

Broadcasting Act
(consolidated to May 2000)
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Chapter 1

General Provisions

§ 1. Purpose of Act

(1) The Broadcasting Act provides for:

1) the procedure for broadcasting information and the principles of broadcasting activities;

2) the conditions for possession and ownership of technical means (transmitters, transmitters networks) intended for broadcasting information;

3) the bases for foundation and operation of, and the procedure for terminating the activities of legal persons in public law engaged in broadcasting;

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

4) the procedure for the broadcasting activities of legal persons in private law on the basis of broadcasting licences.

(2) This Act establishes the legal bases for ensuring the compliance of television programmes and programme services transmitted by broadcasters operating in Estonia with the requirements of international agreements ratified by the Riigikogu.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 11. Application of Act

(1) This Act applies to all broadcasters established in Estonia.

(2) For the purposes of this Act, a broadcaster is deemed to be established in Estonia if:

1) its management board is located in Estonia and the editorial decisions on programme schedules are made in Estonia;

2) its management board is located in Estonia and a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Estonia, but decisions on programme schedules are taken in a member state of the European Union or a state party to the European Convention on Transfrontier Television;

3) its management board is located in Estonia but a significant part of the workforce involved in the pursuit of the television broadcasting activity operates both in Estonia or a member state of the European Union and a state party to the European Convention on Transfrontier Television;

4) a significant part of its workforce involved in the pursuit of the television broadcasting activity operates neither in Estonia nor a member state of the European Union or a state party to the European Convention on Transfrontier Television, but the broadcaster first began broadcasting in Estonia in accordance with Estonian legislation and a significant part of its economic activities is carried out in Estonia;

5) its management board is located in Estonia or a member state of the European Union or a state party to the European Convention on Transfrontier Television but decisions on programme schedules are taken in a third state or, vice versa, its management board is located in a third state but decisions on programme schedules are taken in Estonia or a member state of the European Union or a state party to the European Convention on Transfrontier Television, but a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Estonia.

(3) Broadcasters to whom the provisions of subsection (2) of this section cannot be applied and who are not governed by the jurisdiction of a member state of the European Union or a state party to the European Convention on Transfrontier Television are subject to the provisions of this Act if:

1) they use a frequency (channel) granted in Estonia;

2) they do not use a frequency (channel) granted in Estonia but use a satellite capacity appertaining to Estonia;

3) they use neither a frequency granted in Estonia nor a satellite capacity appertaining to Estonia but use a satellite uplink situated in Estonia.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

§ 12. Application of Administrative Procedure Act

The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375) apply to the administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 2. Broadcasting

For the purposes of this Act, "broadcasting" means the transmission over the air (including that by satellite) or via a cable network, in unencoded or encoded form, of radio or television programme services intended for reception by the public with commonly used receivers.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 3. Broadcasting transmitter, broadcasting transmitters network and broadcasting frequency

(1) For the purposes of this Act, "broadcasting transmitter" means a set of technical means by which a television or radio signal carrying broadcasting information is transmitted into open space.

(2) "Broadcasting transmitters network" means a set of transmitters connected by communications channels by which a signal carrying information is simultaneously transmitted over a greater area than the operating area of one broadcasting transmitter.

(3) "Broadcasting frequency" means a section of radio frequency spectrum which is allocated, pursuant to the prescribed procedure, for transmitting a television or radio signal and which may be designated as a channel.

(4) Broadcasting channels and broadcasting frequencies shall be determined by the Communications Board in accordance with the international agreements of the Republic of Estonia.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 4. Programme and programme service

(1) A programme is information broadcast as a signal during a specified period of time in the form of sound, text, images or a collection thereof which can be received with commonly used receivers.

(2) A programme service is a set of intentionally ordered programmes transmitted in specific channels or frequencies. A programme service shall have its own name, which shall be broadcast at least twice in every twenty-four hours, including at the beginning and at the end of a broadcast day.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

(3) (Repealed - 16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 41. Scheduling of programme service and transmission time

(1) A broadcaster shall ensure that at least 5 per cent of the daily transmission time of its programmes or programme service is reserved for the transmission of news programmes produced by the broadcaster, except for programme services on Sundays and public holidays. A news programme which includes news produced by at least two different news producers is also deemed to be a news programme produced by a broadcaster.

(2) A broadcaster shall ensure that at least 10 per cent of the monthly transmission time of the programme service, excluding the time appointed to news, sports events, games, advertising, teleshopping and teletext services, is reserved for own production. A broadcaster shall transmit at least 50 per cent of the minimum amount of own production provided for in this subsection during the prime broadcasting time between the hours of 19.00 and 23.00.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(3) For the purposes of this Act, "own production" means programmes and programme services relating to contemporary Estonia or Estonian cultural heritage, produced by a broadcaster itself or in co-operation with producers from the member states of the European Union or commissioned from an independent European producer.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(4) A television broadcaster shall ensure that at least 51 per cent of the transmission time in a calendar year, excluding the time appointed for news, sports events and games programmes and for advertising, teleshopping and teletext services, is reserved for the transmission of European works.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(5) A television broadcaster shall ensure that at least 10 per cent of the transmission time in a calendar year, excluding the time appointed for news, sports events and games programmes and for advertising, teleshopping and teletext services, is reserved for the transmission of European works created by producers who are independent of the broadcaster. Such works shall include works transmitted within five years of their production.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(6) Requirements provided for in subsections (4) and (5) of this section do not apply to television programmes which are intended for local audiences and are transmitted by means of one broadcasting transmitter which is not part of the national transmission network.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(7) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(8) The weekly transmission time of a programme service of a broadcaster shall amount to at least:

- 1) 84 hours upon the transmission of radio programmes and programme services;
- 2) 56 hours upon the transmission of television programmes and programme services;

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

3) 21 hours upon the transmission of television programmes and programme services on the basis of a local broadcasting licence or a broadcasting licence for cable networks.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

§ 42. *European works*

(1) For the purposes of this Act, European works are:

- 1) works produced in Estonia or the member states of the European Union;
- 2) works which are produced in states party to the European Convention on Transfrontier Television and comply with the requirements specified in subsection (3) of this section;
- 3) works which originate from other European third countries and comply with the requirements specified in subsection (4) of this section.

(2) The provisions of clauses (1) 1) and 2) of this section are applied on the condition that works originating from Estonia or a member state of the European Union are not subject to discriminatory measures in the third countries concerned.

(3) The works specified in clauses (1) 1) and 2) of this section are mainly made in co-operation with authors and workers residing in one or more states specified in clauses (1) 1) and 2) provided that they comply with at least one of the following three requirements:

- 1) the works are made by one or more producers who are established in one or more of the states concerned;

2) production of the works is supervised and actually controlled by one or more producers established in one or more of the states concerned;

3) the contribution of co-producers established in the states concerned to the co-production costs is preponderant and the co-production is not controlled by one or more producers established outside such states.

(4) The works specified in clause (1) 3) of this section are made exclusively or in co-production with producers established in one or more members states of the European Union by producers established in one or more European third countries with which the European Union has concluded agreements relating to the audiovisual sector and those works are mainly made with authors and workers residing in one or more European states.

(5) Works which are not European works within the meaning of subsection (1) of this section but are produced within the framework of co-production treaties concluded between the member states of the European Union and third countries shall be deemed to be European works provided that the European Union co-producers supply a majority share of the total cost of the production and that the production is not controlled by one or more producers established outside the territory of the member states of the European Union.

