

## **LAW**

### **“ON AUDIOVISUAL MEDIA IN THE REPUBLIC OF ALBANIA”<sup>1</sup>**

Pursuant to articles 78 and 83 point 1 of the Constitution, following the proposal of a group of MPs,

#### **THE ASSEMBLY OF THE REPUBLIC OF ALBANIA**

#### **DECIDED:**

#### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **Article 1**

##### **Purpose**

This law shall regulate the activity of audiovisual media and their support services in the territory of the Republic of Albania on the basis of the technological neutrality principle.

##### **Article 2**

##### **Scope of implementation**

This law shall apply to linear and non linear audiovisual broadcasts and their support services. This law shall not apply to the print media.

##### **Article 3**

##### **Definitions**

Within the meaning of this law:

1. “Subscription” is a contract entered into between the on demand audiovisual media service provider and the recipient of such services.
2. “Conditional access” means the taking of technical measures and/ or arrangements so that access to protected services in a comprehensive, clear form is made available through a preliminary individual authorisation.
3. “AMA” is the Audiovisual Media Authority.
4. “Receiver device” is the set of electronic equipment that enables reception and display of audiovisual broadcasts for the users and any other device or program linked with it for this purpose.

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<sup>1</sup> Fully approximated with EU 2010/13/ Directive of the European Parliament and Council, dated 10 March 2010 “On the coordination of some provisions set out in the law, regulations or administrative acts in the Member status regarding provision of audio-visual services” (The Audi-visual Media Services Directive, codified version)), Number CELEX: 32010L0013, Official Journal of the EU, Series L 95, dated 15. 04. 2010.

5. "Postal and Electronic Communications Authority" or PECA is the regulatory authority responsible for electronic communications pursuant to the provisions of Law No. 9918, dated 19.5.2008 "On Electronic Communications in the Republic of Albania".

6. "Teleshopping window" is a direct offer to the public made in the course of a broadcast, which lasts at least 15 minutes and which aims at selling goods or services, including immovable property, rights and obligations, in return for payment. Teleshopping windows may or may not include the possibility to pay directly for the provided goods, services, or other real or intellectual property rights involved;

7. "Surreptitious audiovisual commercial communication", is the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods, or a provider of services in programs 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.

8. "Audiovisual commercial communication" means images with or without sound, which are designed to promote, directly or indirectly, the goods, the services or the image of a natural or legal entity pursuing an economic activity. Such images accompany or are included in a program in return for payment or for similar consideration or for self-promotional purposes. The forms of audio-visual commercial communications include:

- a) advertisements in audiovisual services,
- b) sponsorships;
- c) teleshopping;
- ç) teleshopping windows;
- d) product placement in programs.

9. "Community" within the meaning of this law means the unity of individuals in a given geographical location or a unity of individuals who have a common special interest.

10. "Community with special sensory needs" is the community with full or partial sight or hearing impairment, whose ability to perceive audio or audiovisual signals is limited at an extent that makes the enjoyment of the right to information impossible.

11. "General coverage" means the broadcast coverage by a free of charge service of at least 95 percent of the population of the Republic of Albania.

12. "Minister" is the minister who covers the electronic communications' sector.

13. "Terrestrial equipment for distribution of a television broadcasting service" means devices for the distribution of such a service through the air.

14. "Multiplex" is a technical device which allows the broadcasting of digital signals, combining them into one digital output of data flow.

15. "Application Program Interface" (API) is a program adaptor among the applications made available by media service providers and capacities of the improved digital audiovisual broadcast devices.

16. "Event of major importance" is an event with public relevance in Albania, or a part of it, which is of a sport related nature or not, that complies with at least two of the below mentioned requirements:

- a) there is a special and broad interest for the event, and the interested persons are more than just the ones who regularly follow such an event on TV;
- b) the event enjoys broad recognition from the general public, has an important cultural influence and strengthens the cultural identity;
- c) the event includes the participation of the national team in sports, in an important international event/competition;
- ç) the event has been historically broadcast free of charge in TV and has enjoyed a large audience in the country.

17. "Media Service Provider (MSP)" is the individual or legal person who has editorial responsibility for the selection of the content of the audiovisual broadcast service and who determines the manner in which it is organized.
18. "Multiplexer operator" is the individual or legal person who provides the technical infrastructure for terrestrial distribution and combination of digital programs and supplementary services included in the digital streaming of data.
19. "Event organizer" means a natural or legal person who has the legal right to sell or distribute the event;
- 20.. Conditional access device means any device or program designed or adapted to provide access to a protected service in a clear and comprehensive form.
21. Prohibited device is any device or program designed or adapted to provide access to a protected service in a comprehensible, clear form, without the authorization of the service provider.
22. "Editorial responsibility" is the exercise of effective control both over the selection of programs and over their organization:
  - a) either in a scheduled list, in the case of direct audiovisual service broadcast or
  - b) in a catalogue, in the case of audio broadcasting or on-demand media services.
23. "Independent Productions" are production activities of audiovisual works which fulfill one of the below conditions:
  - a) are not controlled or related to licensed broadcasters or for authorized broadcast;
  - b) when during a period of time of three years, at list 90 per cent of these productions are not destined for an only one broadcaster.
24. "Independent producer" is the physical or juridical person who is not involved in production of audiovisual media services and who produces films, advertisement programs broadcasting or programs with an audiovisual individual nature
25. "Radio program" means the totality of audio messages constituting an individual element within a list or catalogue created by the service provider, whose form and content are comparable with the form and content of a radio broadcast.
26. "Television program" means a set of moving images with or without sound, constituting an individual item within a schedule or a catalogue established by a media service provider and the form and content of which are comparable to the form and content of television broadcasting. Examples of programs include movies, sports events, situation comedies, documentaries, children's programmes, and original drama;
27. "Advertising" means any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or an individual in connection with own trade, business, or profession as well as to support the supply of goods or services, including immovable property, rights and obligations, in return for payment;
28. "Institutional advertising" is the advertising asked by a state institution in order to promote the activities of this institution aiming to enhance and protect values and attitudes that consolidate democracy, well-being, public health and national security.
29. "Interface advertising" is the advertisement which allow the user to get a more detailed content of the advertisement from the broadcast part of the respective program.
30. "Split screen advertising" means advertising displayed on the corner of the screen simultaneously with the broadcasting of the program in the form of a logo, movable text, advertising spots and other forms of advertising;
31. "Political advertising" is the advertising which has a substantial political content and has political objectives.
32. "Virtual advertising" is the advertising created through a graphical procession of digital technology in order to include images in a live or pre-recorded broadcast program.

33. "Common advertising" means broadcasting of advertising spots the duration of which does not exceed 90 seconds.

34. "Extended advertising" means a broadcast in return for payment which exceeds 90 seconds and which provides the public with detailed information on goods, services, companies, individuals and commercial organizations, their activities or ideas.

35. "Television advertising" means any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or an individual in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment;

36. "Electronic communication network" is the systems of broadcasting, and if that is the case, the commutation systems or routing systems and other resources, which allow the commutation of signals through conductors, radio, optical means or other electromagnetic means, including satellite networks, fixed networks with cycle commutation or package commutation, including internet, mobile land networks, the electric cable systems when they are used for the transmission of signals, and the networks used for radio television broadcasting, irrespective of the information transmitted.

37. "Sponsorship" is any contribution made by a public or private legal person or individual, who is not engaged in providing audiovisual media services or in the production of audiovisual works, to fund audiovisual media services or programs with a view to promoting its name, trade mark, image, activities or products.

38. "Audio broadcasting service" is a broadcasting service that distributes or airs news, audio, signs or signals with the view to their direct reception by the broad public.

38. "Audio broadcasting service" is a broadcasting service which aires or disseminates news, audio, signs or signals for reception by the broad public.

39. "Public broadcasting service" comprises broadcasting services of ART without any payment.

40. "Audiovisual service program" means a service that entails a set of audiovisual programs of all kinds and which may be aired or distributed directly or otherwise for reception by the broad public

41. "Protected services" are:

- a) Audio and/or audiovisual broadcasting services and information society services that are offered on the basis of conditional access in return for payment.
- b) Provision of conditional access for services cited in letter "a" of this point also constitutes a protected service.

42. "On demand audiovisual service" are audiovisual media non-linear services provided by a media service provider for the viewing of programs at the moment chosen by the user and at his individual request based on a catalogue of programs provided by the media service provider for this purpose.

43. "Audiovisual media service" means a service under the editorial responsibility of a media service provider and the principal aim of which is to provide informative, entertaining, or educative programs to the general public via electronic communications networks. Such an audiovisual media service is a television broadcast or an on-demand audiovisual media service and/or a commercial audiovisual media communication as defined in this law.

44. "Widescreen TV service" is a TV service that fully or partially consists in programs produced to be displayed in a widescreen format. The reference format for the widescreen TV service is 16:9.

45. "Teleshopping" means broadcasted programs that provide direct offers to the public for the sale or provision of goods, services or other immovable assets or of intellectual property.

46. "Non-linear broadcasting" is the provision of audio and/or audiovisual program service for the viewing of programs at the moment chosen by the user and at his individual request;
47. "Linear broadcasting" is provision of audio and/or audiovisual program service for its simultaneous reception by listeners and/or viewers.
48. "Free of charge broadcast" is the broadcast the reception of which no tariff is paid to the entity providing the service.
49. "Community broadcasting" is community audio broadcasting without payment, distinct from the public and private broadcasting service, provided pursuant to the provisions of this law for social development and for the fulfilment of the interests of the community. Special audio broadcasting dedicated only to sight impaired people is considered as community broadcasting.
50. "Television broadcasting" means a linear audiovisual service provided by a media service provider for simultaneous viewing of programs on the basis of a program schedule.
51. "Product placement" means any form of audio and/or audiovisual commercial communication that includes or makes reference product, a service or the trade mark thereof, so that it is featured within a program, in return for payment or for similar consideration;
52. "European works" mean the following:
- a) works originating in Member States of the European Union,
  - b) works originating in states that are party to the European Convention on Cross Border Television of the Council of Europe, ratified by the Assembly of Albania through law No. 8525, dated 09 September 1999 "On the ratification of the European Convention on Cross Border Convention" and fulfilling the conditions laid down in letter "c" of this point.
  - c) Works mentioned in letters "a" and "b" of this point are works created mainly by authors and workers residing in one of the Member States referred to in those provisions, provided that they comply with one of the following three conditions:
    - i. they are created by one or more producers established in one or more of those States,
    - ii. the production of the works is supervised and effectively controlled by one or more producers established in one or more of those States,
    - iii. the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is controlled by one or more producers established outside those States.
  - ç) Works co-produced in the framework of agreements entered into in the sector of a audio and/or audiovisual broadcasting, concluded between the European Union and the third states and which meet the conditions set forth in these agreements.
  - d) Works that are not European works within the meaning of letters "a" and "b" of this point, but that are produced within the framework of bilateral co-production agreements, concluded between Member States and third countries, shall be deemed to be European works, provided that the co-producers from the Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.
53. "Radio-television broadcasting coverage area" is the territory in which the intensity of the signal meets the requirements of signal reception quality, laid down in international acts on radio-television broadcasts.

#### Article 4

## **Fundamental Principles of Audiovisual Broadcasts**

1. Audiovisual broadcasting activity shall be pursued on the basis of the following principles:

- a) Audiovisual broadcasting activity shall be free
- b) Audiovisual broadcasting activity shall impartially comply with the right to information, political and religious beliefs, personality, and dignity and with other human fundamental rights and freedoms. This activity shall respect in particular the rights, interests, and the moral requirements for the protection of minors.
- c) Audiovisual broadcasting activity shall not be allowed to violate the constitutional order, national sovereignty and integrity
- ç) Audiovisual broadcasting activity shall ensure objective information to the public by accurately presenting facts and events and by respecting the free formation of opinions.
- d) The audiovisual broadcasting activity shall guarantee the right of each citizen to receive audiovisual broadcasting services, provided to the public by audiovisual broadcasting services operators exercising their activity in the territory of Albania.

2. The audiovisual service operators during the exercise of their activity shall be also guided by the following principles:

- a) Guaranteeing of the freedom of expression
- b) Guaranteeing of the right to information
- c) Maintaining secrecy of information sources
- ç) Respecting the privacy of citizens
- d) Non allowance of broadcasts inciting intolerance among citizens
- dh) Non allowance of broadcasts inciting or justifying use of violence
- e) Guaranteeing of the right of reply
- ë) Guaranteeing copyright
- f) Respect for good neighbourly relations among peoples
- g) Respecting of literary Albanian language standards.

## **Article 5**

### **Reception and Rebroadcasting Freedom**

Albania enjoys the right to receive and rebroadcast programs from the European Union Member States and third European states, which are parties to the European Convention on Cross-Border Broadcasts of television programs and in special cases it may restrict the freedom of broadcasting such services only on the basis of this cross-border international agreement and of this law.

## **CHAPTER II**

### **AUDIOVISUAL MEDIA AUTHORITY (AMA)**

## **Article 6**

### **AMA's Status**

1. AMA is the regulatory authority in the field of audio and/or audiovisual broadcasts and their support services in the Republic of Albania.
2. AMA is a public independent legal entity and its headquarters are located in Tirana.
3. AMA shall operate pursuant to the provisions of this law and the effective legislation in the Republic of Albania.

## **Article 7**

### **Incompatibilities and Conflicts of Interest**

1. AMA members may not be:

a) members of executive bodies of political parties and associations; persons who run for members of parliament or who have been elected as such during the last two legislatures; persons who have run for mayors in the most recent local election or who have exercised the duty of the mayor, members of the Council of Ministers, or persons who have had the duty of prefect in the last three years, as well as those who are members of the Council for Complaints and of PECA, or who are employees of the latter.

b) persons linked with, according to the provisions of Law nr.9367, dt.7.04.2005 on "Prevention of Conflict of Interests in Exercise of Public Functions or who own capital stakes or shares in commercial companies or other rights in the field of audiovisual broadcasting, advertising, audiovisual productions, and electronic communication networks or persons employed by or who are members of executive or advisory bodies of such undertakings or who are linked with some licenses with these undertakings.

2. AMA members must disclose:

a) any interest or links with any of the undertakings licensed by AMA.

b) any potential interest in some license that AMA has granted or intends to grant and they may not take part in the debate or in the decision-making process on matters related to such interests or links that represent a disqualification reason in accordance with Article 37 of Code of administrative procedures.

3. AMA shall draft a code of conduct in order to regulate its activity regarding the matters laid down in point 2, pursuant to the provisions of this Law and Law No. 9367, dated 07 April 2005 "On Prevention of Conflicts of Interest in the Exercise of Public Functions" and shall adopt similar codes for the AMA administration and for any boards it may set up.

4. AMA members may not voice or maintain public stands that infringe their impartiality in relation to the interests defined in point 2 of this article.

5. AMA members may not be influenced financially or politically and must work always to fulfil and advance the objectives of AMA.

## **Article 8**

### **AMA Composition**

1. AMA shall be composed of its Chairman, Deputy Chairman and 5 members in its composition, AMA has three members supported by majority, three members supported by opposition and a member elected on consensus.

2. Any person of not less than 10 years of work experience in the following fields may be a potential candidate for AMA:

a) The media, in general,

- b) The public, commercial or non commercial radio-television services,
  - c) The production of audiovisual programs,
    - ç) The media technology,
    - d) Economy, administration, competition rules
    - dh) Albanian language development issues,
    - e) Issues related to persons with disabilities and other vulnerable groups,
    - ë) Art, culture and music,
    - f) Justice, law and public administration,
    - g) Science, environment, and technological developments
    - gj) consumer's protection
    - h) Social and educational activities and development of local, public and national communities that are linked with or have a direct impact on the purpose pursued by audiovisual activities, as set forth in this law.
3. The Chairman, Deputy Chairman, and other AMA members shall be full time employees. The salary of its Chairman, Deputy Chairman and the amount of remuneration of the five other members of this authority shall be determined in compliance with Law No. 9584, dated 17 July 2006 "On Salaries, Remunerations and Structures of Independent Constitutional Institutions and Independent Institutions Set up Under Law."

## **Article 9**

### **Election**

1. AMA members shall be elected by the Assembly for a period of five years with the right to re-election only once.
- 2 . In event of vacancies in AMA, the Parliamentary Committee for Education and Means of Public Information, within a month, shall use public information means to invite the entities below to nominate a candidate:
- a) electronic media associations and groupings;
  - b) print media associations;
  - c) electrical and electronic professorship and associations;
  - ç) the law professorship, associations of lawyers and National Advocacy Chamber;
  - d) non profit organizations operating in the field of human rights, children's rights or in public policy research, or representatives of associations that operate in the protection of persons with disabilities.
- The above mentioned entities shall put forward the candidatures within 1 month from receiving the invitation.
3. The Committee for Education and Public Information Means, in accordance with the provisions of articles 7 and 8 of this law, makes the selection among at least 4 candidates for each AMA member vacancy.
4. For the purpose of selecting the alternative candidates for each AMA member position, the Committee for Education and Public Information Means shall apply the following procedures:
- a) The Committee for Education and Public Information Means shall examine all candidacies put forward by the proposing entities;
  - b) The candidates selected on the basis of the above proposals shall be subjected to a short-listing process one by one. In any case, the Committee takes into consideration the balance of three candidates selected by majority and three selected by opposition. All candidates are submitted for approval in Assembly's plenary session.

The exclusion of each candidacy must be explained through arguments in respect to the principle of non-violation of the personal and professional integrity of the candidates.

