts minors to buy or hire products or services due to their inexperience or credulity (first indent of article 21 ), or encourages minors to persuade their parents or others to purchase the goods or services being advertised (second indent of article 21), or exploits the special trust minors place in their parents, teachers or other persons (third indent of article 21), or unreasonably shows minors in dangerous situations (fourth indent of article 21);

13. if it broadcasts audiovisual commercial communication for health care activities, health services or providers of health care activities (second paragraph of article 22);

14. if it fails to establish a code of conduct in accordance with the first and second paragraphs of article 23 of this Act, or fails to make public the code of conduct (first paragraph of article 23), or fails to submit a copy of the code of conduct to the competent ministry and the Agency within 15 days of its adoption, or fails to inform the ministry and Agency of any amendment thereof within the same deadline (third paragraph of 23 article);

15. if, by means of sponsored audiovisual media services, it directly encourages the purchase or hire of goods or services, particularly with special references to these goods or services with a view to promotion (second paragraph of article 24) or if in the sponsored programme in contravention of this Act places the goods, services or trade marks of the programme's sponsor (third paragraph of article 24), or fails to clearly inform viewers of the existence of sponsorship (first sentence of fourth paragraph of article 24), or fails to label the sponsored broadcasts as such, indicating the sponsor's name, logo or any other of its symbols or identifiers (second sentence of fourth paragraph of article 24), or fails to indicate in the sponsored content the sponsor's name, logo or any other of its symbols or identifiers at the start and the end of the sponsored programme or after a break in the programme (fifth paragraph of article 24);

16. if it broadcasts or offers sponsored news reports or information programmes (first paragraph of article 25), or if, in the case of sponsorship of audiovisual media services or programmes by natural or legal persons whose activity is the manufacture or marketing of medicinal products and performance of health services, it promotes medicinal products available and dispensed only on prescription, or promotes health care services (second paragraph of article 25);

17. if, contrary to article 26 of this Act, it broadcasts or provides programmes which contain product placement;

18. if it broadcasts television advertising or teleshopping in conflict with article 27 or article 28 of this Act;

19. if it broadcasts teleshopping of commercially licenced medicinal products in accordance with the rules governing medicinal products or health care services (first paragraph of article 30);

20. if, during the broadcast of teleshopping, it fails to respect the criteria of paragraph 21 of this Act, or, through the broadcast of teleshopping, provides minors with the possibility to contract for the purchase or hire of goods or services (first paragraph of article 31);

21. if the total amount of television advertising and teleshopping on its television channel exceeds 12 minutes within each hour (first paragraph of article 32);

22. if it does not give the broadcaster the right to short reports in accordance with the provisions of article 33 of this Act, or if, as the broadcaster on the basis of exclusive rights, it broadcasts events from article 34 of this Act in a manner that a substantial proportion of viewers in this area is deprived of the possibility of following such events on a free-of-charge television programme (first paragraph of article 34) or if, as a broadcaster of programmes that can be followed by less than 75 percent of the population of the Republic of Slovenia, or reception of such programmes requires additional payment (pay television), it transmits an event from the first paragraph of article 34 on the basis of exclusively acquired rights (third paragraph of article 34);

23. if it fails to keep recordings or information from first to fifth paragraph of article 40 of this Act in accordance with the mentioned provisions;

24. if it fails to send to the Agency true and complete information from the first paragraph of article 41 of this Act, or fails to provide the Agency unrestricted access to programmes and services in accordance with the second paragraph of article 41 of this Act, or fails to send information, programmes and services to the Agency to the extent and within the period specified in the request of the Agency (third paragraph of article 41), or fails to send to the Agency the recordings of programmes or information, subject to the obligation of retention according to article 40 of this Act (fifth paragraph of article 41).

(2) A fine specified in the preceding paragraph shall be imposed on:

1. a legal person or sole proprietor if, in the case of sponsorship of audiovisual media services or programmes on their content and in the case of television programmes, it influences their scheduling so as to affect the responsibility and editorial independence of the provider (first paragraph of article 24);

2. an electronic communications operator, who is a legal person, or an electronic communications operator, which is a sole proprietor, if it fails to send to the Agency true and complete information from the first paragraph of article 41 of this Act, or fails to provide the Agency unrestricted access to programmes and services, in accordance with the second paragraph of article 41 of this Act, or fails to send to the Agency the information, programmes and services to the extent and within the period specified in the request of the Agency (third paragraph of article 41), or fails to send to the Agency recordings of programmes or information, subject to the obligation of retention according to article 40 of this Act (fifth paragraph of article 41).