(6) Works which are not European works within the meaning of subsections (1) and (5) of this section, but are made mainly with authors and workers residing in one or more member states, shall be considered to be European works to an extent corresponding to the proportion of the contribution of the European Union co-producers to the total production costs.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

§ 43. Independent European producer

For the purposes of this Act, an independent European producer is:

1) a producer the majority of whose shares or voting rights determined by shares are owned by legal or natural persons of Estonia, a member state of the European Union or a state party to the European Convention on Transfrontier Television;

2) a producer whose copyrights or related rights to production, transferred on the basis of law or a contract, are owned by legal or natural persons of Estonia, a member state of the European Union or a state party to the European Convention on Transfrontier Television;

3) a producer who during the last two years has produced not more than 90 per cent of its audiovisual production for one and the same broadcaster.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

§ 5. Broadcaster

(1) For the purposes of this Act, “broadcaster (a radio or television broadcaster)” means an undertaking, a non-profit association, a foundation or a legal person in public law which has editorial responsibility for the composition of one or several programme services and which broadcasts the programmes or has them broadcast.

(2) Broadcasters transmit programmes or programme services on the basis of a broadcasting licence provided for in Chapter 6 of this Act, unless otherwise provided by this Act.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 51. Operator

(1) For the purposes of this Act, “operator” means an undertaking or a broadcaster which transmits or retransmits programmes and programme services of broadcasters.

(2) In their activities, operators shall comply with the technical requirements established for broadcasting transmitters by the Minister of Transport and Communications.

(3) Operators may only transmit or retransmit programmes and programme services of broadcasters and must have an authorisation of the broadcasters to do so. Operators are not liable for the illegal activity of broadcasters, except if a broadcaster itself is an operator.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 52. Transmission and retransmission

(1) For the purposes of this Act, “transmission” means the emission, by means of telecommunications, of programmes or programme services of broadcasters for reception by the public.

(2) Transmission may be effected by broadcasters or operators.

(3) “Retransmission” means the transmission of complete and unchanged programmes or programme services of a broadcaster by another broadcaster or operator.

(4) The transmission and retransmission of programmes and programme services is permitted only with the authorisation of the holders of rights to the programmes and programme services.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

Chapter 2

Principles of Broadcasting Activities

§ 6. Freedom of activity

(1) Broadcasters have the right to freely decide on the content of their programmes and programme services in compliance with the law and the conditions of a broadcasting licence.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

(11) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(2) The restriction of the freedom of creation guaranteed by law is punishable under administrative or criminal procedure.

(3) In matters before a court, the court may prohibit the transmission of a certain programme or a part thereof on the bases and pursuant to the procedure prescribed by law.

§ 61. Political balance

Upon granting transmission time to a political party or a political movement to present its positions, a broadcaster shall also provide an opportunity to grant transmission time in the same programme service for other political parties or movements without undue delay.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 7. Protection of source of information

(1) Broadcasters shall not disclose information concerning a person who provided information to them unless so requested by the person.

(2) Broadcasters are not required to disclose information which becomes known to them in their activities.

(3) In order to establish the truth, broadcasters are required to submit the data and information specified in subsections (1) and (2) of this section to courts on the bases and pursuant to the procedure prescribed by law.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 71. Freedom of reception and retransmission

(1) Reception and retransmission of radio and television programmes and programme services originating from foreign states shall not be restricted.

(2) By way of derogation from subsection (1) of this section, temporary restrictions may be imposed in accordance with the requirements of international agreements ratified by the Riigikogu, if a television programme or programme service originating from a foreign state:

1) manifestly and gravely infringes the generally recognised moral and ethical broadcasting principles to the extent which is likely to impair the physical, mental or moral development of minors;

2) is likely to incite hatred on grounds of race, sex, religion or nationality;

3) involves pornography or gratuitous violence.

(3) Restrictions may be imposed with regard to television programmes originating from the members states of the European Union or a states party to the European Convention on Transfrontier Television only if:

1) during the year preceding the potential imposition of restrictions, the television broadcaster has infringed the requirements specified in this section on at least two prior occasions;

2) a competent Estonian body has notified the television broadcaster and a competent body of the European Union of the infringements and of the measures it intends to take should any such infringement occur again;

3) consultations with a competent Estonian body and a competent body of the European Union have not produced an amicable settlement within 15 days of the notification provided for in clause 2) of this subsection, and the alleged infringement persists.

(4) The provisions of this section extend to all television programmes and programme services which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical

measure, that minors in the area of transmission of such programmes or programme services will not be able to receive them.

(5) In addition to the specifications of subsection (4) of this section, it shall be ensured that when such programmes are transmitted in unencoded form, they are preceded by a corresponding acoustic warning or clearly identifiable visual symbol.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

Right of reply

(1) Any natural or legal person, regardless of nationality or domicile, whose lawful rights, in particular reputation, have been damaged by an assertion of incorrect facts in a programme shall have the right of reply or equivalent remedies which shall be in accordance with the provisions of civil, administrative or criminal law.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(2) A broadcaster shall ensure that the right of reply or the equivalent remedies can be exercised and shall not hinder the exercise thereof by the imposition of unreasonable terms or conditions. A broadcaster shall be notified in writing of a request to exercise the right of reply within 20 days after the transmission of the programme to which the request refers. The broadcaster shall broadcast the reply in the same programme within 20 days after the receipt of the reasoned request.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(3) A person exercising the right of reply is not required to reimburse the costs of broadcasting the reply.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

(4) A request to exercise the right of reply may be rejected if such reply is not justified according to the conditions specified in subsection (1) of this section or involves a punishable act or if the satisfaction of the reply would bring about civil liability to the broadcaster or transgress the generally recognised moral standards.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

§ 9. Guarantee of morals and legality

(1) Broadcasters shall not transmit programmes the content of which is immoral or in conflict with the Constitution or laws.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613; 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(2) The requirements provided for in clause 71 (2) 1) of this Act and subsections (4) and (5) of the same section shall extend to television programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors will normally not be able to receive such programmes or programme services.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(3) When the programmes specified in subsection (2) of this section are broadcast in unencoded form, they shall be preceded by an acoustic warning or identified by the presence of a visual symbol throughout their duration.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

§ 10. Transmission of emergency announcements

(1) In the case of a threat to public security or the constitutional order, broadcasters are required to promptly transmit the official announcements of the Riigikogu, the President of the Republic and the Government of the Republic in all their programme services at their own expense.

(2) Broadcasters shall, without delay and free of charge, transmit in all their programme services information which is necessary for the protection of the life, health and security of persons or for the prevention of damage to property or of danger, or for the prevention or reduction of environmental damage.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 11. Protection of copyright

In their activities, broadcasters and operators shall observe the requirements provided for in the Copyright Act (RT 1992, 49, 615; RT I 2000, 16, 109; 78, 497; 2001, 50, 289; 56, 335; 2002, 53, 336; 63, 387; 90, 521; 92, 527).

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 111. Restriction on exercise of exclusive broadcasting rights

(1) The Government of the Republic shall establish a list of events which are regarded as being of major importance for society and which are therefore to be transmitted such that a substantial proportion of the public has the possibility of following such events via whole or partial live or deferred coverage on free television.

(2) If an Estonian broadcaster has acquired an exclusive right to broadcast events which a member state of the European Union or a state party to the European Convention on Transfrontier Television has included in its list of events regarded as being of major importance for society, the broadcaster shall not exercise the exclusive right if by so doing it deprives a substantial proportion of the public in the state concerned of the possibility of following such major events via free television.

(3) For the purposes of this Act, "free television" means broadcasting on television of programmes or programme services which are accessible to the public without payment in addition to the prevalent modes of funding of the television broadcaster.

(4) For the purposes of this Act, a substantial proportion of the Estonian public equals at least 70 per cent of the population.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

§ 12. Requirement to preserve recordings of programmes

(1) Broadcasters shall ensure the recording of transmitted programmes.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

(2) Recordings shall be preserved for at least twenty days as of the date of transmission thereof.

(3) In matters before a court, the court may determine a longer term for the preservation of recordings of certain programmes.

§ 13. Executive producers

(1) Broadcasters shall appoint executive producers for programmes and programme services transmitted.

(2) An executive producer shall ensure the compliance of transmitted programmes and programme services with the requirements of this Act and with fair practices of the press and the observance of the principle of freedom of speech.

(3) The list of executive producers is available to the public.