5. After termination of mandate, AMA member continues his work until the election of the new member..

## **Article 10**

### **Election of the AMA's Chairperson**

1. The seventh member, who shall at the same time be AMA Chairperson, is elected not later than 10 days after the conclusion of the election procedure for AMA's members, according to article 9 of this law.
2. No later than 30 days prior to the expiry of AMA Chairperson's term, the Assembly of Albania publishes the vacancy for the position of AMA Chairperson. Each citizen fulfilling the criteria in articles 7 and 8 of this law may apply as a candidate for AMA Chairperson. The application shall have attached the respective documentation which proves the fulfillment of the legal criteria to be a member of AMA.
3. The list of candidates is sent to the Committee on Education and Public Information Means for verifying compliance with the criteria defined in this law. This list may not include, or if already included they shall be excluded, the candidates proposed for AMA members as per point 4 of article 9 of this law. Upon verifying the candidacies, the Committee applies the following procedure:
  - a. The Committee identifies four candidates with the greatest support from among the Committee members. Each Committee member may support up to four candidates.
  - b. If two or more candidates enjoy the same support, the selection shall be done by casting a lot.
  - c. The representatives of the parliamentary minority in the committee exclude two of the four selected candidates. The remaining candidates will be voted by the Assembly.
- ç) The candidate receiving more than half of the votes of the members of parliament shall be elected as AMA's Chairperson.

## **Article 11**

### **AMA's Deputy Chairperson**

1. AMA selects as its deputy chairperson one of AMA's members, selected on the grounds of support for the proposal of the Opposition according to point 4 of article 9 of this law.
2. The selection shall be done by a secret vote, according to the following procedure:
  - a) The names of three AMA members are written down on a ballot paper, according to point 1 of this article.
  - b) Each of the members votes by marking one of the names on the ballot paper.
  - c) The member receiving 5 votes is elected as AMA's deputy chairperson.
  - ç) If none of the candidates receives the required number of votes, a second run is held. The member with the highest number of votes in the second run is elected as AMA's deputy chairperson. The voting takes place within the same day.

3. The meeting for the selection of the deputy chairperson, when the Chairperson is absent, shall be chaired by the most elderly member of AMA and the selection procedure is held in the presence of a public notary.

## **Article 12**

### **Release from Duty**

1. The Chairman, Deputy Chairman, and any member of the AMA shall be released from duty by the body that has elected him or her upon:
  - a) punishment by a court, with a final form decision, for having committed a criminal offence;
  - b) becoming incapable of carrying out his or her duty for health reasons;
  - c) being absent at more than one third of the meetings of the Council during a year;
  - ç) proving that he or she has not met the obligations stemming from Article 7 of this law;
  - ë) resignation .
2. Not less than 5 members of the Council may request at the Assembly the release of an AMA member from duty. The Assembly shall examine the request within 10 days.
3. Before being released from duty, an AMA member, is given the possibility to present his or her claims at the Committee for Education and Public Information Means. The decision to release the Chairman, Deputy Chairman, or more than one member must be based on law and must explain the reasons leading to their release. The decision of the Assembly shall be published.
4. The Chairman, the Deputy Chairman and any member of the AMA may hand in his or her resignation at any time. The resignation shall be presented to the AMA at its ordinary meeting and sent to the Assembly within the shortest possible time.
- 5) When a case of the above occurs according the point 1 of this article, AMA chair informs the Assembly of it in the written form within 5 days.
- 6) In any instance of release of a member from duty, a substitute is chosen on the basis of the procedure foreseen for the election of a new member and for the duration of the outstanding time left to the released member.

## **Article 13**

### **Quorum and Decision-making**

1. AMA meetings are valid when no less than 4 members take part in them.
2. AMA decisions are taken when the majority of its present members vote in favour.
3. AMA meetings are held based on the Internal Rules of Procedure adopted by AMA and called by the Chairman or at least three members on the basis of a program of work adopted in advance.
4. In cases when the outcome of the vote is a draw and the ballot was open, the vote of the chairman is decisive..
5. The decision-making procedures and their implementation as well as the call for unscheduled meetings shall be drafted in accordance with the provisions of Law No 8480. dated 27 May 1999 “On the functioning of collegial bodies of the state administration and public entities” and are part of the Internal Rules of Procedure. The rules of Procedure are put forward by the Chairman and adopted by AMA by qualified majority.

#### **Article 14** **AMA Chairman Powers**

1. The Chairman shall be the leader of AMA and shall have managerial responsibilities in accordance with the provisions of Article 8 of Law No.10296, dated 08 July 2010 "On financial management and audit".
2. The Chairman shall exercise the following main duties:
  - a) organize, coordinate and chair the meetings and the activity of AMA. In collaboration with the General Secretary, the Chairman shall lead the activity of AMA administration in compliance with this law and AMA's Rules of Procedures;
  - b) propose to the AMA the topics of its meetings, the order of the day, the issues that will be deliberated, the draft decisions, and the relevant reports;
  - c) represent the AMA in its relations with third parties and with international organizations;
  - d) report to the Assembly on the annual activity of the AMA.
3. In the implementation of his or her duties, the Chairman shall issue orders and guidelines for the Administration.
4. In the absence of the Chairman or on the basis of the delegation of powers, its duties shall be performed by the Deputy Chairman.

#### **Article 15**

##### **AMA's Organisation and Management**

1. AMA's administration shall operate with the institution and it shall carry out all the necessary preparatory and administrative activity. The criteria for employment and promotion shall be drafted by AMA, in accordance with the provisions of Law No. 8549 dated 11 November 1999 "On the civil servant status".
2. The AMA structure shall be put forward by this institution and shall be adopted by the Assembly
3. The AMA administration shall be led by the General Secretary.
4. Social insurance, supplementary pensions, and other legal privileges in force for the institutions of the same tier shall apply also to the AMA administration.

#### **Article 16**

##### **AMA's General Secretary**

1. The AMA General Secretary shall be the highest civil employee in the AMA administration and shall be responsible to it for the functioning of this administration and shall have managerial responsibility of the authorised employee, in accordance with the provisions of Article 9 of Law No.10296, dated 08 July 2010 "On Financial management and audit."
2. The General Secretary shall exercise his or her duties pursuant to the guidelines and directions specified by AMA and shall be accountable to it for the manner of their implementation.
3. The General Secretary may delegate some of his or her duties to some member of the administration depending on the need and his own discretion, except when such a thing is impossible.

4. The General Secretary is selected by AMA from the winning candidates of a public selection process, pursuant to the provisions of Law No. 8549, dated 11 November 1999 “On the Civil Servant Status.”

## **Article 17**

### **Tasks of the General Secretary**

1. The General Secretary shall be responsible for:
  - a) the progress of the management of financial and other resources of AMA, registration of accounts and audit, and reports drafted by the High State Audit in this framework,
  - b) the assessment system, procedures, and practices on the fulfilment of AMA's financial efficiency when discharging its functions,
  - c) any issue, related to or affecting AMA's activity, included in the annual report of the High State Audit which is presented by the latter to the Assembly.
  - ç) any issue related to the spending of funds allocated from the state budget for the purpose of funding certain projects.
  - d) issues on administration of human resources and enforcement of the effective legislation on the civil servant.

## **Article 18**

### **Objectives of AMA's activity**

1. In discharging its functions, AMA must assure:
  - a) that the entirety of the broadcasting services serves the needs of the citizens of the Republic of Albania in the best way, taking into account the language and diversity of traditions, religious beliefs, culture and moral of the citizens;
  - b) the preservation and support of democratic values regulated in the Constitution, especially those related to the freedom of speech;
  - c) the provision of diversified and free of charge services.
2. AMA must encourage:
  - a) the provision of diversified and free programs
  - b) provision of diversified, high quality programs by public and private service broadcasters;
  - c) the public service broadcasters to meet objectives in accordance with the provisions of this law.
  - ç) the increase of diversity in audiovisual services;
  - d) the establishment of a regulatory environment that facilitates the development of the audiovisual broadcast sector in Albania, that is responsible of the needs of the audience, and especially, meets the needs of persons with disabilities;
  - dh) development of broadcast and program services in Albanian language.
3. In discharging its functions, AMA must assure that the taking of relevant measures:
  - a) is in ratio to the objectives regulated in this article;
  - b) issue rules of procedure that are consistent and predictable for the Media Services Providers;
  - c) enable and encourage the technological development and its implementation in the broadcasting sector.

## **Article 19**

### **AMA's Functions**

1. AMA shall have the following main functions:
  - a) examine proposals and applications for the pursuit of broadcasting services, including applications for digital broadcasts and grant relevant authorizations or licenses in compliance with this law, including the services provided by the Albanian Radio-Television (ART);
  - b) AMA issues and removes licenses and /or authorizations by qualified majority.
  - c) guarantee fair competition and consumer protection in the field of electronic media, ensuring at the same time the further development of public Albanian Radio and Television;
  - ç) co-operates with Committee for Consumer Protection to guarantee protection of media consumers in the case of abusive prices' services or illicit practises from Media Services Providers.
  - d) draft strategies for provision of broadcasting services in the Republic of Albania.
  - dh) supervision of the implementation of the service contract signed with ART;
  - e) draft and adopt codes and rules of audiovisual broadcasts and other bylaws in implementation of this law;
  - f) set fees for granting licenses;
  - g) prepare and issue instructions for the ART in respect of fulfilment of its obligations;
  - gj) lay down the criteria and impose obligations for the use by third parties of ART broadcasting infrastructure;
  - h) resolve disputes between providers of audio and/or audiovisual broadcasting services, including agreements with public broadcasters;
  - i) cooperate with the Minister for the drafting of the National Frequency Plan;
  - j) cooperate and take the opinion of PECA, the Competition Authority, the Office for Copyrights and other bodies for the fulfilment of its obligations laid down in this law.
2. In addition to the abovementioned functions, AMA shall:
  - a) collect, administer and publish information on the audiovisual sector in the Republic of Albania;
  - b) follow up the development of audiovisual media activity on an international level;
  - c) carry out, organize, support and promote research in regard to the audiovisual media issues;
  - ç) cooperate with the other bodies, including the representative ones within the audiovisual media sector to assist in the training activities of the audiovisual media sector;
  - d) cooperate with its counterparts in other states;
  - dh) undertake, promote and urge research and relevant activities related to the role of the media, including cooperation with broadcasters and other entities in this field.
  - e) efficiently fulfils objectives set in article 18
3. AMA shall monitor the implementation of this law by entities exercising their activity in the field covered by this law and, in case of infringements, it shall impose sanctions.
4. AMA shall monitor news programs and programs of current events.
5. AMA shall instruct the Albanian media service providers to act in compliance with international or regional acts to which Albania is party, when it comes to broadcasts from Albania to other countries.
6. In order to implement the sanctions laid down in this law, AMA shall cooperate with other public bodies according to their powers.

7. AMA shall demand information from the state administration, courts, banks, and other relevant organizations and from the heads of the licensed entities, as appropriate, in order to control the reliability of data presented by the applicant. Such data shall be used only for the implementation of the duties it has under this law. Their dissemination and publication shall be prohibited.
8. AMA shall give its opinion regarding the future of the audiovisual media activity based on the demand or proprio motu.
9. AMA shall officially express its proposals for signing and for the correct implementation of international agreements on audiovisual media.
10. AMA shall take part in international activities on the strategy and perspectives of development of audiovisual media, representing Albania and shall support participation and cooperation of the public and private entities with European and other international counterparts in the field of audiovisual media. AMA shall prepare studies and recommendations for Albania's stance to official international talks on audiovisual media.
11. AMA shall suggest amendments to legislation and rules dictated by technological, economic, social and cultural developments in the field of audiovisual media.
12. AMA shall draft the internal Rules of Administration.
13. AMA shall adopt its annual draft budget; review its annual financial statement and the annual report on its activity prior to its submission to the Assembly.
14. At the beginning of each year, AMA shall report on its annual activity, developments in the field of broadcasting, and the manner on which the public and private networks have complied with obligations stemming from this law. It shall present its report to the Standing Committee on Education and Means of Public Information and to the Assembly in its plenary.
15. AMA shall control the quality of signal reception in the coverage areas and seek solutions for public complaints regarding the quality of audiovisual broadcasts.
16. AMA shall issue decisions for the implementation of its duties and this law.
17. AMA shall propose the organisational structure of the institution to the Assembly.
- 18) AMA shall ensure effectively use of its fund resources

## **Article 20**

### **Complaints Council**

1. The Complaints Council shall be appointed by AMA and shall be composed of its chairman, two members, who are media experts, and who are nominated for a three-year term with the right to re-election for no more than another term.
2. The scope of work of the Complaints Council shall be to supervise the enforcement of codes and rules adopted by AMA, consisting mostly of respect for the dignity and other fundamental human rights, and in particular, the protection of minors, the right to information and sensitizing the public to respect the moral and ethical norms in the programs offered by audiovisual service providers.
3. The main duties of the Complaints Council emanating from the scope of its work shall be as follows:
  - a) to supervise implementation of codes and rules by the media service providers and ART pursuant to the provisions of this law;
  - b) to examine complaints in accordance with articles 51, 52, and 53 of this law;
4. In order to fulfil its functions, the Complaints Council shall cooperate with the other structures of AMA.

5. The Complaints Council shall periodically observe the extent to which the programs of a foreign broadcaster, which are wholly or partially addressed to viewers in the Republic of Albania exclusively for information purposes, are compatible with the broadcasting codes.
6. The Complaints Council may conduct public surveys through independent expertise on matters of ethical concern in television programs. It shall report the findings from the study of such surveys and from public complaints to AMA, while also suggesting measures for improvement. The findings may also be published via public information means..
7. Every six months, the Complaints Council shall publish in a special AMA bulletin a summary of the conclusions it has drawn pursuant to point 6 of this article.
8. The remuneration of the members of the Complaints Council shall be set in compliance with the effective legislation and shall be covered by AMA.

## **Article 21**

### **AMA's Strategy**

1. AMA shall draft and adopt a strategy that reflects the way how it is going to implement its legal duties.
2. The strategy must:
  - a) cover the main goals and the activities foreseen for the implementation of AMA objectives as well as the ways of reaching them.
  - b) be drafted taking into account also:
    - i) the requirements of the Assembly;
    - ii) the suggestions of the Minister;
    - iii) the suggestions of PECA, the Competition Authority, and of other bodies.
  - c) take into account the need to ensure and use its resources in the most effective, efficient and beneficiary manner;
  - ç) with the exception of the first strategy, include a study on the effectiveness and usefulness of the strategy during its implementation phase during the two previous years;
  - d) be adopted initially within 5 months from the entry into effect of this law and then every 3 years;
  - dh) comprise the AMA plan regarding the number, scope and nature of authorizations/licenses, proposed to be issued during the duration of the strategy.
3. For the preparation of the strategy, AMA shall consult with the Complaints Council.
4. Prior to adopting and presenting the strategy, AMA shall undertake a process of public debate with different interest groups on the draft strategy.

## **Article 22**

### **Role of the Minister**

1. Present to the Council of Ministers policy proposals for the development of electronic communication networks that support audio and/or audiovisual broadcasts and to follow up their implementation.
2. Propose legal acts and bylaws for the development of electronic communication networks that support audio and/ or audiovisual broadcasts.
3. Present the National Plan of Frequencies for approval to the Council of Ministers as well as work for the harmonisation of this plan with international policies on the development of the frequency spectrum.
4. Follow the implementation of obligations deriving from international treaties where the

Republic of Albania adheres regarding electronic communication networks that support audio and/or audiovisual broadcasts.

### **Article 23**

#### **AMA's Powers**

1. In order to fully discharge its duties, AMA shall have the following powers:
  - a) Grant licensee/authorizations;
  - b) Ask the license/authorizations holders to meet the financial obligations to AMA;
  - c) Ensure the implementation of copyrights and licenses/authorisations granted by it;
  - ç) undertake, support or approve studies.
2. In order to realize its duties, AMA shall manage its own funds pursuant to the effective legislation.

### **Article 24**

#### **AMA's Funding**

1. The financial resources of AMA shall include:
  - a) revenues from fees for issue and renewal of licenses/authorizations.
  - b) revenues from annual fees for licenses/authorizations;
  - c) revenues from administrative fees for processing of applications;
  - ç) revenues from tariffs for broadcasting services set in the fiscal laws, in its role of tax agent;
  - d) funds from the state budget;
  - dh) other legitimate sources.
2. AMA shall request funding from the State Budget in cases it evaluates that some expenditures are necessary for the discharge of its functions and they are of a special type and for which there is no other means of funding.

### **Article 25**

#### **Setting of Payments**

1. With the view to cover the necessary expenses for carrying out its duties, AMA shall set, in a special decision, the fees for licenses/authorizations for providers of audio broadcasts and audiovisual program services, other services, as well as payments for administrative processing.
2. The fees shall be set on the basis of the principle of objectivity, transparency, non-discrimination and proportionality. They shall vary for public and for commercial services, for local broadcasters and for various categories of licenses/authorizations. Licenses for community radio-stations shall be exempt from payment.
3. The decision on setting of fees shall define the ways of how fees are collected and their administration, including:
  - a) the method of calculation of the relevant payment;
  - b) the time and form of making the payments;
  - c) the manner of registration and monitoring of payments.

- 4) Payments of licenses/authorizations shall be done on the moment of issuing of the licence/authorization. Yearly payments shall be done within the first trimester of a calendaric year
5. Any surplus from the revenues from fees, which is left after the relevant functional expenditures of AMA, at the end of the financial year, shall be kept in the AMA account and included in the expenditure plan of the consecutive year, as well as kept into consideration regarding the review of the relevant annual payments for a license;
6. AMA shall carry out the periodic review of these payments in order to reflect its administrative cost.
7. The decision for the setting of payments shall be published on the Official Gazette.