(3) A fine set in the first paragraph of this article shall be imposed on Radiotelevizija Slovenija:

1. if it interrupts a television programme unit with television advertising or teleshopping in violation to article 29 of this Act;

2. if the total amount of television advertising and teleshopping within a single television



channel of Radiotelevizija Slovenija exceeds ten minutes within each hour, or during the 6 pm and 11 pm within seven minutes of each hour (the second paragraph of Article 32) or if it airs teleshopping windows in its programmes between 18th and 23 (third paragraph of article 32).

(4) A fine of 600 EUR shall be imposed on:

1. a natural person who commits an offense under this article;
2. a responsible person of a provider, who is a government body, or any responsible person of a provider, who is a self-managing local community, who commits an offense from the first paragraph of this article;
3. a responsible person of a provider, who is a legal person or any responsible person of a provider, who is a sole proprietor, who commits an offense from the first paragraph of this article;
4. a responsible person of a legal person or of a sole proprietor who commits the offense from the first point of the second paragraph of this article;
5. a responsible person of an operator of electronic communications, which is a legal person, or of an operator of electronic communications, who is a sole proprietor who commits the offense of the second point of the second paragraph of this article;
6. a responsible person of Radiotelevizija Slovenija who commits the offense from the preceding paragraph.

#### **Article 44**

(1) A fine of 1,000 EUR to 10,000 EUR shall be imposed on a provider, who is a legal person, or on a provider, who is a sole proprietor:

1. if, in its audiovisual media services, it fails in an appropriate manner to provide notification of information (imprint) in accordance with the first paragraph of article 7 of this Act, or if the index or the register of the programme catalogue does not contain references about the location of the imprint (second paragraph of article 7), or if a broadcaster fails to provide a permanent display of identification in a conspicuous place in its programme (fourth paragraph of article 7), or if, as an on-demand audiovisual media service provider, it fails to provide a permanent display of identification, taking into account the spirit of the fourth paragraph of article 7 of this Act, or if, as a broadcaster, it fails to display information from the fifth paragraph or article 7 of this Act at suitable places in each programme, or if, as a broadcaster in the event of the publication of its programme schedule on the website, teletext or in other places in its programme, it fails to indicate the information from the sixth paragraph of article 7 of this Act;
2. if it broadcasts a cinematographic work outside periods agreed with copyright holders (second paragraph of article 8);
3. if, as a broadcaster, it fails to send an annual report on the achieved proportions under the

first paragraph of article 18 of this Act, or if, as an on-demand audiovisual media service provider, it fails to send an annual report on the achieved proportions under the second paragraph of article 18 of this Act;

4. if, as a broadcaster and as a contractual partner of the client of advertising content, it also acts as its agent when procuring goods and services (second paragraph of article 31);

5. if it uses a television channel devoted exclusively to advertising and teleshopping or a television channel devoted exclusively to self-promotion, to broadcast ordinary programmes such as news and other informative content, sports events, films, documentaries or other similar programmes (fifth paragraph of article 31).

(2) A fine of 300 EUR shall be imposed on:

1. a natural person who commits an offense under this article;

2. a responsible person of the provider acting as a government body, or a responsible person of a provider acting as a self-managing local community who commits an offense under this article;

3. a responsible person of a provider acting as a legal person, or a responsible person of a provider acting as sole proprietor who commits an offense under this article.

## **Article 45**

(1) A fine of 500 EUR to 5,000 EUR shall be imposed on a provider as a legal person, or a provider as a sole proprietor:

1. if, as a provider of on-demand audiovisual media services, it fails to provide information to adult users in the catalogue of programmes, which will enable them to assess programmes from article 15 of this Act (third paragraph of article 15);

2. if, as a provider of on-demand audiovisual media services, it fails to notify the Agency in writing and in advance of the commencement, modification or termination of the service provision (first paragraph of article 36);

3. if, as an on-demand audiovisual media service provider, it fails to report to the Agency the modifications of the information from the second and third indent of the second paragraph of article 36 of this Act within 30 days of their occurrence, or if it fails to notify the Agency of the modifications to the information from the first, fourth and fifth indents of the second paragraph of article 36 of this Act prior to the expected date of commencement, modification or termination of the provision of services (third paragraph of article 36);

4. if, in the case of technical failure, due to which it failed to save a certain part of broadcast audio or audiovisual content, it fails to notify the Agency in writing within three days of the malfunction and the extent of unrecorded broadcasts or offered programmes (sixth paragraph of article 40).