(4) The list of executive producers shall be maintained during three years as of the date of the transmission of a programme.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

Chapter 3

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

Advertising, Teleshopping and Sponsorship

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 14. Advertising and teleshopping

(1) “Advertising in broadcasting” means an announcement in the form of sounds, images or a collection thereof broadcast in return for a payment with the objective of achieving certain consumer behaviour in the interests of a person or a group of persons through the demonstration, explanation or evaluation of the characteristics of a product or service.

(2) For the purposes of this Act, “teleshopping” means a special form of advertising the objective of which is offering goods or services for sale. The forms of teleshopping are teleshopping spots and teleshopping windows.

(3) The transmission time of a broadcaster which is used for advertising or teleshopping is a product sold to persons who commission advertising or teleshopping.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 15. Requirements for advertising and teleshopping

(1) Advertising and teleshopping shall be kept separate from other parts of the programme service and be readily recognisable in the programme service in the form of sounds, images or a collection thereof .

(2) The provisions of the Advertising Act (RT I 1997, 52, 835; 1999, 27, 388; 30, 415; 2001, 23, 127; 50, 284; 2002, 13, 81; 53, 336; 61, 375; 63, 387) shall extend to the broadcasting of advertising and teleshopping. The requirements provided for in subsections (3)–(6) of this section shall extend to the broadcasting of advertising and teleshopping in addition to the requirements provided for in the Advertising Act.

(3) Television advertising and teleshopping shall not:

1) use subliminal techniques;

2) use the voice or image of a person who appears as an announcer in a news programme or as a presenter or commentator in programmes of current affairs and problems.

(4) Television advertising and teleshopping shall not:

1) cause behaviour prejudicial to health or safety, or encourage behaviour prejudicial to the protection of the environment;

2) cause moral or physical damage to minors and for the purposes of their protection shall therefore comply with the following requirements:

it shall not exploit the trust minors place in their parents, teachers or other persons;

it shall not unreasonably show minors in dangerous situations;

3) encourage minors to enter into contracts for the sale or commercial lease of goods or services.

(5) Television advertising and teleshopping for alcoholic beverages shall not:

1) be aimed specifically at minors or depict minors consuming these beverages;

2) link the consumption of alcohol to enhanced physical performance or to driving;

3) create the impression that the consumption of alcohol contributes towards social or sexual success;

4) claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving conflicts;

5) encourage immoderate consumption of alcohol or present abstinence or moderation in consumption of alcohol in a negative light;

6) place emphasis on high alcoholic content as being a positive quality of beverages.

(6) Undertakings whose activities involve the provision of medical health services or the manufacturing or sale of medicinal products may sponsor television programmes or programme services for the promotion of their good name or reputation, but shall not advertise medical treatment or specific medicinal products which are available in Estonia only on prescription.

(7) The requirements provided for in §§ 41, 42, 43 and subsections 17 (3) and (4) of this Act do not apply to the programme services of television broadcasters engaged exclusively in self-promotional activities. The rest of the provisions of this Act apply to such television broadcasters taking into account the specifications arising from their particular nature. Advertising is allowed in the programme services of television broadcasters engaged exclusively in self-promotional activities within the limits specified in subsections 17 (1) and (2) of this Act.

(8) The requirements provided for in §§ 41, 42, 43 of this Act do not apply to the programme services of television broadcasters engaged exclusively in teleshopping. The rest of the provisions of this Act apply to such television broadcasters taking into account the specifications arising from their particular nature. Advertising is allowed in the programme services of television broadcasters engaged exclusively in teleshopping within the limits specified in subsection 17 (1) of this Act and is not subject to the provisions of subsection (2) of the same section.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

§ 16. Placement of advertising and teleshopping spots in programme service

(1) Advertising and teleshopping spots shall be inserted between programmes or parts of programmes. Isolated advertising and teleshopping spots are allowed as exceptions.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(2) If a television programme does not consist of autonomous parts, advertising and teleshopping spots may be inserted during the programme unless this prejudices the integrity of the programme or the interests of the holder of rights to the programme, and there shall be at least twenty minutes between each interruption.

(3) The transmission of feature films and films made for television (excluding serials, documentaries and light entertainment programmes), provided that their duration is more than 45 minutes, may be interrupted for advertising and teleshopping spots once for each period of 45 minutes. A further interruption is allowed if their duration is at least 110 minutes.

(4) Advertising or teleshopping shall not be transmitted immediately prior to or following a broadcast of a religious service in a programme service, and advertising or teleshopping shall not be inserted in any broadcast of a religious service.

(5) News and current affairs programmes, children's programmes and documentaries shall not be interrupted by advertising or teleshopping, if their duration is less than 30 minutes.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 17. Amount of advertising and teleshopping

(1) The amount of advertising and teleshopping spots in the programme service of a broadcaster shall not exceed 20 per cent of the daily transmission time of the programme service. The amount of advertising shall not exceed 15 per cent of the daily transmission time of a programme service.

(2) The amount of advertising and teleshopping spots shall not exceed twelve minutes per hour.

(3) A teleshopping window shall be of a minimum uninterrupted duration of fifteen minutes. The maximum number of teleshopping windows per day shall be eight and their overall duration shall not exceed three hours.

(4) Advertising does not include:

1) announcements made by a broadcaster in connection with its own programme services and ancillary products derived therefrom;

2) public service announcements broadcast free of charge;

3) charity appeals.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 18. Persons who commission advertising or teleshopping

Persons who commission advertising or teleshopping shall not influence the content of programmes or scheduling of a programme service.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 19. (Repealed - 16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 20. Sponsorship

(1) For the purposes of this Act, "sponsorship" means direct or indirect financial support to a programme or programme service of a broadcaster by a person not engaged in the activities of the broadcaster or in the production of audiovisual works, with a view to promoting the person's name, trade mark, reputation, activities or products.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(2) Sponsored programmes or programme services shall be clearly identified as such by the name or trade mark or both the name and the trade mark of the sponsor at the beginning or end or both at the beginning and end of the programmes or programme services. Promotional references to products or services of a sponsor during a programme are prohibited.

(3) Sponsors shall not influence the content of programmes or scheduling of a programme service.

(4) Programmes shall not be sponsored by persons whose principal activity is the manufacture or sale of tobacco products.

(5) News and current affairs programmes shall not be sponsored.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 201. (Repealed - 25.01.99 entered into force 28.02.99 - RT I 1999, 16, 268)

Chapter 4

Right of Ownership in Technical Means of Broadcasting and in Programmes and Programme Services

§ 21. Ownership in technical means of broadcasting

(1) The transmitters and transmitters networks necessary for the transmission of programme services of public service broadcasters are in the ownership of a public limited company which is founded according to subsections 45 (1) and (2) of this Act and one of whose functions according to its statutes is to ensure the quality reception of programme services of public service broadcasters within the entire territory of Estonia.

(16.10.95 entered into force 20.11.95 - RT I 1995, 83, 1437)

(2) The establishment of transmitters and transmitters networks covering the entire territory of Estonia shall be decided and the procedure for their transfer shall be established by the Government of the Republic.

§ 22. (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

§ 23. Ownership of programmes and programme services

(1) Any person may acquire, create or distribute broadcasting programmes or programme services.

(2) Programmes and programme services may be transmitted through a broadcaster, broadcasting transmitter or a broadcasting transmitters network by a person in private law who holds a broadcasting licence or by legal persons in public law operating on the basis of this Act.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

Chapter 5

Public Service Broadcasters

§ 24. *Eesti Raadio*³ and *Eesti Televisioon*⁴

(1) *Eesti Raadio* and *Eesti Televisioon* are legal persons in public law which perform the functions of public radio and television organisations on the basis of this Act.

(2) *Eesti Raadio* and *Eesti Televisioon* have the rights of a legal person to the extent provided for in this Act and their statutes.

(3) The statutes of *Eesti Raadio* and *Eesti Televisioon* shall be approved by the Broadcasting Council.