## **Article 26**

### **Types of Payments**

The types of payments shall include:

- a) payment for receiving license/granting authorisation
- b) annual payment for license
- c) payment for processing application, documentation, changes in the license.

## **Article 27**

### **Administration of Accounts and Financial Audit**

1. AMA shall keep accounts of revenues and expenditures pursuant to the Albanian legislation on accounting.
2. AMA shall publish on its webpage part or all of its expenditures and revenues estimated to have been prepared pursuant to point 2 of this article.

## **Article 28**

### **Reporting**

1. AMA shall report to the Assembly, no later than 31st of March of each year, on the way it has performed its functions and carried out its activities for the previous year as well as on the fulfilment of the financial plan.
2. The annual report shall comprise information on developments of broadcasting towards persons with disabilities and in particular, the developments attained regarding the aims defined in the broadcasting rules.
3. The annual report must comprise data on the participation of AMA members in the meetings of the previous year.
4. In addition to the annual report, AMA may submit reports on the performance of its duties on the basis of requests by the Parliamentary Commission for Education and Means of Public Information.

## **Article 29**

### **Assessment of Impact on Broadcasting Market**

1. AMA shall assess the impact of developments in the field of audio and/or audiovisual broadcasts and review the extent to which the development of broadcasts affects:
  - a. the quality, the extent of service coverage, and the types of services, as well as the possibility for viewers and listeners to chose services;
  - b. the distribution of services in the field of broadcasting;
  - c. the impact of technological developments, innovations and investments in this field;
  - ç. the markets linked with broadcasting;
  - d. other matters that AMA deems appropriate for this purpose.
2. AMA shall conduct periodical analyses of its various effects in the broadcasting market in order to ensure a more appropriate implementation of its regulatory functions. For this purpose, AMA may cooperate with the relevant public institutions and the media service providers.

## **CHAPTER III**

### **CONDITIONS AND OBLIGATIONS FOR BROADCASTING SERVICES**

#### **Article 30**

#### **Audio and/or audiovisual Media Service Providers under the Jurisdiction of the Republic of Albania**

1. The audio and/or audiovisual media service provider is under the jurisdiction of the Republic of Albania when its head office or leading structure is located in the territory of the RA and the editorial decisions for audiovisual services are taken in the same territory.
2. If the head office or leading structure is located in the territory of the Republic of Albania but the editorial decisions on audio and/or audiovisual media services are taken in a country of the European Union, it shall be deemed that the media service provider is under the jurisdiction of the Republic of Albania, where a significant part of the workforce involved in the pursuit of the audio and/or audiovisual media service activities operates in Albania.
3. If a significant part of the workforce involved in the pursuit of the audio and/or audiovisual media service activity operates in Albania and in a country of the European Union, the media service provider shall be deemed to be established in Albania, provided its head office is located in Albania.
4. If a significant part of the workforce involved in the pursuit of the audio and/or audiovisual media service activity does not operate either in Albania or in a member state of the EU, the media service provider shall be deemed to be established in Albania where it first began its activity in accordance with Albanian legislation, provided that it maintains a stable and effective link with the Albanian economy.
5. The provisions of this law shall apply also to those audio and /or visual media services that, although not included in points 1 and 2:
  - a) use a satellite up-link situated in the territory of the Republic of Albania;
  - b) do no use a satellite up-link situated in the territory of the Republic of Albania, but use the sources and satellite capacity appertaining to the RA.

6. If a media service provider has its head office in Albania, but decisions on audio and/or audiovisual media services are taken in a third country, or vice versa, it shall be deemed to be established in Albania, provided that a significant part of the workforce involved in the pursuit of the audio and /or visual media service activity operate in Albania.

7. If the question as to which state has jurisdiction of a media service operator, the Republic of Albania or a European Union state, cannot be settled pursuant to points 2 to 6 of this article, the competent member state shall be that in which the service provider is established within the meaning of Articles 49 and 50 of the Stabilization and Association Agreement between the Republic of Albania and the European Union and its Member States.

On the date of adherence by the Republic of Albania to the European Union, the issue of jurisdiction in the framework of point 6 of this Article, shall be solved in accordance to articles 49 to 55 of the Treaty on the Functioning of the European Union.

### **Article 31**

#### **Types of Audio and/or audiovisual Media Service Providers**

1. The audio and /or visual media service providers are classified according to the form of ownership of the capital and the scope of their activities as well as the manner of distribution of signal and the relevant coverage of territory.

2. The audio and /or visual media service providers may be:

a) public services, commercial or non commercial depending on their form of ownership of capital and scope of activity;

b) land, satellite, cable, or internet TV depending on the manner of distribution and or

c) national, regional, local or cross border, depending on the coverage of territory.

### **Article 32**

#### **General Rules for Media Service Providers**

1. The audio and/or audiovisual media service providers shall make the following information easily accessible to the recipients of a service:

a) the name of the media service provider;

b) the address of its headquarters;

c) its contact details including its electronic mail address or website;

ç) where applicable, the competent regulatory or supervisory bodies

2. The audio and/or audiovisual media service providers shall make easily, directly and permanently accessible to the recipients of a service their identification logo.

3. The audio and/or audiovisual media service providers shall make easily accessible during the time intervals allotted by AMA the name of the audio service provider.

4. The audio and/or audiovisual media services must not contain any incitement to hatred based on race, sex, religion or nationality.

5. The audio and/or audiovisual media services must take into account the needs of people with sight or hearing impairment.

### **Article 33**

#### **Obligations of Media Service Providers**

1. The media service provider must:

- a) announce and report news broadcast truly, impartially, and objectively;
- b) ensure that the treatment of events, including matters which are the topic of public debate, is fair for all the interested parties and presented in a true and fair manner,
- c) devote the necessary broadcasting space to issues which are of local actuality.
- ç) not infringe human dignity and the fundamental rights, .
- d) not broadcast programs that infringe rules of ethics and public moral or programs that may encourage criminal acts;
- dh) not violate the right to secrecy of private life of the individual in any of the programs broadcasted by the media service provider and the means used to produce such programs.
- e) not broadcast pornographic programs without ensuring the protection of minors through conditioned access devices and parental control.
- ë) respect copyright in compliance with the effective legislation on copyright and other relevant rights.
- f) të sigurojë mbrojtjen e të drejtave të konsumatorit;
- g) të paraqesë bilancin vjetor pranë AMA-s jo më vonë se data 30 prill e çdo viti.

2. The definitions of letters “a” and “b” of point 1 of this article do not prevent the media service provider from broadcasting the activities of political forces. During the broadcast, the media service provider must not express political bias.

## **Article 34**

### **Information broadcast free of charge**

1. AMA defines by regulation messages of high public interest for the broad public, which Media Service Providers are obliged to broadcast free of charge.

2 State administration and governmental bodies have the right to ask Media Service Providers to broadcast free of charge short communications of special interest for the public in the localities where they broadcast in regard of health protection, natural disasters, public order and national security.

3. Media Service Providers do not hold responsibility on the content of these messages.

## **Article 35**

### **Promotion of European Works**

1. The Media Service Providers shall reserve for European works the majority proportion of their air time, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping.

2. This proportion, in accordance with point 1 of this article shall be achieved in a gradual manner having regard to the informational, educational, cultural and entertainment responsibilities of the media service provider towards the public.

3. Points 1 and 2 of this article do not apply to the media service providers that are meant for local public and which are not part of national network.

## **Article 36**

### **Promotion of Independent Works**

1. The media service providers shall reserve to the promotion of independent works:
  - a) at least 10 percent of their air time, excluding the time allotted to news programs, sports events, games, advertising, teletext services and teleshopping or,
  - b) at least 10 percent of their programming budget to European works created by producers who are independent of broadcasters.
2. The media service providers shall achieve this proportion progressively, on the basis of point 1 of this article:
  - a) having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public and,
  - b) by earmarking an adequate proportion for recent European works, that is to say works broadcast within 5 years of their production.
3. This article shall not apply to television broadcasts that are intended for local audiences and do not form part of a national network.

## **Article 37**

### **Recording of Broadcasts**

1. The Media Service Provider with own devices and means and in a manner duly specified by AMA for this purpose, shall keep a catalogue of programs and record every broadcast or program provided by it in compliance with the license.
2. Recordings made in compliance with point 1 of this article shall be kept by the media service provider for a period of 3 months.
3. In cases of examination of complaints, pursuant to the provisions of Article 48 of this law, the recording of the broadcast for which there is a complaint, along with the recording linked with it, shall be provided by the media service provider to the Complaints Council as requested by the latter within a period specified by it.
4. The keeping of recordings in compliance with point 1 of this article shall not infringe the requirements of the law on copyright and other relevant rights, on archives, and on personal data protection.

## **CHAPTER IV**

### **AUDIO AND/OR AUDIOVISUAL COMMERCIAL COMMUNICATIONS AND ADVERTISEMENTS**

## **Article 38**

### **Forms of Advertisements**

1. The programs of audio and/or audiovisual media service providers may include the following advertising forms:

- a) ordinary advertisements;
  - b) extended advertisements;
  - c) split screen advertisements;
  - ç) surreptitious advertisements;
  - d) interface advertisements.
  - dh) virtual advertisements
2. Extended advertisement shall meet the following requirements:
- a) be identified as such during the time of its broadcast;
  - b) not be broadcast in the interval between 19:00 to 23:00 hours.
3. Split screen advertisements shall comply with the following requirements:
- a) split screen advertisement may not cover more than one third of the screen space;
  - b) the split screen ad space must not change. Split screen ads must be easily recognizable as such and be clearly distinct on the screen.
  - c) the media service providers may insert ads on a split screen during broadcasts produced by independent producers or other producers only with the relevant permission of the rights holders of these productions;
  - ç) split screen ads are calculated in the overall advertisement time.
4. Insertion of virtual advertisements shall meet the following requirement:
- a) The media service provider OSHM must inform the presence of virtual advertisements in the relevant broadcast, in its beginning and end;
  - b) The media service provider may not insert virtual advertisements without having received the preliminary approval of the event organiser, producer of the program, or author;
  - c) the event organiser may not insert virtual advertisements without having previously received the preliminary approval of the media service provider which receives the right to broadcast the event;
  - ç) virtual advertisements may not be inserted or displayed using persons;
  - d) virtual advertising may be placed only on spaces used normally for advertising. In the course of sports matches, virtual advertising may be placed also on the pitch at a moment when the pitch is not being used for the match.
5. The use of interactive advertising content shall be preceded by an announcement that shall appear on the screen to inform the viewers that broadcasting is being interrupted to broadcast the interactive advertising. Restrictions in quantity and duration of ads do not apply to interactive ads.
6. Teleshopping windows shall last at least 15 minutes. There may be not more than eight (8) windows of teleshopping a day. The overall duration of teleshopping may not exceed three hours per day. These teleshopping windows shall be clearly identified as such by optical and acoustic means.
7. The rules set out in point 2 shall apply not apply to programs that are devoted exclusively to teleshopping. In such programs insertion of advertisement shall be subject to the general rules for this purpose laid down in this law.

## Article 39

### **Political Advertising**

1. The advertising shall be considered as political advertising in cases when:
  - a) endorses interests of political parties, political groups or political leader, looking for political purposes;
  - b) has an impact on a legal change;
  - c) has an impact on a political or administrative decision;
  - ç) has an impact on creating a form of public opinion regarding discussable political issues.
2. The advertising shall be considered as political when it is requested by:
  - a) political parties and institutions;
  - b) organizations aiming to endorse or organize political activities;
  - c) organizations, platforms and collectives who endorse a legal or normative change, in order to protect their objectives;
  - ç) every individual or other group who endorses a special project or political program.
3. During election campaigning, political advertising shall be done according to the provisions of the law no. 10 019, date 29.12.2008 "Electoral Code of the Republic of Albania", amended.

#### Article 40

##### **Institutional advertising**

1. The advertising shall be considered institutional in cases when the only objective of this advertising is providing information on services of public institutions.
2. Direct or indirect promotion of confusion regarding the identification of institutions with the elements of political parties is forbidden.
3. During election campaigning, political advertising shall be done according to the provisions of the law no. 10 019, date 29.12.2008 "Electoral Code of the Republic of Albania", amended.

#### Article 41

##### **Advertisements and Teleshopping**

1. The broadcast of a program in a broadcasting service may include insertion of advertising spots and direct teleshopping. The duration of advertising spots or teleshopping may not exceed 12 minutes per one hour of air time. This shall not apply to announcements made by the Media Service Provider in connection with own programs and ancillary products directly derived from those programs, sponsorship announcements, and product placements.
2. The media service provider shall not broadcast advertising spots for political ends or that are related to a judicial dispute.
3. The media service provider shall not broadcast an advertising spot directed at a given religious belief, or that aims at propagating a certain religious belief or membership in a religious organization.

4. The definition in point 2 of this article does not prevent the media service provider from presenting the activity of political subjects, provided that the media service provider does not air its own preferences during this broadcast for a given political force.
5. The definition of point 3 of this article does not prevent the media service provider to announce that a given religious newspaper, magazine or periodical has been introduced for sale or is available and that an activity or ceremony related to a given religion is going to take place.
6. Definitions of point 2 of this article do not apply to advertisements broadcasted on the occasion of election campaigns, pursuant to the provisions of the Electoral Code.
7. The definition of an advertisement spot, under this article, shall include the broadcasting of sponsored programs and programs prepared for advertisement purposes or by an advertisement undertaking.

## **Article 42**

### **Commercial Communications**

1. Audiovisual commercial communications must be as recognizable as possible. Surreptitious Audiovisual commercial communication shall be prohibited.
2. Communications of a commercial nature in audiovisual broadcasting must not use ways of seducing viewers in an unconscious way, and must not use suggesting techniques.
3. Audiovisual commercial communications must not:
  - a) affect human dignity;
  - b) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
  - c) encourage behaviour that damages individuals' health or physical safety;
  - ç) encourage behaviour or actions that damage the protection of the environment;
4. All forms of audiovisual commercial communications for cigarettes and other tobacco products shall be prohibited.
5. Audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages;
6. Audiovisual commercial communication for medicinal products and medical treatment available only on prescription shall be prohibited.
7. Audiovisual commercial communications shall prevent the causing of physical or moral detriment to minors, and abusive exposure of minors to situations that are dangerous for them. Therefore they shall not directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, and shall not expose minors to situations that are dangerous for them.

8. Audiovisual media service providers shall develop and apply codes of conduct regarding audiovisual commercial communications, accompanying or included in children's programs, of foods and beverages containing substances detrimental or useless for minors' physical health, in particular those such as fat, trans-fatty acids, salt/sodium and sugar, which exceed the norm allowed for a healthy food diet for minors in accordance with the AMA guidelines.

### **Article 43**

#### **Conditions for Advertising and Teleshopping**

1. Television advertising and teleshopping must be recognizable and distinguishable from other editorial content and be kept quite distinct from other parts of the program even when simultaneously transmitted through audio and visual means, and/or by splitting the screen.

2. Isolated advertising and teleshopping spots shall be allowed only in sports programs.

3. Cinematographic works and news programs may be interrupted by television advertising and/or teleshopping not more frequently than every 30 minutes. This does not apply to serials and documentaries.

4. The broadcast of children's programs may be interrupted by television advertising and/or teleshopping not more frequently than every 30 minutes, provided that the scheduled duration of the program is longer than 30 minutes.

5. No television advertising or teleshopping shall be inserted during religious services.

6. Teleshopping for medicinal products, pharmaceutical products and medical treatment shall be prohibited.

7. Television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:

- a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- b) it shall under no circumstances link the consumption of alcohol with enhanced physical performance, or with driving;
- c) it shall under no circumstances create the impression that consumption of alcohol contributes towards social or sexual success of its users;
- ç) it shall not claim or create the impression that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- d) it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- dh) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

8. Insertion of television advertising or teleshopping in audiovisual programs shall be done by respecting the integrity of the programs, making sure that breaks are natural for the duration and nature of a program, and that they respect the rights of the interest parties.

9. Teleshopping windows in integrated screens and their program must be clearly identified as such by in audio or visual ways, and they must last at least 15 minutes.

10. In program services dedicated to advertising, teleshopping and self-advertising, the requirements of this law shall apply according to the mutatis mutandis principle.

## **Article 44**

### **Product Placement during Programs**

1. Product placement during programs as a surreptitious and abusive means of commercial communication shall be prohibited except for cinematographic works, films and series made for Audiovisual media services, sports programs and entertainment programs.

2. The exemption provided for in point 1 shall not apply to children's programs.

3. Programs that contain product placement shall meet the following requirements:

- a) their content and their scheduling shall under no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;
- b) they shall not directly encourage the purchase or use of goods or services, in particular by making special promotional references to those goods or services;
- c) they shall not give undue prominence to the product in question;
- d) viewers shall be clearly informed of the existence of product placement.

4. Programs containing product placement shall be appropriately identified at the start and the end of the program, and when a program ends after an advertising break, in order to avoid any confusion on the part of the viewer.

5. A program may not contain, in any event, product placement of the following:

- a) tobacco products or cigarettes or product placement from companies whose principal activity is the manufacture or sale of cigarettes and other tobacco products or
- b) pharmaceutical products, medicinal products or medical treatments available only on prescription by the doctor.