(2) A fine specified in the preceding paragraph shall be imposed on the operator of electronic

communications as a legal person, or on electronic communications operator as a sole proprietor:

1. if, as an operator of electronic communications, who provides technical protection in article 14 of this Act, it fails to inform the users about the purpose of technical protection, or fails to provide detailed instructions on its application (sixth paragraph of article 14 and fourth paragraph of article 15);

2. if, in the provision of on-demand audiovisual media services, it fails to provide a breakdown of the account clearly indicating for each billing cycle the orders and payments of each service, including the amount, date and time of purchase, viewing or listening (fifth paragraph of article 15).

(3) A fine of 150 EUR shall be imposed on:

1. a natural person who commits an offense under this article;

2. a responsible person of a provider acting as a government body, or a responsible person of a provider acting as a self-managing local community who commits an offense under the first paragraph of this article;

3. a responsible person of an electronic communications operator acting as a government body, or a responsible person of an electronic communications operator acting as a self-managing local community who commits an offense under the preceding paragraph;

4. a responsible person of a provider acting as a legal person, or a responsible person of a provider acting as a sole proprietor who commits an offense under the first paragraph of this article;

5. a responsible person of an electronic communications operator acting as a legal person, or a responsible person of an electronic communications operator acting as a sole proprietor who commits an offense from the preceding paragraph.

## **Article 46**

Fines prescribed in this Act within a given range are imposed within the range prescribed under this Act.

## **Chapter XI**

### **Transitional and final provisions**

## **Article 47**

(1) The procedures of administrative supervision and inspection relating to the compliance with the provisions of the Media Law (Official Gazette RS, No. 110/06 - officially consolidated text, 36/08 - ZPOmK-1 and 77/10 - ZSFCJA), which were commenced before the

implementation of this Act and have not been concluded before its entry into force, shall be concluded according to regulations in force prior to the implementation of this Act.

(2) Procedures relating to the supervision of the implementation of programme requirements and restrictions under the Media Law (Official Gazette RS, No. 110/06 - officially consolidated text, 36/08 - ZPOMK-1 and 77/10 - ZSFCJA), which were commenced before the implementation of this Act and have not been concluded before its entry into force, shall be concluded according to regulations in force prior to the implementation of this Act.

#### **Article 48**

(1) The Agency shall adopt general acts from articles 14, 26, 36 and 42 of this Act within six months of implementation of this Act.

(2) The government shall adopt the regulation from article 41 of this Act within six months of the implementation of this Act.

(3) The minister responsible for health shall publish nutrition guidelines from the third paragraph of article 23 of this Act within six months of the implementation of this Act.

(4) Providers must adopt the codes of conduct from article 23 of this Act within six months following the publication of nutrition guidelines from the previous paragraph.

#### **Article 49**

From the date of enactment of this Act, the following implementing acts, adopted on the basis of the Media Act (Official Gazette RS, No. 110/06 - officially consolidated text, 36/08 - ZPOMK-1 and 77/10 - ZSFCJA) shall remain applicable, as far as their provisions are not inconsistent with the provisions of this Act:

1. Regulation on the method and criteria for establishing a list of major events (Official Gazette of RS No. 105/01);

2. Decision on establishing a list of major events (Official Gazette of RS, No. 18/03).

#### **Article 50**

(1) On the day of enactment of this Act, the provisions of articles 11, 69, 70, 71, 72, 73, 75, 84, except the eighth paragraph, 88, 89, 90, 91, the first paragraph of article 92 and article 96 of the Media Act (Official Gazette of RS, No. 110/06 - officially consolidated text, 36/08 - ZPOMK-1 and 77/10 - ZSFCJA) shall cease to apply.

(2) On the day of enactment of this Act, the provisions of articles 23, 24, 46, 47, 48, 49, 52, 53, 54 and 55 of the Media Act (Official Gazette of RS, No. 110/06 - officially consolidated text, 36/08 - ZPOMK-1 and 77/10 - ZSFCJA) shall cease to apply to providers or to

audiovisual media services.

(3) On the day of enactment of this Act, the provisions of articles 65, 74, 93, 94, 95, 97, 98 and 109 of the Media Act (Official Gazette of RS, No. 110/06 - officially consolidated text, 36/08 - ZPOmK-1 and 77/10 - ZSFCJA) shall cease to apply to broadcasters or to television programmes.

(4) This Act shall take effect fifteen days after its publication in the Official Gazette of the Republic of Slovenia.

Ljubljana, 19 October 2011

National Assembly of the Republic of Slovenia  
Ljubo Germič, President