(08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

(4) (Repealed - 16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

(5) The broadcasting frequencies of *Eesti Raadio* and *Eesti Televisioon* shall be specified by the Ministry of Culture.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(6) *Eesti Raadio* and *Eesti Televisioon* shall be registered in the state register of state and local government agencies pursuant to the procedure provided for in the statutes of the register.

(16.06.2002 entered into force 01.08.2002 - RT I 2002, 57, 357)

§ 25. *Functions of Eesti Raadio and Eesti Televisioon*

(1) The functions of *Eesti Raadio* and *Eesti Televisioon* are to:

1) advance and promote Estonian national culture, and record, preserve and introduce its greatest achievements;

2) present the greatest achievements of world culture to the public;

3) create and transmit multifaceted and balanced programme services at high journalistic, artistic and technical levels;

4) satisfy the information needs of all sections of the population, including minorities;

5) create primarily informational, cultural, educational and entertainment programmes.

(2) *Eesti Raadio* and *Eesti Televisioon* shall ensure:

1) the recording of events and works significant from the point of view of national culture and history, and the preservation of recordings for future generations;

2) a sufficient proportion of own production in the performance of the functions of public broadcasters provided by law;

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

3) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(3) (Repealed - 16.10.95 entered into force 20.11.95 - RT I 1995, 83, 1437)

(4) *Eesti Raadio* and *Eesti Televisioon* shall perform other functions provided for in this Act and their statutes.

§ 26. Basic requirements for programmes and programme services of Eesti Raadio and Eesti Televisioon

(1) In accordance with the provisions of Chapter 2 of this Act, the programmes and programme services of *Eesti Raadio* and *Eesti Televisioon* shall facilitate:

1) the preservation and development of the Estonian nation, language and culture;

2) the strengthening of Estonian statehood;

3) the advancement of Estonia's international reputation.

(2) The programmes and programme services of *Eesti Raadio* and *Eesti Televisioon* shall influence everyone to respect human dignity and observe laws, considering the moral, political and religious beliefs of different sections of the population.

§ 27. Transmission of announcements of constitutional state authorities

(1) *Eesti Raadio* and *Eesti Televisioon* are required to broadcast all official announcements of constitutional state authorities without undue delay.

(2) *Eesti Raadio* and *Eesti Televisioon* shall transmit the announcements of constitutional state authorities without making any changes thereto.

(3) *Eesti Raadio* and *Eesti Televisioon* are not required to verify the accuracy of information in announcements specified in subsection (1) of this section and shall not be liable for the content of the transmitted announcements.

§ 28. Independence of Eesti Raadio and Eesti Televisioon

Eesti Raadio and *Eesti Televisioon* are independent in the creation and broadcasting of their programmes and programme services and are guided only by the requirements of law.

§ 29. *Rights of Eesti Raadio and Eesti Televisioon in performance of their functions*

Eesti Raadio and *Eesti Televisioon* have the right to:

- 1) transmit free of charge live or recorded programmes of events specified in clause 25 (2) 1) which are financed from the state or a local budget unless otherwise prescribed by copyright or the provisions of an agreement;
- 2) produce and broadcast an up to 90-second news programme of every public cultural or sports event free of charge with the consent of the organiser of the event;
- 3) insert into their regular news programmes an up to 90-second clip of a programme transmitted by another Estonian broadcaster, observing copyright and the provisions of the agreement which is the basis for distributing the programme.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 291. *Advertising, teleshopping and sponsorship in Eesti Raadio and Eesti Televisioon*

- (1) *Eesti Raadio* and *Eesti Televisioon* do not broadcast advertising or teleshopping.
- (2) *Eesti Raadio* and *Eesti Televisioon* do not use sponsors in the acquisition, production and transmission of their programmes and programme services.
- (3) *Eesti Raadio* and *Eesti Televisioon* have the right to broadcast advertising and information concerning sponsors if such advertising and information accompany broadcasting rights to events acquired through the European Broadcasting Union (EBU).
- (4) The Ministry of Culture may, on the basis of a specific reasoned request of the Broadcasting Council, permit *Eesti Raadio* and *Eesti Televisioon* to broadcast advertising and information concerning sponsors in addition to the advertising and information specified in subsection (3) of this section, if such advertising and information accompany broadcasting rights to events which are of major importance for the society.
- (5) Unless otherwise provided by the broadcasting rights specified in subsections (3) and (4) of this section, the information concerning sponsors accompanying broadcasting rights to events broadcast in the programme services of *Eesti Raadio* shall contain the names of sponsors without any background sound and such information broadcast in the programme services of *Eesti Televisioon* shall contain the names of sponsors without any logo or trademark and without any audiovisual background.
- (6) *Eesti Raadio* and *Eesti Televisioon* have the right to broadcast, to the extent and pursuant to the procedure established by the Broadcasting Council and free of charge,

announcements of general interest concerning non-profit making public events and charity events in Estonia and appeals of social character.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

§ 30. *Pre-emptive right to broadcasts and recordings*

(1) Under equal conditions, *Eesti Raadio* and *Eesti Televisioon* have a pre-emptive right with respect to other persons to enter into contracts to broadcast and record events.

(2) If the pre-emptive right is waived, *Eesti Raadio* and *Eesti Televisioon* shall notify the competitors thereof in good time.

§ 31. *Broadcasting Council*

(1) The highest authority of *Eesti Raadio* and *Eesti Televisioon* is the Broadcasting Council, which consists of nine members.

(2) On the proposal of the Riigikogu Cultural Affairs Committee, the Riigikogu shall appoint five members of the Broadcasting council from among the members of the Riigikogu on the basis of the principle of political balance. Upon termination of the authority of the composition of the Riigikogu, the members of the Broadcasting Council who are members of the Riigikogu shall remain members of the Broadcasting Council until entry into force of a resolution concerning the appointment of members of the new composition of the Riigikogu to the Broadcasting Council.

(3) On the proposal of the Riigikogu Cultural Affairs Committee, the Riigikogu shall appoint four members of the Broadcasting Council from among recognised specialist in the related fields relating for the performance of public broadcasting functions, for a term of five years.

(4) In order to appoint a member of the Broadcasting Council, the written consent of the person to be appointed is necessary.

(5) A member of the Broadcasting Council shall not be:

- 1) in an employment relationship with any broadcaster;
- 2) a partner, shareholder or member in any broadcaster;
- 3) a sole proprietor in the meaning of a broadcaster;
- 4) a member of a body of a private broadcaster;
- 5) a member of the Government of the Republic.

(6) The authority of a member of the Broadcasting Council shall terminate prematurely if he or she resigns from office, is removed by the Riigikogu, a judgment of conviction enters into force with regard to him or her, or he or she dies.

(7) A member of the Broadcasting Council shall resign from office at his or her own request or shall be removed, if he or she no longer meets the requirements provided for in this Act or is permanently unable to perform his or her duties. The Riigikogu shall make a decision concerning the resignation or removal of a member of the Broadcasting Council on the proposal of the Riigikogu Cultural Affairs Committee.

(8) Upon premature termination of the authority of a member of the Broadcasting Council, the Riigikogu shall, within three working weeks as of the termination of the authority of the member of the Broadcasting Council, appoint a new member on the proposal of the Riigikogu Cultural Affairs Committee.

(9) Members of the Broadcasting Council shall elect the Chairman and Deputy Chairman of the Broadcasting Council from among themselves. The Chairman and Deputy Chairman of the Broadcasting Council shall be elected by a majority of the members of the Council for a term of up to four years. The Broadcasting Council may remove the Chairman and Deputy Chairman of the Broadcasting Council by a majority of the members of the Council.

(10) The Chairman of the Broadcasting Council shall organise the activities of the Council, represent the Council and, in the cases provided for in this Act, *Eesti Raadio* and *Eesti Televisioon*, and perform other obligations assigned to him or her by legislation. If the Chairman of the Broadcasting Council is unable to perform his or her duties, the duties shall be performed by the Deputy Chairman.