## **Article 45**

### **Sponsoring of Broadcast Services**

1. Audiovisual media services or programs that are sponsored shall meet the following requirements:

- a) their content and their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;

- b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;
  - c) viewers shall be clearly informed of the existence of a sponsorship agreement on which the program is based. Sponsored programs shall be clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a distinctive sign thereof at the beginning or at end of the program.
2. Audiovisual media services shall not be sponsored by companies, persons, or undertakings, whose principal activity is the manufacture or sale of cigarettes and other tobacco products.
  3. The sponsorship of audiovisual media services or programs by companies, persons, and undertakings, whose main activities include the manufacture or sale of medicinal products and medical treatment may mention just the name or show the logo or other images representative of the sponsor, but shall not promote specific medicinal products or medical services available only on prescription by the doctor.
  4. News and informative programs related to politics may not be sponsored.
  5. Sponsorship signs during children programs, documentaries or religious programs are forbidden.

## **CHAPTER V**

### **CODES AND REGULATIONS**

#### **Article 46**

##### **Broadcasting Codes**

1. AMA shall prepare and, if appropriate, constantly review a code of the broadcasting rules, standards, and practices pursuant to the provisions of this article.
2. The Broadcasting Code shall ensure that:
  - a) all the news programs aired by the broadcasters are announced and presented in an objective and impartial manner;
  - b) the treatment of events, including issues that are topics of public debates, is fair to all parties interested in these issues and presented in a objective and impartial manner;
  - c) nothing that is deemed to infringe the rules of ethics and public morals or that may incite a criminal offence or infringe the authority of the state is broadcasted by the media service providers;
  - ç) the programs broadcast by the media service providers and the means used to make such programs shall not affect the right of privacy in the life of the person;
  - d) Media service providers may not opt for any unfair preference for some political force during the division of airtime to broadcast the activity of political entities;

dh) Issues involving morals and ethics in the program materials, in particular presentation of violent and sexual behaviours should be done with due care to the public sensitivity and the effects such programs have on the moral, mental and physical development of the minors. The media service providers shall not include programs that may seriously harm the physical, mental or moral development of minors, in particular programs containing pornography or that present extreme and artificial violence. The media service providers shall not broadcast other programs that harm the physical, mental and moral development of minors, unless they make sure, choosing an appropriate time for their transmission or taking some other technical measures, that minors normally do not listen to or watch such programs; when such programs are broadcast in an open manner, that shall be preceded by an acoustic warning, or identified by the presence of a visual symbol throughout their duration;

e) advertisements, teleshopping, television placing of products, sponsorships and other forms of commercial presentation used in every broadcast service, particularly those linked with issues that may be directly or otherwise in the interest of minors, shall retain their attention taking special care of their health;

ë) television advertising and teleshopping, product placements, sponsorships and other forms of commercial communications, used in every broadcast service, different from those laid down in point "e" shall retain the interest of viewers and listeners;

f) the broadcast service, which has the primary aim of supporting the interests of an organization, shall retain the interests of the viewers and listeners;

g) the requirements of Article 38-42 are met.

3. When preparing or reviewing a broadcasting code, AMA shall bear in mind:

a) the extent of damage caused by the broadcasting of some material in the programs in general, or in programs of a certain nature;

b) the extent and composition of the potential public for audiovisual programs in the broadcasting services in general or those of a specific nature;

c) the nature of program content and the extent of notification of potential public of such a nature;

ç) the willingness to ensure that the content of broadcasts comply with the relevant changes to the broadcasting code, when such changes are made;

d) the willingness to ensure the independence of editorial control over the content of programs.

4. The Broadcasting Code, adopted by AMA, may prohibit advertisements of certain categories of food and drinks that are considered harmful to minors, in particular those with a high content of fat, sugar, salt and others. When preparing the codes, pursuant to point 2, letter "g", AMA shall hold preliminary consultations with the relevant authorities of public health.

5. AMA shall particularly determine the following in the broadcasting code:

a) the program standards;

b) the requirements for advertisements directed to minors;

c) the requirements for advertisements.

ç) the requirements for the implementation of progressive promotion of European works and independent works.

d) the requirements for the protection of personal data.

## **Article 47**

### **Broadcasting Regulation**

1. In compliance with articles 43-47, AMA shall adopt regulations for:
  - a) the daily time allowed for broadcasting of advertising spots and teleshopping, television product placements in a broadcast service pursuant to the license laid down in Chapter VII;
  - b) the maximal time allowed for advertisement, teleshopping, and television product placement in an hour of airtime in a broadcast service based on various categories of broadcast services;
  - c) the special measures that the media service provider should take to ensure reception of the broadcasted programs by persons with certain hearing or sight impairment.
2. In relation to the requirements of point 1 of this article, the broadcasting rules shall define the provision of the following services by media service providers:
  - a) the sign language;
  - b) the teletext service;
  - c) subtitling and audio description;
  - ç) make sure that the abovementioned materials are broadcast on periodical basis during the day at regular intervals, during the prime viewing time, in particular for news programs and activities and for other programs.
3. The rules laid down in point 1 letter “c” of this article may require that a certain proportion of programs in a broadcasting service engage special means to ensure satisfactory reception by the persons defined in this point.
4. AMA shall review the broadcasting rules regarding the definitions of point 1, letter “c” of this article at least once a year.

## **Article 48**

### **Public Consultation**

1. The AMA, in the process of preparing the regulatory documentation according to the requirements of this law, and before taking decision, which have a significant impact on the provision of audio and audiovisual services, is obliged to take and consider the opinion of the interest parties through public consultation.
2. In the process of public consultation, AMA shall publish the proposed regulatory documents and requests the opinion of the interest parties to be presented in writing, within a published timeframe, which shall be no shorter than 30 days.
3. When AMA deems it necessary, it shall also carry out a hearing session, where it invites all the interest parties to give their opinion about the proposed regulatory documents.

4. Upon termination of the timeframe determined under point 2 of this article and before the approval of the regulatory documents. AMA should publish the opinion and comments of the interest parties, respecting the confidentiality of information.

#### **Article 49**

##### **Presentation of Codes and Regulations**

1. The approved broadcasting codes and regulations shall be published in the official AMA webpage.
2. AMA shall report on the shortcoming of the approved broadcasting codes and regulations in its annual report to the Assembly.

#### **Article 50**

##### **Cooperation with Other Undertakings**

1. AMA may cooperate, support or urge one or more specialized undertakings at home or abroad to prepare the standards for the content of broadcasts.
2. AMA shall cooperate with other public institutions, according to the relevant field of expertise of each of them, in drafting the contents of detailed standards of the broadcasting regulations.
3. AMA shall, in addition to its own administration, engage also the Complaints Council and independent experts.
4. AMA bashkëpunon me Zyrën e të Drejtave të Autorit dhe me organet që mbrojnë të drejtën e autorit dhe të drejtat e tjera të lidhura me të.

### **CHAPTER VI**

#### **COMPLAINTS**

##### **Article 51**

##### **Procedures for Treatment of Complaints**

1. The media service provider shall be duty-bound to examine any reasonable complaint made in writing by any person against programs broadcasted by it, in relation to enforcement of requirements of article 33, the quality of service offered, or the meeting of contractual obligations for subscription services.

This is an unofficial translation by the OSCE Presence in Albania

2. The complaint shall be sent to the media service provider no later than 39 days from the broadcast date, or in the case of two or more related broadcasts, from the date of the most recent broadcast.
3. Every media service provider shall prepare and implement certain procedures for dealing with complaints. Such procedures shall contemplate:
  - a) the manner and place for filing a complaint;
  - b) the deadline, within which broadcasters shall reply;
  - c) the manner of settling the relevant complaint.
4. The media service providers shall publish in their webpage or in any other way the procedures for dealing with complaints drafted in accordance with the instructions of the Complaints Council.
5. The Complaints Council shall prepare and publish the instructions for media service providers with the purpose of enforcing the requirements of point 3 of this article.
6. The media service provider shall provide the information required in point 3 of this article to the Council of Complaints. Such information may be published on the webpage of AMA.
7. The media service provider shall keep the recorded complaints made pursuant to point 1 of this article and the replies given to them for a period of two years from the date of the recording of the complaint.
8. The media service provider shall be duty-bound to allow inspection by the Complaints Council of recordings kept according to point 7 of this article.

## **Article 52**

### **Examination of Complaints**

1. The Complaints Council shall examine every complaint related with the broadcast of a news program in contravention of requirements of article 33 and the broadcasting codes laid down in article 43 of this law.
2. The complaint must be submitted in written to the Complaints Council within 30 days from the date of transmission or in the case of two or more related broadcasts, from the date of the most recent broadcast.
3. The Complaints Council, when it deems it necessary, shall refer the complaint to the media service provider to present its claim within 7 days.
4. After examining the complaint and claims of the media service provider, the Complaints Council, when it finds there is a violation, shall propose the relevant measures to the AMA. In any case, the Complaints Council shall inform in writing the person who has presented the complaint, and the respective media service provider about the conclusions and measures.

5. The media service provider shall broadcast the conclusion of the Complaint Council when this conclusion is in favour of the person who has presented the complaint, within two days from the day its is informed about the decision in the same way the broadcasting against which a complaint is made was carried out.

6. The Complaints Council shall decide on the settling of the complaint within the shortest possible timeframe. During the procedures for settling the complaint, the Council may decide to hold hearing sessions with the parties.

7. If a matter is the topic of several complaints made pursuant to this article or for broadcasts that fall outside the territorial jurisdiction of AMA, the Complaints Council shall, if it finds it appropriate, report to AMA about its aspects and the ways of resolving it.

### **Article 53**

#### **Right of reply**

1. Any person, whose dignity, reputation has been affected by the publication of inaccurate facts and information in broadcasting is entitled to reply.

2. AMA shall prepare within six months from the entry into force of this law, a regulation on the exercise of the right of reply after a public consultation regarding this matter.

3. The rules shall lay down the procedures to be followed in the exercise of the right of reply so that:

a) The reply is broadcast within 30 days time subsequent to the request being substantiated

b) the right of reply should present the extent to which information revealed during the television program is incorrect and deceitful and be restricted to the admission of the necessary fact for the correction of incorrect facts or information.

4. The person exercising the right of reply, pursuant to the rules, shall submit a request in writing to the responsible media provider, presenting the reasons and facts on which his or her application is grounded.

5. The request for the right of reply shall be presented to the media service operator not later than 10 days from the date of the broadcast to which this application is addressed.

6. Not later than 10 days from the date of the application, the media service provider shall, decide on exercising or refusing the right of reply and shall notify in writing the applicant of this.

7. If the applicant does not receive an answer to the request sent to the media service provider within the timeframe set out in point 6 of this article, it shall be deemed that the media service provider has refused his or her request.

8. The media service provider shall be duty-bound to make available the records kept pursuant to point 8 of this article to the Complaints Council.

9. In meeting the requests for exercise of the right of reply, the media service provider shall not apply any types of tariffs.

10. Within 15 days from the submission of a complaint for refusal of the right of reply by a media service provider, the Complaints Council shall examine the matter and if it finds right the complaint, asks to the Media Service Provider the correction of facts and information related to the interested person at a time and in a manner appropriate to the broadcast to which the request refers within 7 days from the notification of the broadcaster of this.

11. In the beginning of procedures for the examination of the complaint, the Complaints Council shall request the media service provider, against which the complaint is made, to provide explanations regarding the complaint.

12. The Council of Complaints shall send to the relevant complainant and media service provider the reasoned decision on this case.

13. The Complaints Council may refuse a complaint if:

- a) it deems that it is abusive and ungrounded, or made in bad faith;
- b) the right of reply sought is the personal view of the person and is not related to the correction of a factual news or information;
- c) the right of reply sought contains the submission of false facts and information;
- ç) the right of reply was sought to demand the deference of expected acts or acts that have not yet occurred;
- d) the granting of the right of reply involves a punishment, exceeds the rules of good conduct or brings about the condemnation of the media service provider in a civil court of law trial;
- dh) the granting of the right of reply causes the infringement of the broadcasting license laid down in Chapter VII of this law;
- e) the person harmed by the contested information has no legitimate interest at the moment of requesting the right of reply;
- ë) the contested broadcast contains such a statement or assertion by the affected person that can be deemed equal to the right of reply or when the person has given preliminary consent in a formal manner to the content of the program;
- f) a due correction of the data of the contested information has already been made and the affected person has been notified thereof;
- g) ) the content of the right of reply violates the rights of a third party;
- gj) the matter that is being disputed is related to parliamentary activity, holding of court sessions or transmission of activities of political subjects;
- h) broadcasting of the right of reply is not in the public interest;
- i) the request has been made in excess of the deadline.

14. If the Complaints Councils notes that the media service provider has failed to meet its obligations stemming from point 10 of this article, it shall notify AMA. The latter shall decide on the basis of the suggestions of the Complaints Council on the concrete case.

15. AMA's decision shall be subject to review by the district court of Tirana.

16. Pursuant to point 2 of this article, the Rules of Procedure shall be published by AMA in its official webpage and enforced accordingly by the Complaints Council.

## **CHAPTER VII**

### **BROADCASTING LICENSES, CONTENT AND SERVICE PROVIDING LICENSES**

#### **Article 54**

##### **Provision of audio and/or audiovisual networks and services**

1. The provision of networks for audio and/or audiovisual broadcasting, which require the use of audiovisual frequencies, shall be licensed by AMA, according to the provisions of this law. In allocating frequencies of these networks, AMA shall guarantee avoidance of interferences and an effective exploitation of the spectrum. The allocation of frequencies shall be made on the basis of objectivity, transparency, non-discrimination, availability of free frequencies, and in compliance with the specifications of the National Frequency Plan only in the frequency bands assigned for administration to AMA.
2. The provision of networks for audio and/or audiovisual broadcasting, which require the use of frequencies outside the frequency band assigned for audio and/or audiovisual broadcasting according to the National Frequency Plan, shall be subject to the regulation according to Law no.9918, dated 19.5.2008 "On electronic communication".
3. The provision of networks for audio and/or audiovisual broadcasting, which do not require an allocation of frequencies like the networks of cable and satellite television, shall be subject to the regulation of Law no.9918, dated 19.5.2008 "On electronic communication".
4. The provision of networks for audio and/or audiovisual broadcasting supported by the networks described under point 1 shall be made in accordance with the requirements foreseen by this law, and the rules issued by the AMA. In this case, the AMA shall issue the following:
  - a) licenses for audio broadcasting, and licenses for audiovisual broadcasting, when the network and program(s) supported by it are licensed;
  - b) licenses for audio/audiovisual program service, when only the program is licensed;
5. The provision of networks for audio and/or audiovisual broadcasting supported by the networks described under points 2 and 3 of this article, shall be made in compliance with the requirements regulated in this law and the rules issued by the AMA. In this case, AMA shall issue authorizations for audio services, and authorizations for

audiovisual program services.

## **Article 55**

### **Types of Licenses and Authorizations and Their Deadlines**

1. The types of licenses issued by AMA shall include:
  - a) License for audio program service.
  - b) License for audiovisual program service.
  - c) License for audio broadcast. This license shall be composed of:
    - i. License for audio program service in accordance with point a, and
    - ii. License for the establishment and operation of the network, which may be analogue or digital;
  - ç) License for audiovisual broadcast. This license shall be composed of:
    - i. License for audiovisual program service in accordance with point b, and
    - ii. License for the establishment and operation of the network
2. Licenses shall be categorised as follows:
  - a) Licenses mentioned in point 1/a and 1/b shall be divided in:
    - i) national, regional or local according to the category of terrestrial network in which they will be supported
    - b) Licenses mentioned in 1/c and 1/d, according to the category of terrestrial network shall be classified in:
      - i) national, for coverage with signal of not less than 80% of the country's territory;
      - ii regional, for coverage of 4 regions of a geographical continuity; and
      - iii) local, for coverage of one region.
3. Licenses for the establishment of digital networks (multiplex licenses), mentioned in points 1/c/ii and 1/ç/ii shall give the entity permission to establish and operate **a multiplex**, respectively audio or for audiovisual.
4. Audio program service authorisations and audiovisual program service authorisations, in the event the service is supported in the networks regulated in points 2 and 3 of Article 51, shall include:
  - a) Satellite, when the service is supported in a satellite system;
  - b) Cable, when the service is supported in a cable system.
  - c) On line service, when the service is supported on the Internet;
  - d) Technical service for conditioned access systems,
  - e) Service provider, including conditioned access service.
5. The maximal validity of licenses/authorisations shall be 15 years. Through a decision, AMA shall regulate the maximal validity of licenses and authorisations in accordance with their classification. In setting these license validity periods, AMA shall keep into account the nature of services and the reasonable time for the return of the investment.
6. Licenses/ authorisations and any relevant right or obligation may not be transferred. In the event the licensee/authorised person starts civil juridical relations, whose purpose also includes the licensed/authorised activity, AMA's approval shall be required to enable the transference of the rights deriving from the license/authorisation. The approval to the entity gaining these rights is given as a new license/authorisation of the same content. In the event AMA does not approve the transference due to reasons stipulated in law, the license/authorisation shall be rendered invalid.