(11) The meetings of the Broadcasting Council shall be held as necessary but not less frequently than once every two months. Minutes shall be taken of the meetings.

(12) The Broadcasting Council has a quorum if at least five members, including the Chairman or Deputy Chairman, of the Council participate in the meeting. Unless otherwise provided for in this Act, the Broadcasting Council shall adopt resolutions by a majority of the members of the Council.

(13) The operating expenses of the Broadcasting Council shall be covered from the state budget.

(14) The Broadcasting Council shall submit a report on the activities of the Council to the Riigikogu once a year.

(08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

§ 32. Competence of Broadcasting Council

(1) The Broadcasting Council is competent to:

1) exercise supervision over performance of the public broadcasting functions listed in §§ 25–27 of this Act;

2) decide the number of programme services transmitted by *Eesti Raadio* and *Eesti Televisioon*;

3) approve the statutes of *Eesti Raadio* and the statutes of *Eesti Televisioon*;

4) determine the number of the members of the management board of *Eesti Raadio* and the management board of *Eesti Televisioon*;

5) authorise the Chairman of the Broadcasting Council to represent *Eesti Raadio* in entry into, amendment and termination of contracts of service with the members of the management board of *Eesti Raadio*, and to represent *Eesti Televisioon* in entry into, amendment and termination of contracts of service with the members of the management board of *Eesti Televisioon*;

6) decide to engage in legal disputes with the members of the management board of *Eesti Raadio* or the members of the management board of *Eesti Televisioon*, and to appoint a representative of *Eesti Raadio* or *Eesti Televisioon*, respectively, for that purpose;

7) appoint the Chairman and other members of the management board of *Eesti Raadio* and the Chairman and other members of the management board of *Eesti Televisioon* to office for a term of up to five years and remove them from office, and restrict the rights of representation of the management boards or members thereof;

8) approve the policies and development plans of *Eesti Raadio* and *Eesti Televisioon*, and to present the development plans to the Riigikogu;

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

9) exercise supervision over implementation of the policies and development plans of *Eesti Raadio* and *Eesti Televisioon*;

91) submit the budget proposals for *Eesti Raadio* and *Eesti Televisioon* to the Ministry of Culture and to represent public broadcasting in negotiations with the Ministry of Finance concerning the budget proposals;

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

10) approve the budgets of *Eesti Raadio* and *Eesti Televisioon*;

11) exercise supervision over implementation of the budgets of *Eesti Raadio* and *Eesti Televisioon*;

12) approve the procedure for the possession, use and disposal of the assets of *Eesti Raadio* and *Eesti Televisioon*, and grant consent to the conclusion of transactions specified in subsection 331 (4) of this Act;

121) submit an application for a loan to be guaranteed by the state;

(05.12.2000 entered into force 29.12.2000 - RT I 2000, 102, 666)

13) approve the internal audit rules of *Eesti Raadio* and *Eesti Televisioon* and authorise the Chairman of the Broadcasting Council to represent *Eesti Raadio* in entry into, amendment and termination of an employment contract with the internal auditor of *Eesti Raadio*, and to represent *Eesti Televisioon* in entry into, amendment and termination of an employment contract with the internal auditor of *Eesti Televisioon*;

14) establish the procedure for preparation of the annual reports of *Eesti Raadio* and *Eesti Televisioon*, approve the annual reports and submit them to the Riigikogu;

15) decide to found, reorganise or terminate the activities of the structural units of *Eesti Raadio* and *Eesti Televisioon* on the proposal of the management boards;

16) review and approve the proposals and other documents submitted to the Riigikogu, Government of the Republic and ministries in the name of *Eesti Raadio* or *Eesti Televisioon*;

17) establish the procedure for election campaigns conducted through *Eesti Raadio* and *Eesti Televisioon* during the elections of the President of the Republic, Riigikogu elections, elections to the European Parliament and local government councils;

(18.12.2002 entered into force 23.01.2003 - RT I 2003, 4, 22)

18) establish the organisation of the work of the Broadcasting Council;

19) resolve other issues provided for in this Act.

(2) The Broadcasting Council may adopt resolutions on issues specified in clauses (1), (13), (16), (18) and (19) of this section by a majority of the members present in the meeting.

(08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

§ 321. *Liability of members of Broadcasting Council*

(1) The members of the Broadcasting Council shall be solidarily liable for damage wrongfully caused to *Eesti Raadio* or *Eesti Televisioon* through violation of the requirements of law or failure to perform the duties of the members.

(2) Members of the Broadcasting Council who wrongfully cause damage to the creditors of *Eesti Raadio* or *Eesti Televisioon* through violation of the requirements of law or failure to perform the duties of the members shall be liable to the creditors solidarily with *Eesti Raadio* or *Eesti Televisioon*.

(3) The limitation period for assertion of a claim against a member of the Broadcasting Council shall be five years from the occurrence of the violation or from commencement of the violation.

(4) A member of the Broadcasting Council shall be released from liability if he or she maintained a dissenting opinion in the adoption of the resolution which was the basis for the illegal activity, and the dissenting opinion is recorded in the minutes, or if he or she was with good reason absent from the session in which such resolution was adopted.

(08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

§ 322. *Management boards of Eesti Raadio and Eesti Televisioon*

(1) *Eesti Raadio* and *Eesti Televisioon* shall be directed and represented by management boards consisting of up to five members (hereinafter management board).

(2) Members of the management board must be citizens of Estonia with active legal capacity and at least 21 years of age.

(3) A member of the management board shall not be:

- 1) in a contractual relationship with any private broadcaster;
- 2) a partner, shareholder or member in any broadcaster;
- 3) a sole proprietor in the meaning of a broadcaster;
- 4) a member of a body of a private broadcaster;
- 5) a member of the Government of the Republic;
- 6) a member of the Broadcasting Council.

(4) Contracts of service shall be entered into with the members of the management board, setting out the rights, duties and the amounts of the salaries of the members, the procedure for amendment and termination of the contracts and other issues relating to the service.

(5) The Broadcasting Council shall remove a member of the management board before the expiry of the term of his or her contract of service:

1) if the Broadcasting Council expresses no confidence in the member of the management board by a two-thirds majority of its members;

2) if a judgment of conviction enters into force with regard to the member of the management board;

3) on the grounds provided for in the contract of service.

(6) The activities of the management board shall be organised by the Chairman of the management board.

(7) In its activities, the management board shall adhere to the resolutions of the Broadcasting Council.

(8) The management board is competent to decide on all management issues which are outside the competence of the Broadcasting Council.

(9) The Broadcasting Council may restrict the rights of representation of the management board or the members thereof. The restriction shall be provided for in the statutes of *Eesti Raadio* or the statutes of *Eesti Televisioon* and a corresponding notice shall be published in the official publication *Ametlikud Teadaanded*⁵. The restriction shall apply with regard to third persons.

(10) The management board of *Eesti Raadio* and the management board of *Eesti Televisioon* shall submit an overview of the economic activities and economic situation of *Eesti Raadio* or *Eesti Televisioon*, respectively, to the Broadcasting Council once every three months and shall immediately give notice of any material deterioration of the economic situation of *Eesti Raadio* or *Eesti Televisioon*, respectively, and of any other material circumstances related to economic activities of *Eesti Raadio* or *Eesti Televisioon*, respectively.

(08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

§ 33. *Audit*

(1) The State Audit Office shall audit the activities of *Eesti Raadio* and *Eesti Televisioon* pursuant to the State Audit Office Act.

(2) The economic activities of *Eesti Raadio* and *Eesti Televisioon* shall be audited in regular and special audits prescribed by the Broadcasting Council.

(29.01.2002 entered into force 04.03.2002 - RT I 2002, 21, 117)

§ 331. Assets of *Eesti Raadio* and *Eesti Televisioon*

(1) *Eesti Raadio* and *Eesti Televisioon* shall possess, use and dispose of their assets pursuant to the procedure provided for in this Act. *Eesti Raadio* and *Eesti Televisioon* have the right to own only such assets as are necessary for the performance of the functions specified in their statutes.

(2) (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(3) *Eesti Raadio* and *Eesti Televisioon* have no right to:

1) secure obligations of other persons with their assets or to act as a partner of a general partnership or as a general partner of a limited partnership;

2) secure their obligations with all of their immovable or movable property or with a part thereof which exceeds 50 per cent of the book value of all of the immovable or movable property;

3) transfer their assets free of charge or for a charge less than the usual value of the assets, or to grant sponsorships or other financial donations;

4) grant loans (credit) or lease goods commercially with the obligation to purchase (financial leasing);

5) borrow (receive credit) or take goods on commercial lease with the obligation to purchase (financial leasing) if, as a result of such transaction, the gross amount of payments related to credit and financial leasing exceeds, in any given year, 10 per cent of the budget revenue of the year when the transaction is concluded.

(31) Loans for which the Riigikogu has granted a state guarantee shall not be included among the loans specified in clause (3) 5) of this section. The Broadcasting Council shall submit an application for a loan to be guaranteed by the state to the Government of the Republic and the Government of the Republic shall decide on the initiation of a corresponding draft resolution of the Riigikogu.

(05.12.2000 entered into force 29.12.2000 - RT I 2000, 102, 666)

(4) *Eesti Raadio* and *Eesti Televisioon* may, only with the prior consent of the Broadcasting Council, enter into transactions which involve:

(08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

- 1) acquisition or termination of a holding in a company;
- 2) acquisition or transfer, or terminating the activities of an undertaking;
- 3) encumbrance or transfer of immovables or movables entered in the register;
- 4) borrowing.

(16.12.97 entered into force 18.01.98 - RT I 1998, 2, 44)

§ 34. *Status of state office*

(Repealed - 25.01.95 entered into force 01.01.96 - RT I 1995, 16, 228)

§ 35. *Budgets of Eesti Raadio and Eesti Televisioon*

(1) The revenue of *Eesti Raadio* and *Eesti Televisioon* are formed from:

- 1) a subsidy allocated from the state budget;
- 2) donations and financing for projects intended for specific purposes;
- 3) amounts received from the grant of use and transfer of assets, including programmes;
- 4) profit received from the organisation of public events necessary for the performance of functions assigned to *Eesti Raadio* and *Eesti Televisioon* by law and of training programmes;
- 5) amounts received from the production and publication of phonograms and audiovisual materials created as a result of the production of programmes and recording of works of *Eesti Raadio* and *Eesti Televisioon*;
- 6) amounts received in the cases specified in subsections 291 (3) and (4) and 451 (8) of this Act.

(2) Budgets which must be balanced annually shall be prepared of all revenue and expenditure of *Eesti Raadio* and *Eesti Televisioon*.

(3) The management board of *Eesti Raadio* or *Eesti Televisioon*, respectively, shall prepare draft budgets and the Broadcasting Council shall approve the budgets.

(4) The approved budgets of *Eesti Raadio* and *Eesti Televisioon* and reports on the implementation thereof are public.

(5) The Broadcasting Council shall approve the procedure for the registration and disclosure of donations and financing for projects intended for specific purposes to *Eesti Raadio* and *Eesti Televisioon*.

(6) If the disclosure provided for in subsection (5) of this section occurs in the programme services of *Eesti Raadio* or *Eesti Televisioon*, the information concerning persons who support a project and donors shall contain the name of the supporter or donor without any background sound and, in *Eesti Televisioon*, the name of the supporter or donor without any logo or trademark and without any audiovisual background.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

§ 351. Subsidy allocated from state budget

(1) The amount of subsidy allocated to public broadcasting from the state budget shall be planned for a period of three years based on the development plans of *Eesti Raadio* and *Eesti Televisioon* approved by the Riigikogu.

(2) The Broadcasting Council shall submit the development plans of *Eesti Raadio* and *Eesti Televisioon* to the Cultural Affairs Committee of the Riigikogu, in order to initiate a draft resolution of the Riigikogu, in January of the year preceding the three-year period. A development plan sets out the nature and volume of public services justified by cultural aspects, social needs and the development of democracy and necessary for the performance of functions provided for in this Act, and investments needed therefor and for the development of the infrastructure and the financing of technical development programmes.

(3) A scheme of budgetary needs of public law broadcasters which shall set out the funds needed, during the entire three-year period and for each year separately, for the performance of functions provided for in this Act and in the development plans constitutes an integral part of the development plans of *Eesti Raadio* and *Eesti Televisioon*.

(4) Every year the Broadcasting Council shall submit, on the basis of the development plans of *Eesti Raadio* and *Eesti Televisioon* approved by the Riigikogu, budget proposals for *Eesti Raadio* and *Eesti Televisioon* for the following budgetary year to the Ministry of Culture. The Ministry of Culture shall submit the budget proposals for *Eesti Raadio* and *Eesti Televisioon* to the Ministry of Finance and the Broadcasting Council shall represent public broadcasting in negotiations with the Ministry of Finance concerning the budget proposals.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

§ 36. *Termination of activities of Eesti Raadio and Eesti Televisioon*

The activities of *Eesti Raadio* and *Eesti Televisioon* are terminated on the basis of an Act, which shall also prescribe the future ownership of the assets of *Eesti Raadio* and *Eesti Televisioon*.

Chapter 6

Broadcasting Licences of Legal Persons in Private Law

§ 37. *Broadcasting licence*

(1) A broadcasting licence is an activity licence which grants the legal or natural person specified in the licence the right to broadcast programmes and programme services under the conditions specified in the licence. Broadcasting licences are issued by the Ministry of Culture on the bases and pursuant to the procedure prescribed by this Act.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

(2) A broadcasting licence shall replace a state activity licence specified in subsection 7 (2) of the Communications Act (RT 1991, 3, 49; RT I 2000, 18, 116) if the technical means of broadcasting are in the direct legal possession of the person specified in the licence.

(3) Six types of broadcasting licences are issued for the broadcast of programmes:

- 1) a local broadcasting licence, for the operating area of one transmitter;
- 2) a regional broadcasting licence, for radio networks, for one transmitter or a transmitters network in a part of the territory of Estonia;

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

3) a national broadcasting licence, for a national transmitters network or for one transmitter which enables reception of programmes in up to 80 to 100 per cent of the territory of Estonia;

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

4) an international broadcasting licence, for a transmitters network or one transmitter which enables reception of programmes in other states;

5) a temporary broadcasting licence, for a specific region and period of time for a term of up to three months;

6) broadcasting licence, for cable networks.

(31.05.2001 entered into force 20.07.2001 - RT I 2001, 53, 310)

(31) Fees are charged for broadcasting licences for television networks specified in clauses (3) 1), 3) and 4) of this section.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

(32) The amounts of fees specified in subsection (31) of this section are, based on the type of the licence, as follows:

1) a local broadcasting licence for television networks, if the operating area of the transmitter covers Harjumaa or Tallinn or both – 10 000 000 kroons;

2) a national broadcasting licence for television networks – 15 000 000 kroons;

3) an international broadcasting licence for television networks – 15 000 000 kroons.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

(33) A licensee shall pay the fee for a broadcasting licence in four equal parts of the amount of the annual fee by 1 March, 1 June, 1 September and 1 December. The first payment for a broadcasting licence for the year of issue of the licence shall be made upon the issue of the licence. If a broadcasting licence is issued or expires within the current year, the licence shall be paid for in proportion to the number of days which remain until the end of the year from the date of issue of the licence or from the beginning of the year until the date of expiry of the licence.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

(34) Fees for broadcasting licences are paid into the state budget. A licensee shall submit, concerning the payment of a fee, a copy of a document certifying payment of the fee to the Media Division of the Ministry of Culture within ten working days after paying the fee.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

(4) The broadcasting licences provided for in clauses (3) 2)-4) and 6) of this section shall be issued for a term of up to five years. Local broadcasting licences for radio networks provided for in clause (3) 1) of this section shall be issued for a term of up to

five years, local broadcasting licences for television networks shall be issued for a term of up to two years.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

(41) Up to two international broadcasting licences for television networks or two national broadcasting licences for television networks or one national and one international broadcasting licence for a television network shall be issued for simultaneous periods of validity.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

(5) The issuer of a broadcasting licence has the right to adjust the conditions for extending the term of the licence by notifying the current possessor of the broadcasting licence thereof at least one year before the broadcasting licence expires.