## **Article 56**

### **General requirements for the license/authorisation application**

The application for the issuance of any kind of license/authorisation contains:

1. name, location, legal form of the subject that files the request, together with the name and signature of the person who is entitled to represent him;
2. the documents that prove official and bank data on the financial capital assets of the legal or natural person who submits the request;
3. the name of the program and network where it will be supported;
4. the object and general characteristics of service, data for the duration of the programs and the territory that it will cover, as well as the technical project of the installation and use of equipment;
5. the list of administrators, the anticipated expenses and revenue, the origin and total predicted funding for the license's requested duration;
6. the list of names of the Management Board and their curriculum vitae. The minimal number of the Management Boards' members for every licensed subject is set forth in the AMA's Rules of Procedure;
7. the content of the programs that will be broadcasted and the program structure proposed for broadcasting, which clearly express pluralism in their entirety and the information's objectivity;
- 8) Information on the ownership structure of the company and its shareholders
- 9) The applicant should answer any question of the regulatory authority during application process

## **Article 57**

### **General Principles of Community Audio Broadcasting Service**

The community audio broadcasting service:

1. shall be operated, owned and managed by the community which it serves.
2. shall be offered without profit purposes to reflect the cultural, linguistic, demographic and religious needs of the community.
3. shall have an informative, educational and entertainment character.
4. shall offer programs of special importance for the community including, but not limited to, matters of development, health care, basic information, general education, environment, reflecting the local culture, etc.
5. shall rely on the voluntary work of the community participants.
6. shall be supported by various legal financial sources.

## **Article 58**

### **Licensing of Community Audio Broadcasting Services**

1. The license for community audio broadcasting services shall be issued by the AMA through an open, transparent and non discriminatory procedure. AMA approves and publishes the licensing rules and procedures for the community audio broadcasting services.
2. The license shall be granted for a restricted geographical area. The AMA shall define by means of a regulatory document, the band of frequencies allotted to the community audio

broadcasting service and the geographical area (areas) of service provision, pursuant to the National Plan of Frequencies.

3. In its licensing process, the AMA shall aim at realizing the objectives set out in Article 16 of this law.

4. In evaluating the applications, the AMA shall conduct a public consultation process for a period of no less than 60 days.

5. Refusal of applications for community audio broadcasting services by the AMA shall be always accompanied with a reasoned decision.

## **Article 59**

### **The application for the analogue networks broadcasting license**

1. In order to ensure the proper progress of audio and/or audiovisual services as well as a diversity of services in the coverage area for a wide range of preferences and in respect of the interests of the minorities, the AMA shall draft a plan for the utilization of frequencies which are intended for the audio or audiovisual broadcastings in accordance with the National Frequency Plan.

2. The AMA, considering the plan related to the use of frequencies mentioned in point 1 of this article, and considering also the existence of unused frequencies for audio-visual broadcasting, by its own initiative or following the request of the interested parties: Taking into account the plan for the use of frequencies referred to in point 1 of this article, and taking into consideration the free frequencies for audio and audiovisual broadcastings, the AMA shall, by its own initiative or following the request of interested parties:

a) determine the coverage area for the audio or audiovisual broadcasting, for which it is possible to submit an application and

b) open the competition for the issuance of the audio or audiovisual broadcasting license.

3. In determining the coverage area, referred to in point 2 of this article, the AMA shall first:

a) conduct a study about the interests, expectations and wishes of the public in this coverage area; and

b) conduct a study on the factor affecting the broadcasting sector in the given area.

4. The AMA shall publish in its Internet page the outcomes of the studies defined in point 3 of this article and shall take into consideration these data and the data set forth in point 2 of this article for issuing the relevant license.

5. The AMA shall publicly announce the opening of the competition for the issuance of audio or audiovisual broadcasting license pursuant to this law. Applications for this license shall be submitted within 40 days from the date the competition is announced and shall describe the manner in which the service will be offered and how the criteria that are announced by AMA will be met.

6. The notification for the opening of the competition may involve invitations to all interested parties to submit their proposals regarding the nature of audio or audiovisual broadcasting for which the competition is opened.

7. During the reviews of the applications for granting of audio or audiovisual broadcasting licenses, the AMA shall decide in accordance with Article 61 of this law and shall base every assessment on scores.

8. The opening of the competition shall be published on the internet page of the AMA and, if possible, in a media outlet that is distributed in the coverage area of the service license

9. The announcement for the opening of the competition shall lay down the procedures and the relevant requirements that must be followed for submitting the applications.

## **Article 60**

### **Application for audio and audiovisual program services license**

1. Provision of audio and audiovisual program services that is based on terrestrial analogue or digital networks shall be done pursuant to the license issued by AMA through the competition of applications, pursuant to the provisions of article 56 and the specific rules approved by AMA.
2. AMA, by its own initiative or following a request by the interested parties shall open the competition for the issuance of the audio or audiovisual service license.
3. The AMA shall publicly announce the opening of the competition for issuing audio or audiovisual broadcasting service license pursuant to this law. Applications for this license shall be submitted within 40 days from the date of publication of the competition and shall describe the manner in which the service will be offered and how the criteria that are announced by AMA will be met.
4. The notification for the opening of the competition involves invitations to all interested parties to express their proposals regarding the nature of audio or audiovisual program service for which the competition is opened.
5. During the review of the applications for the issuance of audio or audiovisual program licenses, the AMA shall decide in accordance with Article 61 of this law and shall base every assessment on scores.

## **Article 61**

### **Review of and decision-making on the issuance of licenses for analogue networks broadcasting and audio and audiovisual program service**

1. During the review of the applications and the decisions made on the selection of winning applicants, the AMA shall take into account:
  - a) the qualities, expertise and experience of the applicant and, if the applicant is a company, of its leading bodies, administrators or other agencies of the company and of their owners;
  - b) the financial resources that applicants have and the economic and financial aspects of the application;
  - c) the quality, types and range of Albanian language programs, as well as their space in the proposed programs, which relate to the features and needs of the national culture;
  - ç) the space that the application gives, within the proposed broadcasting service, to new authors in the field of music, performances and theatre shows and in particular to those linked with the features of national culture;
  - d) the readiness to provide a diversity of services in the covered area for various social categories, including the interests of the minorities;

- dh) the readiness to allow every person or group of persons to have an interest in a number of audiovisual broadcasted services in accordance with the criteria laid down in this law;
- e) the arrangements through which the proposed service shall fulfil the various interests of the pertinent local community or shall serve their interests;
- ë) ofrimin e teknologjisë digjitale në transmetim si dhe plotësimin e kërkesave teknike për pajisjet për transmetimin dhe për realizimin e mbulimit të zonës së licencimit;
- f) të mos jenë në proces falimentimi apo likuidimi;
- g) të kenë kapital të regjistruar e të deklaruar në QKR në shumën 3 500 000 lekë.

2. In addition to the definitions set forth in point 1 of this article, the AMA should assess also the quality of the delivery of the broadcasting service by the applicant, who has been holder of a previous license.

3. When the AMA decides to turn down the application, it should notify the applicant of the:

- a) reasons for its decision;
- b) the score of the evaluation of the application;
- c) the score of the winning application.

4. The audio and audiovisual broadcasting license shall not be issued to persons sentenced for a criminal offence if the punishment for such a criminal offence lasted until not less than 5 years prior to the application date.

5. The broadcasting license shall not be issued to the subjects whose license has been revoked or made invalid by AMA decision if a time limit of ten years from the license revocation has not passed. The same restrictions is applicable also to legal subjects, whose shareholders are individuals who have been shareholders in subjects whose license has been revoked by AMA decision.

6. The AMA shall decide on the review of the applications specified in this article no later than 60 days from the date of application.

## **Article 62**

### **Regulation of audio and audiovisual broadcasting property rights**

1. The National License for audio broadcasting and the national license for audiovisual broadcasting services shall be issued only to joint stock companies registered in the Republic of Albania whose exclusive scope of activity is the audiovisual activity.
2. The shares which represent the capital in a company, which is the holder of a license for audio broadcasting or the national license for audiovisual broadcasting, shall be nominal.
3. No natural or legal, local or foreign person shall have more than 40 percent of the general capital of a joint stock company that holds a national audio broadcasting license or a national license for audiovisual broadcasting.
4. A natural or legal person who has shares in a company that holds a national audio broadcasting license or a national license for audiovisual broadcasting shall not own more than 20% of the general capital of a second company, which holds a national audio broadcasting license or a national audiovisual broadcasting license. Regarding analogue broadcasting, participation shall be allowed with up to 10 % of shares in a

third national company. Such a person shall not be allowed to have an audio broadcasting license, either local or regional, or an audiovisual broadcasting license, either local or regional.

5. The national licenses for audio and/or audiovisual program service shall also be subject to the same conditions.
6. Local or regional licenses for audio broadcasting and local or regional licenses for audio-visual broadcasting service shall be issued to legal persons registered in the Republic of Albania, whose exclusive scope is the audio-visual activity.
7. A natural or legal person who has 100 percent of the shares in a company, which owns a local or regional audiovisual broadcasting license, may be issued only one second local or regional audio broadcasting license. A natural or legal person who has 100 percent of the shares in a company, which owns a local or regional audio broadcasting license, may be issued only one second local or regional audiovisual broadcasting license.
8. A natural or legal person who has shares in a company which has a local or regional audio broadcasting service, may not have more than 40 per cent of the general capital in a second company that owns a local or regional audio broadcasting license.
9. A natural or legal person who has shares in a company which has a local or regional audiovisual broadcasting service, may not have more than 40 per cent of the general capital in a second company that owns a local or regional audiovisual broadcasting license.
10. For purposes of this law, a shareholder refers to the holder of shares and persons related to him down to the second grade.
11. The above conditions apply also to legal persons authorized to provide audio program services and satellite-based audiovisual program services.
12. No owner of national audio broadcasting licenses and national audiovisual broadcasting licenses, including the OSHMA licensed for audiovisual program services and/or authorized for program services based on **satellite networks** may not, according to this law, broadcast more than 30 percent of the commercials in the audiovisual broadcasting market.
13. AMA shall monitor and publish periodical information about the volume of the advertisements broadcast by the national media service providers.

## **Article 63**

### **Multiplex utilisation**

1. The holders of licenses (**national, regional and local**) of digital audio broadcasting and national digital audiovisual licenses shall be obliged to grant access to no less than 40% of

their multiplex capacity to the media service providers which own an audio program service license pursuant to fair, reasonable and non-discriminatory conditions.

2. Apart from above provisions, a broadcaster licensed for digital broadcasting or for audiovisual service providing should not have more than 1/3 of the overall quantity of local, regional and national respective programs.

3. The holders of licenses (**national, regional and local**) of digital audio broadcasting and national digital audiovisual broadcasting licenses shall offer access to broadcasting in the digital network based on a commercial agreement with the media service providers. The tariffs for the issuance of the access for broadcasting in the digital network must be cost oriented.

4. The AMA ensures that all services offered to the media service providers which hold an audio program service license and/or an audiovisual program service license from the holders of the audio digital broadcasting licenses (**national, regional and local**) and national digital audiovisual broadcasting licenses shall be based on fair, reasonable and non-discriminatory conditions.

5. If disagreements arise between the media service providers and holders of licenses (**national, regional and local**) of digital audio broadcasting and national digital audiovisual broadcasting licenses, the parties shall address the issue to the AMA.

6. AMA shall take a decision about the resolution of the disagreement after listening to the claims of the parties, and while bearing in mind that it has to guarantee a fair competition and diversity of services and that the media service providers must be granted equal and non-discriminatory access.

7. In case of objections to the decision rendered by AMA, the parties have the right to address the matter to the court.

## Article 64

### Authorizations for Audio and Audiovisual program services

1. The provision of audio and audiovisual program services that is based on networks different from terrestrial analogue or digital networks, pursuant to the provisions of points 2 and 3 of article 51 of this Law, shall be carried out following the authorization of the AMA on the basis of application and without a competition. The entity that submits an application shall first be registered with the PECA, pursuant to the definitions of Law No. 9918, dated 19 May 2008 "On Electronic Communications in the Republic of Albania"
2. The AMA shall guarantee that the authorized person:
  - a) Shall be responsible in relation to the public interests and sensitivity, respect the social understanding and coexistence of all individuals in the Republic of Albania, respect this law's provision and authorisation's conditions by AMA.
  - b) Shall promote the democratic values laid down in the Constitution of Albania and in particular the right of freedom of expression and information.

3. Authorization shall be granted on the basis of applications, to the entities that meet the requirements of this law regarding audio and audiovisual programs.
4. Authorizations shall be granted after the review of documentation filled out in accordance with the criteria laid down by the AMA in a special regulation.
5. Authorization shall be granted within 30 days from the date of receipt of the completed application. Refusal of application shall always be done with a justified decision.
6. Authorization shall be given for a 5-year term with the right to renewal.
7. The AMA may renew this license upon fulfilment of the above conditions and based on the procedures decided by it in advance.
8. The license holder for audio or audiovisual broadcasting is entitled to offer satellite services towards registration pursuant to the procedures set forth by AMA.

## **Article 65**

### **Conditions of Audio Broadcasting License**

1. The audio broadcasting license may contain terms and conditions that the AMA deems necessary in the license. The AMA shall publish in advance the terms and conditions of the audio broadcasting license.
2. In an audio broadcasting license AMA shall, in addition to others, lay down the following:
  - a) The license deadline;
  - b) When a license may be renewed, the manner, conditions and time of the renewal;
  - c) The conditions for prohibition of transfer of rights and the obligations stemming from this license;
  - ç) The conditions for ensuring quality, coverage and types of programs;
  - d) the fees that the licensee shall pay to the AMA.
3. The licensee shall inform AMA about any changes in the data of the licensed company within 30 days from the day the changes were carried out.
4. Every audio broadcasting license shall foresee the obligation of the licensee to submit to the AMA the data on its accounts or other information that the latter may deem appropriate for the implementation of its duties.
5. The audio broadcasting license is an official document pursuant to the definition of Law No. 8503 dated 30.6.1999, "On the Right to Information about Official Documents", and shall be administered by the AMA.

6. Notwithstanding the definition of article 38 of this law, the audio broadcasting license shall include a condition that obligates the broadcasting licensees to record and archive some program categories, which may be controlled by the AMA during the duration of the broadcasting license and for a deadline of up to six years after the expiry of this license.

7. Within a year after the adoption of this law, the AMA shall prepare a guideline with the formats and categories of the programs sought to be recorded and archived by the broadcasting licensees, pursuant to point 6 of this article.

8. In drafting the rules laid down in point 7 of this Article, the AMA shall bear in mind the nature and number of programs broadcast by the licensee as well as the financial expenses for this purpose.

9. In the achievement of the functions defined in points 7 and 8 of this article, the AMA shall assess the content of programs that:

- a) are in Albanian language, or relate to national culture and current affairs;
- b) are related to developments in the field of music, theatre, performances and other national activities;
- c) are news, documentaries or reports, and any other category of program content that the AMA deems necessary to be recorded and archived by the licensee.

10. The AMA may record the above specified programs with its own means and archive them accordingly and shall administer them in compliance with Law No. 9380 dated 28.4.2005, "On Copyrights and Other Related Rights"

11. The AMA shall report to the Assembly every year on the implementation of its obligations deriving from this article.

## **Article 66**

### **Audio broadcasting licenses for temporary purposes or institutional needs**

1. In order to ensure that temporary needs of public institutions are satisfied, AMA shall grant a temporary broadcasting license to cover a given area. Temporary licenses are issued for:

- a) no more than 60 days in a calendar year for a regional audio broadcasting service;
- b) no more than 120 calendar days in a calendar year for a local audio broadcasting service.

2. The AMA may grant a license for the provision of an audio broadcasting service with a low capacity, which aims at serving only to an educational, health institution or for similar purposes specified in the license.

3. The requirements of Article 33, point 1, letter "c", of Articles 57 and 58 of this law shall not apply to the case of a license issued pursuant to this article.

4. AMA shall approve and publish the rules for the issuance of such licenses pursuant to the provisions of this law.

5. Licences according to point 1 of this article shall not be issued in a time period of 6 months prior to local or parliamentary elections date, apart from the cases that have to do with health protection, human and natural disasters, public order and national security.

## **Article 67**

### **Audiovisual Program Service Licenses**

1. The AMA shall grant audiovisual program licenses on the basis of which the licensee has the right and obligation to establish and deliver an audiovisual program service. On the basis of the license, the licensee has the right to establish, deliver and make functional the broadcasting equipment in order to broadcast an audiovisual program service.

2. The AMA shall ensure that the audiovisual program service:

a) is responsible in relation to the public interest and sensitivity, respect social understanding and coexistence of all individuals in the Republic of Albania, ensure that the program content reflect the component elements of Albanian culture and language;

b) promotes democratic values set out in the Constitution and in particular the right of expression and information;

c) takes account of the need to educate the public opinion on recognizing and understanding the European values and traditions;

ç) includes in reasonable proportion news programs and programs of an informative nature.

d) respects the terms and conditions set forth in the license pursuant to this law;

dh) reasonably includes the use of the sign language in the news editions for persons with hearing disability.

3. The licensee for audiovisual program service shall deliver the program in accordance with the requirements laid down in point 2 of this article. The AMA shall require, when possible, that the largest part of the air time is devoted to European works, excluding the airtime devoted to news, sports events, games, advertisement, teletext services and teleshopping or to be reserved for programs by independent entities, by the licensee itself, or entities related to it.

4. The AMA shall include in every license issued in accordance with this article and in every renewal in accordance with this law, a condition for broadcasting independent productions, pursuant to the definition of point 2 of Article 122 of this law.

### **Article 68 Invalidity of License**

A license shall become invalid if:

a) its validity period is over and it is not renewed;

b) the licensee shall inform the AMA in writing of the closing down of its activity;

c) the AMA has issued a decision on the revocation of the license pursuant to its competencies stemming from this law;

ç). bankruptcy procedures are declared;

d) the applicant does not pick up its license or does not meet its financial obligations envisaged in the law, after 90 days from the moment when it is officially informed of its approval.

e) There is a final form decision by the court that prohibits the activity of the licensee.

## **Article 69**

### **License/Authorization Revocation**

AMA has the right to revoke a broadcasting license if:

1. it was granted based on false data shown in the application;
2. the conditions for which the license was granted are not met;
3. License fee is not paid for 1 year
4. Broadcasting did not begin following entry into force of the decision on the issuance of the license for a period of time:
  - a) six months for local and regional audio broadcasting;
  - b) nine months for local and regional audiovisual program services;
  - c) 12 months for putting into function the local and regional multiplex;
  - ç) 12 months for national audio broadcasting;
  - d) 18 months for national audiovisual program services;
  - dh) 24 months in the functioning of the local and regional multiplex.
5. After the beginning of the broadcasting during a whole calendar year, there are no broadcasts for 30 days, without calculating interruptions for technical reasons that do not depend on the license holder.
6. Changes have occurred with the license holder that makes it impossible to abide by the conditions of the license.
7. The property of the license holder, which serves directly to the exercising of the audiovisual service activities, has been put up for sale in the auction.
8. Ndëshkohet më shumë se 3 herë brenda një viti kalendarik, për një nga kundërvajtjet administrative të parashikuara në nenet 131 dhe 132 të këtij ligji.

## **CHAPTER VIII**

### **Digital Broadcasting**

#### **Article 70**

#### **Application for multiplex licenses**

1. A multiplex license, namely local, regional and national, shall be granted to legal persons that:

a) hold a license for audio and audiovisual programme services, local, regional, or national respectively;

b) do not hold a license for audio and audiovisual programme services. In this case they apply simultaneously for a licence for programme services according to article 60 and to the multiplex requirements set forth in this chapter. AMA reviews first the application for programme services, according to article 61.

2. Multiplex licenses shall be granted through an open competition, thus guaranteeing equal, objective and non-discriminating treatment. AMA shall declare the competition open, at its own initiative or upon request of the interested subjects, taking into account the frequency use plan and the existence of free frequencies for digital broadcasting.

3. Multiplex licenses shall be granted by AMA in accordance with the technical requirements, which are based on:

a) plan of frequencies for digital broadcasts, adopted with the Final Acts of the Regional Radio-communication Conference "On Planning of digital terrestrial broadcasts in parts of regions 1 and 3 in the frequency bands 174-230 MHz and 470-862 MHz (RRC-06), which was ratified by the Assembly with the law no. 9851, dated 26.12.2007.

AMA, in allocating frequencies to these networks, should guarantee avoidance of interferences and an effective use of the spectrum. Allocation of frequencies shall be done based on the principle of objectivity, transparency and non-discrimination, on the availability of free frequencies and in accordance with the National Frequency Plan, only in frequency bands that are to be managed by AMA.

b) availability of free frequencies;

c) respective coverage areas with programs, associated services, and other relevant information.

4. AMA shall specify the coverage broadcast area in accordance with the license and shall invite interested parties to submit bids.

5. The advertisement of a launch of a bid shall be published on the AMA webpage and in at least three newspapers with the highest circulation and, when possible, in press publications in the coverage area. The advertisement shall specify the procedures and requirements for submitting an application and every relevant or essential issue.

6. AMA shall specify in the advertisement specified under paragraph 3, the minimum coverage area within which the program material, other related information and materials, will be broadcasted. The minimum coverage area may be smaller than the maximum coverage area specified in the advertisement.

7. Irrespective of the provisions contained in point 2, when the advertisement on launching a bid specifies a minimum coverage area, it shall be the minimum coverage area of the granted license, requiring of the applicant to cover the maximum area as much as it is possible.

8. AMA shall specify in the advertisement of launching a bid, the number of audio and/or audiovisual programme services that will be supported in the multiplex and whether any existing audio and /or audiovisual programme will be included in the multiplex.

## **Article 71**

### **Assessment of Applications for Multiplex License**

1. AMA shall assess every application for a multiplex license based on the bid advertisement in order to select a suitable applicant for granting the multiplex license.
2. In order to assess and select a suitable applicant in accordance with point 1, AMA shall take into consideration:
  - a) nature, expertise and experience of the applicant, including the nature, expertise, and experience of company heads, managers, or officials and of its owners or shareholders;
  - b) financial means at the disposal of every applicant and the method of business operation presented in the application;
  - c) scope and type of programs proposed to be included in the multiplex and the way of obtaining such material;
  - ç) in case of an audiovisual multiplex service, the applicant's proposal to obtain the necessary equipments for the viewers to access, through these equipments, all the audiovisual multiplex services that are broadcast in the area, including national multiplexes and paid services, and enabling persons to be informed and choose the program material included in these multiplexes.
  - d) extent of the coverage proposed to be implemented by the applicant;
  - dh) technical proposals, including the period of implementation concerning the setting up and activation of the multiplex;
  - e) in case of an audio broadcast multiplex, the proposal of the applicant of facilitating every registered broadcast service included in the multiplex;
  - ë) any other issue that AMA deems necessary for ensuring the launch and putting into operation of multiplexes.

## **Article 72**

### **Conditions for multiplex licenses**

1. AMA shall specify in the multiplex license the following:
  - i) requirements for programs, associated services and other information that will be supported by the multiplex, including the requirement for the existing programs;
  - ii) terms and conditions for implementing the coverage of the area with the signal;
  - iii) conditions for obtaining equipment for receiving paid services by authorized users and presentation of programs supported by all multiplexes that broadcast in the area;
  - iv) conditions for meeting technical requirements and quality of service.
2. The multiplex license contains conditions of payment by the licensee of the dues to AMA, as well as conditions of obtaining information that AMA request to have at its

disposal to be able to exercise its powers, including a copy of accounts and balance sheets.

3. AMA, in the interest of the users of multiplex services and in the course of meeting its regulatory objectives, shall set conditions to guarantee an efficient competition between providers of multiplex-based media services so that the licensee:
  - i) does not preclude users from any area of coverage from receiving services in their multiplex receivers.
  - ii) guarantees that every receiver device is able to operate the decoding system for opening all coded services supported by the multiplex in a given coverage area.
4. Network operators and providers of terrestrial digital broadcast services shall ensure that programs that they broadcast respect rules of ethics and encryption and coding when dedicated to specific age groups.
5. The Multiplex license shall also contain conditions that AMA finds suitable for meeting the objectives of this law.

### **Article 73**

#### **Wide screen services**

The electronic communications public networks which are established to distribute digital TV services, should be able to distribute wide screen television services and programmes. The network operators that receive and redistribute wide screen services or programmes, shall keep the same format.

### **Article 74**

#### **Validity period of a license and the transfer of rights and obligations that arise from it**

1. The period of validity of the multiplex license is:
  - a) 15 years for national broadcasts.
  - b) 8 years for regional and local broadcasts.
2. The transfer of rights and obligations that arise from the license shall not be permitted without a prior approval in writing from AMA;
3. The amendment of the articles of the statute that determine the ownership and related issues cannot take place without prior approval in writing from AMA.

## **CHAPTER IX**

### **ON-DEMAND AUDIO AND/OR AUDIOVISUAL MEDIA SERVICES**

#### **Article 75**

##### **Provision of on-demand audio and/or audiovisual media services**

This is an unofficial translation by the OSCE Presence in Albania

1. The provision of on-demand audio and/or audiovisual media services shall be done with the authorization issued by AMA, except for the services of the information company, set forth by the law no. 10128, dated 11.05.2009 "On electronic trade".
2. The authorization shall be issued within 30 days of its submittal.
3. Such an application shall include the name, surname, number of personal identification document of the applicant when he or she is a physical person and the name of the company, registration number, and relevant information about the founding members and their activity, in particular pertaining to media when the applicant is a legal person. If the application is submitted by a business corporation, it should include information about its founding members, as well as about persons and managing bodies of the entity, including their names and positions.
4. The application shall be accompanied by:
  - a) basic service provider, which should specify the name of the on-demand audio and/or audiovisual media services provider, name, purpose of use and format of the catalogue, as well as any other information that the applicant deems important for the service that it plans to provide;
  - b) documentation that proves potential sources of funding for the first year of conducting its activity;
  - c) information as to what electronic communication network will be used for the broadcast of the relevant service;
  - ç) documentation that verifies the payment of fiscal and financial duties to the state.
5. AMA keeps records of all on-demand audio and/or audiovisual media services in a special register. This register shall be published on the internet page of AMA. The content and the maintenance of the register shall be determined by AMA.
6. The authorized person shall inform AMA about every change in the data contained in the application.
7. The granting of Authorization for the provision of on-demand audio and/or audiovisual media services does not include the allocation of frequencies.
8. The validity of the authorization expires when:
  - a) The service provider notifies AMA in writing for the closure of activity;
  - b) has not been operating for over a year;
  - c) does not meet technical requirements for broadcasting programs;
  - ç) there is a final court ruling that prohibits the authorized person to conduct activity.
9. Point 1 up to point 8 of this article shall be enforced only for those audiovisual media service providers that carry out television broadcasts.

## **Article 76**

### **Conditions for provision of on-demand audio and/or audiovisual media services**

1. The on-demand services shall not include programs that incite hatred on racial, ethnic, gender, national, or religious grounds.
2. Cinematographic works in these services shall be broadcast in accordance with the conditions agreed with the holders of relevant rights for these works.
3. Provisions of Chapter IV shall be enforced also for on-demand audio and/or audiovisual media services.
4. The on-demand audio and/or audiovisual media services that can seriously harm physical, mental and moral development of minors shall be broadcast in coded form so as to ensure that they cannot be received in normal conditions by minors.

### **Article 77**

#### **Promotion of production of European works by on-demand audio and/or audiovisual media services**

1. The on-demand audio and/or audiovisual media services that are offered by media service operators within their jurisdictions promote, when possible and with suitable means, production of European works and access to these works.
2. The promotion of European works could be done through financial contributions that such media services allocate for the production and acquisition of the rights of European works, or the percentage and/ or domination of European works in the catalogue of audiovisual media services that are offered by on-demand media services.
3. AMA shall adopt a regulation for the enforcement of this article.

## **CHAPTER X**

### **IMPLEMENTATION AND COMPATIBILITY WITH THE LICENSE/AUTHORISATION CONDITIONS**

#### **Article 78**

##### **Inspection of Licensee/Authorized Entity Activity**

1. The AMA has the right to exercise control over the programming, financial, technical and organizational activity of a license holder, pursuant to the provisions of Chapter VII and Chapter X of this law. Every inspection, particularly the inspection of the program related activity shall not violate freedom of expression. The licensee is obliged to cooperate with the AMA for the fulfilment of this function.

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2. The AMA shall authorize specialized members of its administration or other specialized persons to carry out this control if:

a) there exist reasonable reasons indicating that the licensee fails to provide the service in accordance with the terms of the license, or;

b) the provision of the offered service by the licensee causes interference;

c) there is information about unlicensed activities;

d) there is a justified information from a third interested party.

3. In addition to the provisions of point 2 of this Article, the AMA has the right to conduct periodical inspections with or without advance notice to the licensee.

4. The licensee shall give the person authorized to carry out the inspection, information or recordings it possesses in relation to this control, shall allow entry into its premises for the implementation of the inspection and for monitoring of the broadcasting equipment in these premises and, when necessary, shall respond to the requests of the authorized person for assistance in carrying out such an inspection.

5. When after examination, the person authorized to conduct the inspection deems that the licensee/authorized person has breached the terms of the license, he or she shall notify the licensee/authorized person of it by means of a written document that shall be signed by both parties and shall inform it of the possibility to submit its own claims pursuant to point 7 of this article. If the licensee/authorized person refuses to sign the written document, then it shall be notified pursuant to Article 70 of this law.

6. The interested licensee shall submit the necessary information and recordings to the AMA for due consideration of this matter.

7. Following the submission of claims by the licensee, if any, the AMA shall determine if it has or not breached the terms of the license/authorization and shall take the relevant decision, including sanctions, in accordance with this law.

8. The AMA shall lay down rules for the fulfilment of the right of the licensee/authorized person, referred to in point 4 of this article. The Rules shall be approved for the duration of the procedures specified down in point 4 and may include provisions for hearing sessions or other forms, as deemed appropriate.

9. Irrespective of the provisions of points 4 to 7 of this Article, in cases when interferences are found, action shall be taken in accordance with Article 69, point 3 of this law.

## **Article 79**

### **Monitoring of the frequency bands**

1. AMA shall monitor the frequency bands set forth in the National Frequency Plan for audiovisual broadcasting, so that:

a) the utilization of frequencies allocated by a license is in accordance with the

applicable legal and regulatory framework, pursuant to the conditions of the license;

b) the band of frequencies is used only by those users that are allowed to do so, pursuant to the provisions of this law;

c) it creates an appropriate environment and without interferences that would harm the functioning of systems and audiovisual broadcasting stations, which shall be used for private or public purposes.

2. For the monitoring of frequencies AMA cooperates with PECA and other institutions that are in charge of the administration of the band of frequencies.

3. The frequencies shall be monitored pursuant to the relevant regulation, compiled by AMA.

4. The frequencies may be also monitored following a request by the entities that own a license issued by AMA. In this case, the expenditure shall be beared by the requester.

## **Article 80**

### **Seizure of equipment and/or prohibition of their use**

1. When a natural or legal person conducts an activity in the field of audio and/or audiovisual broadcasting, unlicensed by the AMA, authorized persons shall seize their equipment.

2. After the seized equipment, pursuant to point 1, is entered into the inventory in the presence of the natural or legal person that conducts an unlicensed activity, they shall be confiscated.

3. The decision for the seizure may be appealed at the court within 10 days.

4. After the appeal deadline has lapsed and if after the appeal has been filed the court deems the seizure as legal, the seized equipment shall be confiscated and shall become the property of the state.

5. When persons authorized by the AMA find out that the broadcasting equipment of the media service providers cause harmful interferences, although their use is licensed, they shall have the right to discontinue their use.

6. Seizure and prohibition to use the equipment pursuant to this article is carried out with a seal, the content and form of which shall be determined by the AMA.

7. After a written request to the AMA by the entity that has caused the interference, a person authorized by AMA shall carry out the necessary verifications and if he/she notes that the harmful interferences have been avoided, he/she shall allow the further operation of the seized equipment, in accordance with point 3 of this article.

8. In order to implement its duties for the seizure of equipment, the AMA shall cooperate with the public local authorities and the state police.

## **Article 81**

### **Notification**

1. The notification of the media service providers or other persons laid down in this chapter shall be addressed to them in the following ways:

a) by sending it to the address where the media service provider or the other person carries out its activity;

b) by sending it through registered mail to the address referred to in letter “a” of this point;

c) by sending it through electronic mail or fax to the address and fax number of the media service provider or the other person, provided the possibility exists for the media service provider to confirm receipt of electronic mail or of all the pages of the notification through the fax machine. In this case, notification shall also be sent in one of the ways specified in letter “a” and “b” of this point.

2. For the purpose of this article, the company registered pursuant to the applicable law on commercial companies is deemed to have that address in which it is registered.

3. A copy of the notification is signed by the person authorized to carry out the control upon declaring his or her personal responsibility that the notification act is an official document.

## **CHAPTER XI PROTECTED SERVICES**

### **Article 82**

#### **Provision of Services with Conditional Access**

1. Provision of conditional access services and their associated/support services shall be done in conformity with the requirements laid down in this law on audiovisual broadcasts and the rules issued by the AMA. The AMA shall ensure through rules issued in implementation of this law that protected services are offered at fair, reasonable and non-discriminatory conditions.

2. AMA has the right to impose obligations for the service providers with conditional access at a necessary level, in order to guarantee that the users receive the audio and audiovisual services, as stipulated in this law.

3. The conditional access service providers are duty bound to provide access to application program interface/adapters (API) or to electronic program guidelines (EPG) in fair, non-discriminatory and suitable conditions.

4. AMA shall define the conditions for the functioning of the digital television devices of the users.

### **Article 83**

#### **Conditional Access Systems**

1. Conditional access systems for digital radio television systems shall have the necessary technical capacities to enable networks operators to have full control over the services utilized by these systems.
2. Conditional access service providers who provide access to digital radio and television services are obliged to offer to all media service providers in fair, reasonable and non discriminatory conditions, technical assistance that enables their subscribers to have access to services offered through decoders.
3. The operators providing access services shall keep separate accounts for the provision of conditional access services from the rest of their activities.

## **Article 85**

### **Prohibited Activities for Conditional Access**

In the territory of the Republic of Albania the following activities shall be prohibited:

1. The manufacture, import, distribution, sale, rental or possession for commercial purposes of illicit devices;
2. The installation, maintenance or replacement for commercial purposes of an illicit device;
3. The use of commercial communications to promote illicit devices.

## **Article 85**

### **Criteria for Protection of Conditional Access**

1. Failure to follow the obligations laid down in Article 84, when not constituting a criminal offence, shall be punished with a fine pursuant to the provisions of article 132. The extent of punishment shall be proportionate to the damage incurred.
2. The conditional access service providers, whose interests are violated by an unlawful activity, have the right to file for compensation for the damage caused to them in accordance with the applicable legislation. Në rast konstatimi të kësaj veprimtarie AMA, bashkëpunon me organet kompetente dhe, kur e sheh të arsyeshme, kërkon nxjerrjen jashtë tregut të pajisjeve të paligjshme.