§ 38. Conditions specified by broadcasting licence

(1) A broadcasting licence shall specify:

- 1) the frequencies and channels used for the broadcasting activity;
- 2) the basic technical parameters for transmitters used for the broadcasting activity and the maximum permissible radiation levels;
- 3) the number and names of programme services broadcast;
- 4) the scheduling and transmission time of each programme service per day and week;

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

5) the term for commencement of the broadcasting activity;

6) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(2) A broadcasting licence may specify additional conditions which are not in conflict with law and the generally recognised principle of freedom of speech.

§ 39. Application for broadcasting licence

(1) An application for a broadcasting licence shall specify the general characteristics of and information concerning the planned programme service which may be necessary upon deciding to grant the licence or may be the basis for specifying the conditions provided for in subsection 38 (1) of this Act.

(2) If an applicant is a legal person, the following shall be annexed to an application for a broadcasting licence:

1) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

2) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

3) the balance sheet;

4) an investment plan approved by the person together with an indication of the sources and guarantees of funding;

5) a plan of technical solutions approved by the Communications Board;

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

6) a document certifying the authority of the representative of the applicant.

(3) If an applicant is a natural person, the following shall be annexed to an application for a broadcasting licence:

1) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

2) the documents specified in clauses (2) 4), 5) and 6) of this section.

(4) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(5) If a broadcasting licence for cable networks is applied for, a cable network licence issued by the Communications Board on the basis of the Cable Distribution Act (RT I 2001, 53, 310; 2002, 61, 375; 63, 387) shall be annexed to the application.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

§ 40. Issue of broadcasting licence

(1) The Ministry of Culture shall:

1) decide on and publish the types, number and other conditions of broadcasting licences to be issued and the terms for the submission of applications for a licence in at least one national daily newspaper;

2) establish the standard licence application forms;

3) review the applications submitted on time and decide to issue or refuse to issue a broadcasting licence or not to review the application;

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953; 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

4) before making a decision specified in clause 3) of this subsection, verify the information concerning the applicant in the register with which the applicant is registered if the applicant for a broadcasting licence is a legal person.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(2) An application for a broadcasting licence shall not be reviewed if the application does not meet the requirements provided for in § 39 of this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(3) An applicant shall be notified at the earliest opportunity of refusal to review the application, and a term for elimination of the deficiencies shall be granted.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(31) A directive concerning the issue of a broadcasting licence shall be sent to the licensee within three working days after the issue of the directive. Within five working days after the receipt of the directive, the licensee shall pay the fee for the broadcasting licence on the basis of subsections 37 (32) and (33) of this Act in the amount payable until the beginning of the first regular term for payment of the fee.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

(4) The Ministry of Culture shall refuse to issue a broadcasting licence if:

1) the applicant or the programme service planned by the applicant does not meet the requirements provided for in this Act;

2) a decision has been made to issue the broadcasting licence to another person who competed for the same licence and made a better offer;

3) it is not possible to allocate a broadcasting frequency;

4) the issue of a broadcasting licence would result in a violation of obligations of agreements assumed by the Republic of Estonia;

5) the activity applied for is illegal;

6) the issue of the broadcasting licence results in a press or information monopoly or cartel in the territory planned for the broadcasting activity, or the broadcasting in the

planned territory or part of the territory of Estonia would accumulate in the hands of persons who co-operate with each other;

7) the issue of the broadcasting licence would violate the requirements of free competition and of enterprise based on equal grounds in the territory planned for the broadcasting activity or a part of the territory of Estonia;

8) a person operating as a television and radio broadcaster or the responsible publisher of a daily or a weekly newspaper would become simultaneously a person operating as a television and radio broadcaster and the responsible publisher of a daily or a weekly newspaper in the territory planned for the broadcasting activity or a part of the territory of Estonia; this restriction shall not extend to the television guide published by a broadcaster itself.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

(5) Applications for a broadcasting licence shall be reviewed within three months as of the date on which the term provided for in clause (1) 1) of this section expires.

(6) The Ministry of Culture may extend the term for the issue of a broadcasting licence for up to eight months by its resolution, notifying the licence applicant thereof if this is caused by a need to internationally co-ordinate broadcasting frequencies.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(7) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(8) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 41. Validity and revocation of broadcasting licence

(1) A broadcasting licence shall be valid for the term specified in it.

(2) A broadcasting licence shall become invalid upon the death of the person or liquidation of the legal person specified in the licence.

(3) A broadcasting licence may be revoked on the bases provided for in subsection (5) of this section by:

1) a court;

2) the Ministry of Culture, which issued the licence.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(4) (Repealed - 16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

(5) A broadcasting licence shall be revoked if the person specified in the licence:

- 1) submits a corresponding application;
- 2) continually fails to fulfil the conditions specified by the licence;
- 3) violates the requirements of this Act in the person's activities;
- 4) submitted false information in order to obtain the licence;

5) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

6) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(6) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(7) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

Chapter 7

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

Supervision

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613; 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 42. Officials exercising supervision

(1) Officials of the Media Division of the Ministry of Culture and of the Communications Board shall exercise supervision over compliance with this Act and with the conditions of a broadcasting licence.

(2) Officials of the Media Division of the Ministry of Culture shall exercise supervision over compliance with the requirements of this Act, with the conditions relating to the programme service and with the term for commencement of the broadcasting activity (clauses 38 (1) 3)-6) of this Act).

(3) Officials of the Communications Board shall exercise supervision over compliance with the technical conditions of a broadcasting licence (clauses 38 (1) 1) and 2) of this Act).

(4) Officials exercising supervision have the right to:

- 1) obtain recordings of programmes of broadcasters, if necessary;
- 2) issue a mandatory precept to a broadcaster pursuant to the procedure provided for in section 43 of this Act upon the violation of this Act or of the conditions of a broadcasting licence;
- 3) make a proposal to the Minister of Culture to suspend or revoke a broadcasting licence;

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

- 4) obtain information from a broadcaster concerning compliance with this Act and the conditions of the broadcasting licence, if necessary.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

§ 421. Submission of information

Every year television broadcasters shall submit information concerning compliance with the requirements provided for in subsections 41 (2), (4) and (5) of this Act during the calendar year preceding the submission of information to the Ministry of Culture not later than by 15 February, taking into consideration the specification provided for in subsection 41 (6) of this Act.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

§ 43. Precept

(1) A precept shall set out:

- 1) the time and place of its preparation;
- 2) the name and address of the agency in whose name the precept is prepared;
- 3) the official title, given name and surname of the person who prepared the precept;
- 4) the scene, time and description of the offence;
- 5) the provisions which prescribe liability for the offence;
- 6) a request to eliminate the offence and the term for complying with the precept.

(2) Upon failure to comply or upon unsatisfactory compliance with a precept, the liability prescribed in this Act or in the Code of Administrative Offences (RT 1992, 29, 396; RT I

2001, 74, 453; 87, 524 and 526; 97, 605; 102, 677; 2002, 18, 98; 21, 117) shall be applied.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 431. Suspension and revocation of broadcasting licences

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

(1) (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

(2) Based on a reasoned proposal of an official exercising supervision, the Minister of Culture has the right, by a directive, to suspend a broadcasting licence for up to fourteen days or to revoke a broadcasting licence.