## **Article 86**

### **Electronic Program Guide**

This is an unofficial translation by the OSCE Presence in Albania

1. Electronic program guide is an electronic way through which the broadcasting service, which is a component of the broadcasting system, shall inform the public about the program list and time schedules.
2. Every natural or legal person has the right to prepare and make available one or more electronic program guides in accordance with an authorisation issued by the AMA.
3. The authorisation for the electronic program guide shall include the conditions laid down in the rules prepared by the AMA for this purpose. These rules shall lay down:
  - a) the form the information is displayed in;
  - b) the program schedule and times;
  - c) the priority of the list of services offered by the public broadcaster in the guide.
  - ç) the priority of the list of other media service providers;
  - d) the conditions for the simplest use by viewers of electronic guide/s to have easy access to the schedule and start time of the program foreseen in the license.
4. The AMA has the right to instruct the Public Broadcaster or a licensed media service provider to use the electronic guide of the program licensed pursuant to point 3 of this article.

#### **Article 87** **Retransmission Obligations**

1. The AMA has the right to impose reasonable obligations on the media service providers for broadcasting one or more audio and audiovisual programs of general interest to the public to ensure their reception in the territory of the Republic of Albania at a national, regional or local level.
2. The retransmission obligations, pursuant to point 1 of this article, shall be imposed in conformity with the principles of proportionality and transparency, only on electronic communication operators whose networks are utilised by a considerable number of users as the main way of receiving audiovisual programs and only if this is in the interest of the public.
3. In case of the application of the payments for the retransmission of programs in accordance with the obligations laid down in point 1 of this article, they shall be set pursuant to the principles of proportionality, transparency and non discrimination.
4. The AMA shall periodically verify the implementation of the retransmission obligations pursuant to point 1 of this article. Any media service provider on which the obligation for the retransmission of a program has been imposed has the right to ask the AMA to review these obligations after a 2-year period from the time this obligation took effect.

#### **Article 88**

##### **Ndryshimi i kushteve te licencës**

1. AMA-i ndryshon kushtet e licencës së transmetimit audio dhe/ose audiovizive me nismën e vet:

- a) kur ka ndryshuar Plani Kombëtar i Frekuencave ose Plani i Përdorimit të Frekuencave, ose rregullat për kushtet e përdorimit të frekuencave;
- b) për nevoja publike, që nuk mund të plotësohen në mënyrë tjetër;
- c) kur ndryshimi i kërkuar i shërben përdorimit eficient të frekuencave dhe është me interes publik;
- ç) kur interferencat e dëmshme nuk mund të shmangen në mënyrë tjetër;
- d) kur ndryshimi buron nga aktet ndërkombëtare, të zbatueshme në Republikën e Shqipërisë.

2. I licencuari përballon me shpenzimet e veta kryerjen e të gjitha veprimeve të nevojshme, që burojnë nga ndryshimet në kushtet e licencës së transmetimit audio dhe/ose audiovizive.

## **Article 89**

### **State of Emergency**

1. During the duration of the state of emergency, the AMA may issue an order to suspend a broadcasting license or a license for the operation of a network. During the duration of this suspension order, the AMA may require that these services operate within the conditions laid down in the suspension order. The decision of AMA must be proportional, objective, and non-discriminatory against OSHMA.
2. The AMA may ask the broadcasting licensee to cooperate with the relevant public authorities to disseminate the appropriate information during the duration of the state of emergency.
3. When the AMA exercises its competence laid down in point 1 of this article, the broadcasting licensee or the broadcasting network licensee shall have the right to ask for the coverage of the necessary expenses for the implementation of the conditions laid down in the AMA order and for compensation for the damages incurred to its property as a result of the enforcement of this order.
4. Upon requirement of the competent administrative organs, the AMA shall instruct the broadcasting licensee to make airtime available for the notification of state institutions about the state of emergency.

Deri ketu

## **CHAPTER XII**

### **ALBANIAN PUBLIC RADIOTELEVISION (ART)**

## **Article 90**

### **Name, Venue**

1. Albanian Radio television/ART is a non profit public legal person with its head office in Tirana, which provides services of public broadcasting in the area of audio and audiovisual area in the Republic of Albania. The ART has its logo and seal as set forth in its statute.

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2. The ART activity shall be regulated pursuant to the provisions of this law, the Statement of Purpose, the contract of public broadcasting service adopted in accordance to Article 103 and its Statute.

3. In its composition, the ART has also other legal persons, pursuant to the provisions of its Statute. These persons have legal capacity to act in a restricted manner.

## **Article 91**

### **Statement of Purpose**

As a media service provider devoted to the most noble ideals of national public broadcasting service, the ART shall deliver qualitative radio and television services to inform, educate and entertain the public, serving the nation, all the society groups, including the minority groups.

The ART is committed to an impartial coverage of the local and international news.

The ART shall deliver programs that reflect the listeners and viewers of all ages, the diversity of Albanian life. The ART shall prepare qualitative programs of value, in order to enrich the mental and spiritual world of the people.

## **Article 92**

### **Leading Bodies**

The ART leading bodies are:

- a) The Steering Council (KDRTSH);
- b) The General Director;
- c) The Management Board

## **Article 93**

### **Composition of Steering Council of ART**

1. The ART Steering Council is composed of the Chair and 10 members. The candidate to be elected as member of the Steering Council may be every person who has an experience more than 10 years in fields of:

- a) media in general,
- b) public service audiovisual broadcasting,
- c) production of audiovisual broadcasting programs,
- ç) media technology,
- d) economy and administration
- dh) development of Albanian language,
- e) art, culture and music,
- ë) justice, law or public administration,
- f) justice, law or public administration,

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- g) science, environment and technology development and
- gj) consumer's protection
- h) social, educational activities and development of local communities, that have to do or have a direct impact on the purposes of the audiovisual activity, as defined by this law.

## **Article 94**

### **Election of members of the Steering Committee of ART**

1. Members of the Steering Committee of ART are elected by the Assembly of Albania for a 5 years mandate and the right to be re-elected only one time.
2. The Commission for Education and Means of Public Information within 30 days of a vacancy arisen in the Steering Council of ART, invites through public information means, the below listed subjects to submit candidatures:
  - a) the electronic media associations and groups and print media associations;
  - b) the senates of public universities;
  - c) the professorship and electronic and electric engineering associations;
  - ç) the lawyers' associations and the National Advocacy Chamber;
  - d) the non-profit organizations operating in the field of human rights, the rights of children or public policy research or organizations operating in the field of human rights of children with disabilities
  - dh) the National Cinematography Centre, public institutions of scenic art and associations of writers.

Above subjects propose the candidacies within a month of invitation from the Assembly Committee of Education and Public Information Means.

3. Committee of Education and Public Information Means makes the selection according to articles 93 and 96 of this law, between at least 4 candidacies for each member of Steering Committee of ART.
4. For the the selection of the alternate candidate for every post of member of Steering Council of ART, the Commission for Education and Means of Public Information shall apply the following procedure:
  - a) Examines all candidacies put forward by the proposing entities;
  - b) The candidatures administered, on the basis of the above-mentioned proposals shall be subject to exclusion one by one. In any case, Committee takes into account keeping the balance between 5 member supported by majority and 5 members supported by opposition. The candidacies should be submitted for vote in Assembly's plenary session. The exclusion of each candidacy must be explained through arguments in respect to the principle of non-violation of the personal and professional integrity of the candidates.
5. After mandate termination, the member of Steering Council of ART remains in duty until the election of the new member.

## **Article 95**

### **Election of the Chairperson of ART Steering Council**

1. The eleventh member, who at the same time will be the Chairperson of the ART Steering Council, is elected not later than 10 days after the conclusion of the election procedure for AMA's members, according to article 9 of this law.

2. No later than 30 days prior to the expiry of the term of ART Steering Council Chairperson, the Assembly of Albania announces the vacancy for the position of ART Steering Council Chairperson. Each citizen fulfilling the criteria in articles 93 and 96 of this law may apply as a candidate for the ART Steering Council Chairperson. The application shall have attached the respective documentation which proves the fulfillment of the legal criteria to be a member of the ART Steering Council.

3. The list of candidates is sent to the Committee on Education and Public Information Means to verify the fulfillment of the criteria defined in this law. This list may not include, or if already included they shall be excluded, the candidates proposed to be members of the RTSH Steering Council as per point 4 of article 94 of this law. Upon verifying the candidacies, the Committee applies the following procedure:

a) The Committee identifies four candidates with the greatest support from among the Committee members. Each Committee member may support up to four candidates.

b) If two or more candidates enjoy the same support, the selection shall be done by casting lot.

c) The representatives of the parliamentary minority in the committee exclude two of the four selected candidates. The remaining candidates will be voted by the Assembly.

ç) The candidate receiving more than half of the votes of the members of parliament shall be elected as the Chairperson of ART Steering Council.

### **Article 96**

#### **Incompatibilities and Conflict of Interests**

1. Members of the ART Steering Council shall not be individuals who:

a) are persons related to or who have in their ownership capital assets or shares in commercial companies and other rights in the field of audiovisual broadcastings, advertising, audiovisual program content productions, electronic communications networks or persons employed in or members of management bodies or advisors to such entities, or linked to such entities with a license;

b) are members of executive bodies of political parties or associations, candidates for members of parliament or who have been elected as such in the last two legislatures, persons who have run for mayors in the last local election, or who have exercised the duty of mayor, members of the Council of Ministers, the duty of prefect in the last three years, as well as members of the Complaints Council, PECA, or employees of the latter.

2. The members of the Steering Council of the ART shall declare:

a) any interests or links with any entities which the ART has licensed or intends to grant a license;

b) any potential interests in any licenses that the ART has granted or intends to grant; and

c) may not take part in the debate or in the decision on matters related to such interests or links.

3. The ART Steering Council shall draft a code of conduct in relation to the regulation of its activity for matters defined in point 2 no later than three months from the entry into force of this law pursuant to the provisions of this law and Law No. 9367, dated 7.4.2005 “On Prevention of Conflicts of Interests in the Exercise of Public Functions” and shall adopt similar codes for the directors of the ART structures and employees.

### **Article 97**

#### **Remuneration**

1. The chairman and members of the ART Steering Council shall be entitled to a fixed remuneration. The Assembly shall by its decision appoint the amount of remuneration for each of the members of the ART Steering Council. The chairman shall benefit a remuneration that is 20 percent higher than that of a member.

### **Article 98**

#### **Organization of the Steering Council of the ART**

1. At its earliest meeting the Steering Council of the ART shall set the deadline for the drafting of the rules of its activity and shall elect among its members the chairman and deputy chairman.

2. The chairman and deputy chairman of the Steering Council of the ART shall be elected with the majority vote of its members among no less than two candidates.

3. The Steering Council meets whenever necessary to exercise its functions, but no less than once in every two months. It may convene outside its agenda of work every time that its Chairman, the General Director, the Chairman of the Management Board or three of its members request it.

4. The general Director, the Chairman of the Management Board, the chairmen of councils set up for various matters and the directors of the administration and component subjects of the ART have the right to take part in the meetings of the Steering Council at the request of the latter or at their own request, with the exception of the cases when the Steering Council decides otherwise.

5. The meetings of the Steering Council of the ART are valid when the majority of its members participate. The decisions of the Steering Council of the ART are taken with the majority vote of its participants, with the exception of the cases when a qualified majority is required to take a decision, pursuant to point 6 of this article.

6. When the vote results in a draw and when it was not secret, the vote of the chairman is decisive.

7. The decisions of the Steering Council of the ART on the rules of its activity, the statute of the ART and the appointment and dismissal of the General Director shall be considered as endorsed when no less than seven members vote in favour.

## **Article 99**

### **Dismissal from Duty**

1. The member of the Steering Council of the ART shall be replaced when:

- a) his or her mandate expires;
- b) the person becomes incapable of conducting his or her duties due to health conditions;
- c) being absent at more than one third of the meetings of the Council during a year;
- ç) can be proved that he or she has not met the obligations stemming from Article 96 of this law;
- d) his ability to act is revoked;
- dh) resigns
- e) in case of punishment by a court, with a final form decision, for having committed a criminal offence;

2. The Assembly shall dismiss from duty a member of the Steering Council of the ART following the proposal of the Permanent Commission for Means of Public Information if:

- a) the person becomes incapable of conducting his or her duties due to health conditions;
- b) the person does not participate in the meetings of the Steering Council for three consecutive months;
- c) the person has not carried out the duties specified in point 2 or if the person has exercised his or her function contrary to the rules set forth in point 3 of article 83.

3. If one of the cases set forth in point 1 of this article is identified, the Chairman of the Steering Council of the ART shall notify in writing within five days the Assembly and the other institutions that have proposed the relevant candidate thereof.

4. If the position of the member of the Steering Council of the ART remains vacant, the Assembly preserving the ratio of representation shall elect the new member in accordance with the procedures set forth in Article 94 of this law. The new member shall remain in this position until the expiry of the mandate of the member he has replaced.

## **Article 100**

### **Duties of the Members of the Steering Council**

The members of the Steering Council of the ART shall carry out their duties, so that they:

- a) represent the interests of the viewers and listeners,
- b) ensure that the ART activity in general and its component subjects in particular is realized in conformity with the requirements of this law and its own Statute,

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c) ensure the independence of the ART in relation to the creation, production and content of program materials, preparation and presentation of news editions and matters of public interest and non-interference of the state, politics and business in such an activity.

### **Article 101** **Competencies of the Steering Council**

The Steering Council of the ART has the following competencies:

1. adopts the rules of its activity.
2. adopts the statute of the ART. The ART statute lays down:
  - a) the structure of the institution;
  - b) the steering bodies and their competencies;
  - c) the criteria and procedures for appointment and dismissal of the general deputy director, directors of Radio and Television, the component subjects of the ART, and the heads of departments;
  - ç) job descriptions for all categories of its employees;
  - d) the description of the ART activity, including the economic and financial activity.
3. Appoints and dismisses the General Director with the two thirds of the votes of its members in compliance with the procedure specified in the statute.
4. Appoints and dismisses the Deputy General Director and the directors of the component subjects of the ART with a simple majority vote following the proposal of the General Director, no later than two weeks after the proposal of the latter.
5. Approves the members of the Management Board propose by the General Director.
6. Approves the establishment of the councils of viewers and listeners or advisory committees in accordance with the statute.
7. Adopts the Strategic Plan proposed by the General Director in relation to the definition of broadcasting services, the establishment of new services and use of resources and assets of the ART in accordance with the existing possibilities.
8. Adopts the platform, organizational chart and program structure of the ART.
9. Adopts the Statement of Purpose of the ART and its component subjects according to the definitions of the Statute in relation to the activities proposed to be realized within a five year term for the fulfilment of the aims of the public broadcasting service and the annual statements in relation to and in compliance with the Statement of Purpose.
10. Approves the proposals for opening of new channels or services of the ART prior to submitting such a proposal to the AMA.
11. Supervises the impartiality, objectiveness and completeness of audiovisual information.

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12. Adopts the main criteria for recruitment, for work evaluation and remuneration of its employees.
13. Advises the General Director in relation to the programs and assists in the setting of program standards and concepts pursuant to the law.
14. Advices and assists the general director in carrying out his responsibilities.
15. Reviews and adopts applications for given broadcasts, the regulation of procedures of archiving and maintaining the archives and approves the rules of procedures for the order or agreements of broadcasting for independent producers of contents and programs by the EU member countries pursuant to the requirement of this law.
16. Reviews and approves the yearly budget and contract of more than 1 per cent of the yearly budget, borrowings, rents and financial-economical reports of ART, also every proposal to enter into civil-economic relations
17. Reviews and approves borrowings and credits before the proposal is sent to the Minister of Finance for an opinion.
18. Drafts a report on the annual activity of the ART in conformity with the requirements of this article and submits it to the Assembly at the end of March for the next year.

## **Article 102**

### **General Director**

1. The General Director shall manage and control the administration of the activity of ART and have editorial responsibility for ART.
2. The General Director of the ART shall be elected with secret ballot by the Steering Council of the ART for a five year term from no less than two candidates.
3. Selection of candidates shall be done by the Steering Council of the ART on the basis of an open competition and criteria set forth in the ART statute.

## **Article 103**

### **Incompatibilities and Conflicts of Interest**

The General Director of the ART may not be:

- a) a member of political parties, candidate for MP during last two legislatures, candidate for chairperson of commune, mayor, chairperson of a region, prefect during last three years, a member of the ART Council of Complaints, PECA, or employee of the last one.
- b) persons linked with, according to the provisions of Law nr.9367, dt.7.04.2005 on "Prevent of Conflict of Interests in Exercise of Public Functions or who own capital stakes or shares in commercial companies or other rights in the field of audiovisual broadcasting, advertising, audiovisual productions, and electronic communication networks or persons

employed by or who are members of executive or advisory bodies of such undertakings or who are linked with some licenses with these undertakings.

2. The General Director may not carry out any duty or activity for profit, or have any secondary employment during the term of office.

## **Article 104**

### **Duties of the General Director**

1. The General Director of ART shall chair the activity of the ART in accordance with the provisions of this law and the statute of ART.

2. The General Director of ART shall inform the Steering Council of any necessary information regarding his or her functions and regarding the operation of the institution, upon the request of the Council.

3. The General Director of ART shall appoint, release or dismiss from duty the heads of departments and sectors, on his own initiative or at the proposal of the directors of ART constitutive structures.

4. The General Director of ART shall be responsible for the programs' compliance with the principles of programming established in this law, in the Statement of Purpose and in the Statute of the organization.

5. The General Director of ART shall take decisions on matters of the organization, financing and salaries, after consultations with the Management Board, on the basis of the criteria laid down by the Steering Council of the ART.

6. The General Director of ART shall represent the ART in its official relations with the third parties.

7. The General Director of ART shall be responsible for the legality of the activity of the institution.

8. The General Director of ART shall coordinate the work of the administrative units of ART and resolve, within his/her power, any disputes arising among them.