(16.06.99 entered into force 24.07.99 - RT I 1999, 59, 613)

§ 432. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 433. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

Chapter 71

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

Liability

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 434. Violation of conditions of broadcasting licence

A legal person who violates the conditions of a broadcasting licence shall be punished by a fine of up to 50 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 435. Violation of requirements of Broadcasting Act

A legal person who violates the requirements of the Broadcasting Act shall be punished by a fine of up to 40 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 436. Proceedings

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 105, 612; 2003, 4, 22) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654) apply to the misdemeanours provided for in §§ 434 and 435 of this Act.

(2) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 434 and 435 of this Act shall be conducted by:

1) the Ministry of Culture;

2) the Communications Board (in the case of violation of technical conditions of broadcasting licences).

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

Chapter 8

Final Provisions

§ 44. Replacement of activity licences with broadcasting licences

(1) Television and radio activity licences issued prior to the entry into force of this Act shall be replaced with broadcasting licences pursuant to the procedure provided for in this Act.

(2) In order to replace a licence with a broadcasting licence, an applicant shall submit an application meeting the requirements of this Act to the Ministry of Culture within two months after the entry into force of this Act. The application shall be reviewed on the basis of and pursuant to the procedure established by this Act.

(3) The television and radio activity licences issued prior to the entry into force of this Act shall become invalid:

1) on the date following the resolution to issue a broadcasting licence, if an application to replace an activity licence with a broadcasting licence is satisfied;

2) after five months as of the date of entry into force of this Act, in other cases.

§ 441. Entry into force of Act

(1) Subsections 41 (4) and (5) of this Act enter into force on 1 January 2003.

(11) Until 1 January 2003, the proportion of production specified in subsection 41 (4) of this Act in transmission time shall be the following:

1) from 1 January 2001 – at least 40 per cent;

2) from 1 January 2002 – at least 45 per cent.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(2) Until 1 January 2003, the proportion of production specified in subsection 41 (5) of this Act in transmission time shall be the following:

1) from 1 January 2000 – at least 5 per cent;

2) from 1 January 2001 – at least 6.5 per cent;

3) from 1 January 2002 – at least 8 per cent.

(3) (Repealed - 19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

§ 45. Organisational changes

(1) The Government of the Republic shall found a public limited company on the basis of the whole of the assets of the state enterprise Estonian Telecommunications Broadcasting Transmission Centre by 1 January 1996 pursuant to the procedure established in the Commercial Code (RT I 1995, 26/28, 355; 1998, 91/93, 1500; 1999, 10, 155; 23, 355; 24, 360; 57, 596; 102, 907; 2000, 29, 172; 49, 303; 55, 365; 57, 373; 2001, 24, 133; 34, 185; 56, 332 and 336; 89, 532; 93, 565; 2002, 3, 6; 35, 214; 53, 336; 61, 375; 63, 387 and 388; 96, 564; 102, 600; 110, 657; 2003, 4, 19).

(16.10.95 entered into force 20.11.95 - RT I 1995, 83, 1437)

(2) The shares of the public limited company specified in subsection (1) of this section shall belong to the state upon foundation. The transfer of shares shall take place pursuant to the procedure established in the State Assets Act (RT I 1995, 22, 327; 1996, 36, 738; 40, 773; 48, 942; 81, 1446; 1997, 45, 724; 1998, 30, 409; 1999, 10, 155; 16, 271; 2000, 39, 239; 49, 306; 51, 319; 2001, 7, 17; 24, 133; 93, 565; 2002, 53, 336; 64, 393) and, upon the transfer of shares, the state shall retain at least 51 per cent of the votes represented by shares.

(16.10.95 entered into force 20.11.95 - RT I 1995, 83, 1437)

(3) (Repealed - 08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

(4) (Repealed - 08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

(5) (Repealed - 08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

(6) (Repealed - 08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

§ 451. *Implementing provisions*

(1) The members of the Broadcasting Council specified in § 31 of this Act shall be appointed by the Riigikogu not later than by 1 May 2000. The Chairman of the Riigikogu Cultural Affairs Committee shall convene a session of the Broadcasting Council not later than ten working days after the formation of the Broadcasting Council and shall chair the session until the election of a chairman.

(2) The authority of the former members of the Broadcasting Council shall terminate as of the date on which a resolution concerning the appointment of the members of the Broadcasting Council specified in subsection (1) of this section enters into force.

(3) The members of the management boards of *Eesti Raadio* and *Eesti Televisioon* specified in § 322 of this Act shall be appointed by the Broadcasting Council not later than by 1 July 2000 and their authority shall commence not later than as of 10 July 2000. The authority of the Directors General of *Eesti Raadio* and *Eesti Televisioon* and of the former members of the management boards is deemed to terminate as of the same date.

(4) The Broadcasting Council may release the Director General of *Eesti Raadio* and the Director General of *Eesti Televisioon* from office before the termination of their authority and terminate the employment contracts with the Directors General on the grounds provided for in the Republic of Estonia Employment Contracts Act (RT 1992, 15/16, 241; RT I 1993, 10, 150; 26, 441; 1995, 14, 170; 16, 228; 1996, 3, 57; 40, 773; 45, 850; 49, 953; 1997, 5/6, 32; 1998, 111, 1829; 1999, 7, 112; 16, 276; 60, 616; 2000, 25, 144; 51, 327; 57, 370; 102, 669; 2001, 17, 78; 42, 233; 53, 311; 2002, 61, 375; 62, 377; 110, 656; 111, 663; 2003, 4, 22) or by a resolution of no confidence adopted by at least a two-thirds majority of the members of the Broadcasting Council.

(5) The Broadcasting Council shall bring the statutes of *Eesti Raadio* and *Eesti Televisioon* into conformity with this Act not later than by 1 July 2000.

(6) Subsection 31 (13) of this Act enters into force on 1 January 2001.

(08.03.2000 entered into force 29.03.2000 - RT I 2000, 25, 143)

(7) The Government of the Republic shall establish the list specified in subsection 111 (1) of this Act of events which are regarded as being of major importance for the Estonian society by 1 January 2003.

(19.04.2000 entered into force 15.05.2000 - RT I 2000, 35, 220)

(8) Subsections 291 (1) and (2) of this Act apply to *Eesti Raadio* as of 1 January 2005. Until expiry of the specified term, *Eesti Raadio* has the right to continue to broadcast advertising on two channels provided that the amount of advertising shall not exceed 5 per cent of the daily transmission time of the programme service. The procedure, price, use and volume of the transmission of advertising shall be established by the Broadcasting Council. Until 1 January 2005, the revenue of *Eesti Raadio* shall be formed, in addition to the revenue specified in subsection 35 (1) of this Act, of amounts received by the sale of transmission time for advertising.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

(9) Persons operating on the basis of temporary licences, cable television network utilisation licences and cable television network licences issued by the Communications Board prior to entry into force of the Cable Distribution Act shall annex to an application for a broadcasting licence for cable networks a document certifying the fact that they have submitted, pursuant to the procedure prescribed in subsection 33 (1) of the Cable Distribution Act, an application to be issued a cable network licence to the Communications Board.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

(10) The fees for broadcasting licences for television networks which are valid in 2002 shall be paid, for the second half of 2002, by 1 July and 1 November 2002.

(19.12.2001 entered into force 01.07.2002 - RT I 2002, 3, 5)

§ 46. Repeal of legislation

(1) The Republic of Estonia Supreme Council Presidium Decree of 29 October 1990 "Concerning Approval of the Statutes of *Eesti Raadio* and *Eesti Televisioon*" (RT 1990, 19, 224) shall be repealed as of the date of approval of the statutes of *Eesti Raadio* and *Eesti Televisioon*.

(2) The "Remuneration of Employees of *Eesti Televisioon*, *Eesti Raadio* and the National Library of Estonia Act" (RT 1993, 19, 338) is repealed.

§ 47. This Act enters into force on the date following publication in the Riigi Teataja.

1 RT = *Riigi Teataja* = State Gazette

2 Riigikogu = the parliament of Estonia

3 *Eesti Raadio* = the Estonian Radio

4 *Eesti Televisioon* = the Estonian Television

5 Ametlikud Teadaanded = Official Notices