9. The General Director of ART may delegate the exercise of his/her powers, when in absentia, to a special designated person.

10. During objective absences of, or when position of, the ART General Director is vacant, his duties shall be taken over by the Deputy Director until when the new director is elected or, in the absence of the Deputy Director, by a member of the management board of ART designated for this purpose by the Steering Council.

11. The criteria for the nomination, the specific duties and powers of the General Deputy Director shall be laid down in the Statute.

## **Article 105**

### **Discharge from Duty of the General Director**

The General Director shall be discharged from duty when s/he:

- a) violates the powers granted to him under this law;
- b) commits a criminal offence for which he has been punished by the court with a final decision;
- c) becomes incapable of carrying out his duty for reasons of sickness;
- ç) he is denied of the capacity to act
- d) submits a written resignation

### **Article 106**

#### **ART Management Board**

1. ART Management Board shall be the advisory board for the Steering Council of the ART and the competent body for preparing the analysis of the financial matters of the ART, both internal and external, and of matters related to programming.
2. ART Management Board shall be composed of five members, 3 internal members and 2 external, who are experts in management, finance and business. The members of the Management Board shall be appointed for a 4-year term and may be reappointed for two more terms, provided that in the mean time they do exceed the pension age limit.
3. The members of the Management Board shall be appointed by the Steering Council of ART with secret ballot and with a simple majority vote from among at least 10 candidates.
4. The Board shall elect the chairperson with a simple majority and secret ballot from among at least two candidates.

### **Article 107**

#### **Discharge from Duty of the Management Board Members**

The members and chairperson of the Management Board shall be discharged from duty in the event:

- a) they breach the obligations they have under this law and the rules adopted for the board's activity;
- b) it is noted by no less than five members of the Steering Council that they are incapable of carrying out their duties;
- c) they are absent without any justification for four consecutive meetings;
- ç) they are punished for a criminal offence.
- e) they resign.

### **Article 108**

#### **Incompatibilities and Conflicts of Interest**

1. Members of the ART Management Board may not be:

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a) affiliated persons or who own capital stakes or shares in commercial companies, or who have other rights in the field of audiovisual broadcasting services, advertisement, production of audiovisual program contents, electronic communication networks, or persons who are employed in such undertakings, or members of their leading bodies or advisory bodies or who are linked with them with some contracts,

a) persons who have been elected members of the Steering Council of the ART;

b) persons who run for MPs or who have been elected as such;

ç) members of steering forums of any political party,

d) chairperson of communes, mayors, and prefects;

dh) persons who are members of the AMA, PECA, or employees in such institutions.

2. During the exercise of their functions, the members of the Management Board shall not represent the interest of third parties or of competitors of this institution and shall not be linked with business interests with competitors or third parties.

3. The members of the Steering Council of the ART shall disclose:

a) any interest or links with any subjects with which the ART has entered or intends to enter into a contract;

b) any potential stake in some contract that the ART has entered into or intends to enter into; and

c) may not take part in any debate or decision-taking process related to such interests or links.

4. The requirements of the code of conduct approved by the ART Steering Council pursuant to point 4, article 96 are compulsory for all the Management Board members.

## **Article 109**

### **Organization of the Management Board**

1. The Management Board shall convene on the basis of a calendar of business approved by it, not less than once a month. The Board shall meet outside the normal agenda whenever this is called forth by at least two of its members, the Steering Council, or the General Director of the ART.

2. In its first meeting, the Management Board shall determine the deadline for the approval of its rules of procedure, which will clearly define the procedures for the activity of this body. The rules shall be adopted with the majority of votes of the board members.

3. The decisions of the Management Board shall be valid when the majority of the members present have voted for it. In case of a draw in the number of votes, the vote of the chairperson is decisive.

## **Article 110**

### **Duties of the Management Board**

The ART Management Board shall have the following powers:

1. Draw up rules for financial matters, which are under the jurisdiction of the General Director.

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2. Provide an opinion on the ART draft budget and its annual accounts, and follow up their implementation.
3. Review the viability of businesses in which the ART is involved.
4. Review contracts whose total value exceeds 5 percent of the annual budget of the ART.
5. Give its opinion on incidental budget expenses. The Steering Council of the ART shall approve in its decision the measures proposed by the Management Board in relation to the foreseen budget expenditures.
6. Submit reports and financial statements to the General Director and carry out other duties in conformity with the rules laid down in the statute of the ART.
7. Request and receive the necessary information for his or her work from the departments and sectors of the ART.
8. In case of disputes between the General Director and the Management Board, the latter may address the matter to the Steering Council.
9. The approval of the Management Board shall be necessary for the following activities:
  - a) work contracts, conclusion of agreements and negotiation of disputes with trade unions;
  - b) the purchase, sale or placing of assets as collateral;
  - c) taking and repayment of bank loans;
10. The ART Management Board shall be remunerated with a fixed monthly payment. The amount of remuneration shall be determined by the ART Steering Council.
11. Administration Board of ART reports to ART SC after every meeting.

## **Article 111**

### **Council for Viewers and Listeners**

1. The ART shall set up the Council for Viewers and Listeners within three months from the entry into force of this law.
2. The Council shall be composed of 15 members elected by the Steering Council of the ART from among its members, ART journalists, its own workforce and at least two third of of them from among different social categories.
3. Part of the duties of the Council for Viewers and Listeners is to ensure representation of viewers and listeners and in particular of the persons with visual and hearing disabilities.
4. The ART shall provide this Council with the necessary conditions for the fulfilment of its functions.

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5. The Council for Viewers and Listeners may ask the ART, when it so deems appropriate and possible, to conduct surveys and studies on the follow up of broadcasting services by the minors and youth, the elderly, and other special categories of society.

6. In the exercise of its functions, the Council may hold live broadcast hearing sessions and ask the ART to allot to it, twice a year, at least one hour of airtime for this purpose both in audio and television programs.

7. The Council for Viewers and Listeners shall prepare an annual report on its work and submit it to the Steering Council of the ART, the AMA, the Minister and the parliamentary Commission for Education and Means of Public Information.

## **Article 112**

### **ART Funding**

1. The ART shall get funding for exercising its functions and duties from:

- a) The service fees for the use of television reception device, adopted under the legislation on taxes;
- b) contracts with third parties for various transmissions, utilizing its free technical capacities;
- c) other program services;
- ç) marketing of musical productions, video and audiocassettes, books, newspapers, and magazines related to its programs;
- d) activities of public performances;
- dh) other activates set forth in the ART statute;
- e) advertisements and publication of other paid messages;
- ë) sponsorships and donations;
- f) sale of ART programs;
- g) funds from the state budget.

2. The ART may enter into relations of borrowing, contracts of service, transactions or joint enterprises with other undertakings, when such relations are established on the basis of own properties pursuant to the legislation in force regulating this activity.

## **Article 113**

### **Regulation of ART Ownership**

ART's immovable properties are registered as public immovable properties and are administered only by RTSH in order to fulfil the purpose laid out in this law.

## **Article 114**

### **Service Fees for Use of Television Reception Devices**

1. The service fee for use of television reception devices shall apply to television broadcasting service reception devices in the possession of persons in the territory of the Republic of Albania, irrespective whether the device is for personal or collective use, at the level, manner and form set forth in the law on national taxes and the respective bylaws.
2. The reception device for which a fee shall be set under this article is that device that serves to receive and follow audiovisual broadcasting services, be it placed at home, in a public or private environment, in an auto vehicle or elsewhere.

## **Article 115**

### **Funding from State Budget**

1. The state budget shall fund:
  - a) the audio broadcasting service for Albanians outside the borders of the Republic of Albania;
  - b) the audio broadcasting service for the foreign public (in foreign languages);
  - c) the audiovisual broadcasting service for Albanians outside the borders of the Republic of Albania;
  - ç) major technical projects for introduction of new technologies for production and broadcasting;
  - d) major projects for the production of films or other national artistic activities.
  - dh) the symphony orchestra of ART and cinematography.
2. The amount of funds shall be defined in the annual law of the state budget after its preliminary approval on the basis of proposed projects.
3. Ministries and other state institutions may fund special projects of major national significance in the fields of culture, science and education with the approval of the Steering Council of the ART.

## **Article 116**

### **Contract for Public Broadcasting Service**

1. The ART shall, after public consultations, prepare no later than one year after the entry into force of this law and then every five years, a service contract for the public broadcasting service in which it shall determine the principles it applies and the activity it shall undertake for the fulfilment of its objectives as a public broadcaster, which it shall present to AMA.
2. The contract of public broadcasting service should provide among others:
  - a) the nature and share of air time (hours) of programs for minors;
  - b) the nature and share of air time (hours) of programs for science and technology,

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- c) the number of publications it shall prepare, publish and distribute in conformity with its aims as public broadcaster; and
- ç) the preparation, publication and dissemination of audiovisual recorded materials in compliance with its aims as public broadcaster.

3. AMA may sign the public broadcasting service contract or seek its review.

### **Article 117** **Main Objectives of ART activity**

1. The main objectives of the ART activity shall include:

a) to respond to the interests, demands, and concerns of the entire population, take into consideration the need for understanding and peace in the Republic of Albania and beyond, to ensure that its programs reflect different human and cultural aspects and pay a special attention to diverse elements of the Albanian culture and language,

b) to support human and democratic values protected under the Constitution, especially the right to freedom of expression and to information and

c) to take into consideration the need of the public for information and to understand the values and traditions of other countries, European countries in particular.

ç) to provide a wide range of programs in the Albanian language that reflect cultural diversity, entertain, inform, and educate the public, to ensure coverage of sports, religious, and cultural events and to meet the expectation of the public in general and of individuals who belong to social minorities, fully respecting human dignity at all times

d) to provide domestic and foreign news and current affairs programs and coverage of the parliamentary activities,

dh) to help and facilitate the expression of modern culture and encourage innovation and experimenting in the field of broadcasting.

2. In the course of fulfilling the main objectives of its activity, the ART shall:

a) set up, maintain, and put into operation a national audio and audiovisual broadcasting service, should be a free of charge and accessible public broadcasting service as much as it is possible for all individuals in the Republic of Albania,

b) set up, maintain and put into operation transmission stations and ensure the installation and use of electronic communication networks for radio and television broadcasts,

c) provide a teletext service and information on its internet page about its services,

ç) set up and maintain an orchestra and/or similar groups,

d) help and cooperate with relevant public institutions in the preparation and distribution of information relevant to the public in the event of a state of emergency,

dh) set up and maintain archives of relevant material pertaining to its objectives and activities,

e) set up, maintain, and put into operation a television broadcasting service and an audio broadcasting service, which will be accessible as much as it is possible to the Albanians outside the Republic of Albania,

- ë) set up, maintain, and put into operation, upon approval from the AMA, local and regional broadcasting services and services for different social groups, which should be free of charge,
- f) set up, maintain, and put into operation on-demand nonlinear audiovisual broadcasting services, which should be of a public service nature
- g) set up, maintain, and put into operation national multiplexes

3. The ART, in the course of fulfilling its objectives as laid out in paragraph 1, shall have the right to:

- a) use as much as it is possible and reasonable the market opportunities for its purposes,
- b) set up, order, and find programs from various sources,
- c) sign contracts and agreements, collect information and news, and subscribe to news agencies and other services as it sees fit for the purposes of the ART,
- ç) to join international associations and musical, education, drama, cultural, and show institutions as it sees fit for the purposes of the ART,
- d) arrange, organize, and sponsor concerts, performances and other activities pertaining to the broadcasting service,
- dh) prepare, publish, and sell or distribute for free press material that serves the purposes of the ART,
- e) enter into agreements with other broadcasting companies or institutions for the distribution, reception, exchange, and retransmitting of programs, either live or recorded,
- ë) produce, publish and sell or distribute for free recorded audiovisual material,
- f) investment in the production of films,
- g) carry out broadcasts of programs through terrestrial, satellite, and cable networks, using new broadcasting technologies.

4. The ART can be included in program schedules that have been adopted outside the Republic of Albania.

5. The ART can provide a broadcasting service on special topics for specific social categories that are available through subscription.

## **Article 118**

### **ART Audiovisual Programs**

The ART shall include in its free of charge broadcasts, among others, the following:

- a) Two national audiovisual programmes;
- b) Two national audio programmes;
- c) One audio broadcasting programme in foreign languages;
- ç) One audio broadcasting programme for Albanians abroad;
- d) programs of regional audiovisual centres;
- dh) one satellite audiovisual programme;
- e) 1 audiovisual programme for live broadcast of the work of the Assembly.

## **Article 119**

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Political and religious propaganda is forbidden to ART. Coverage of electoral campaign shall be done according to the provisions of the Electoral Code.

## **Article 120**

### **Area of coverage**

1. ART national programmes shall cover a territory that includes at least 90% of the citizens of the Republic of Albania.
2. Five years from the day of the approval of this law, at least one of the ART programmes shall cover a territory that includes 99% of the population.

## **Article 121**

### **Broadcasting infrastructure**

1. Following consultation with the ART, AMA may request that the former to cooperate with a licensee on audio and/or audiovisual broadcasts in the use of signal distribution infrastructure equipments for audio or/and audiovisual broadcasts in accordance with the relevant license.
2. The licensee for audio and/or audiovisual broadcasting shall pay the ART periodic tariffs for the use of the broadcasting infrastructure.
3. The tariffs shall be determined based on the principles of transparency, proportionality and non-discrimination. They shall be proposed by the ART and approved by AMA, within 30 days from the proposal submission. If AMA does not provide its opinion within this deadline, the tariffs shall be considered approved.

## **Article 122**

### **Independent production fund**

1. The ART shall set up and manage a fund from its own revenues for funding independent production.
2. An independent production is an audiovisual broadcast program produced by a person or a company that meets the criteria listed below:
  - a) persons participating in a program or those who are involved in its preparation and the equipment for the production of the program are decided by the person or the company that has been contracted to produce the independent production.
  - b) the person or the company that has been contracted to produce the independent production shall not be an audiovisual broadcaster, a part of it, or a shareholder in a broadcasting company.
3. The independent productions fund of the ART shall be used only for:
  - a) commissioning the production of independent audiovisual broadcast programs and

b) conducting a contest for selecting the submitted proposals for the production of programs listed under letter “a”.

4. The ART shall not spend more than 10% of its independent productions fund for the purpose laid out under the letter “b” of paragraph 2.

5. The independent productions fund that is not spent within the financial year in which it has been set up shall be spent within two years, including the relevant financial year.

6 If the independent production fund is not spent within the period specified in paragraph 5, the AMA, following consultations with the Finance Ministry, shall propose to the Assembly to transfer the remaining of the independent productions fund to the general budget of the ART or to the Broadcasting Fund.

7. In the preparation of the proposal under paragraph 6 of this Article, General Director RT shall take into consideration:

a) current and planned financial obligations of the ART  
b) effects to relevant financial periods for the employment and engagement of human resources in the ART,

c) meeting of the obligations of the ART as a public service and production of independent audiovisual broadcasting programs

8. Within three months from the end of a financial year, the ART shall prepare a report for AMA on:

a) productions that have been commissioned by the independent production fund during the previous year;  
b) names of persons or companies commissioned for this purpose;  
c) expenditure of the independent production fund during the last year and the unspent amount; and  
ç) every other issue related with the issues laid out under letters “a”- “c’ that AMA may require. Copies of these reports shall be submitted to the Assembly during the presentation of the ART annual report.

## **Article 123**

### **ART Productions**

1. The productions of ART, co-productions and commissioned production of programs shall constitute at least 50% of the broadcasting time.

2. Commissioned production is part of the ART programs. Commissions shall be carried out by licensed companies for the production of audiovisual programs or films.

3. A co-production is a program that has been produced in cooperation between the ART and a licensed company, whereby each party has used its financial and technical means.

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4. The ART shall provide public contest for commissioned productions in accordance with the program schedule.
5. Modalities pertaining to commissioned productions and co-productions shall be stipulated in the ART statute.
6. The ART can use up to 25% of its production budget for the production of audiovisual works that have been produced to order.

#### **Article 124** **ART Broadcasting Networks**

ART program services shall be supported by broadcasting networks as follows:

- a) Networks that use frequencies for television broadcasts. These frequencies shall be assigned by AMA in accordance with the National Plan of Frequencies and are part of the public broadcasting service contract in accordance with Article 1163 of this law;
- b) Networks that use frequencies outside audiovisual bands. These frequencies shall be assigned by PECA according to the provisions of the National Plan of Frequencies in accordance with Article 54, point 2 of this law.
- c) Networks that do not require assigned frequencies. Provision of services supported by these networks shall be carried out in accordance with the provisions of Article 54, point 3 of this law.

### **CHAPTER XI**

#### **DIGITAL BROADCASTS**

##### **Article 125**

#### **ART DIGITAL BROADCASTS**

1. Based on its Contract with AMA, ART shall create, exploit, and put into operation a national television multiplex to carry out digital broadcasts for:
  - a) its free-to-air audiovisual services;
  - b) other services of public character that are defined as such by AMA;
  - c) services for other broadcasters based on relevant contracts.
2. Provisions of point 1 do not preclude the ART from applying to set up a second multiplex.

### **CHAPTER XIII**

#### **COVERAGE OF EVENTS OF PUBLIC IMPORTANCE**

##### **Article 126**

### **Determining events of major importance**

1. AMA by decision may define:

a) list of events of major importance for the society, which shall be broadcast free of charge by the media service provider which wins the right to broadcast and ensure general coverage;

b). define the manner of free-to-air broadcasting of an event of major importance – whether it shall be broadcast live, recorded, or in both ways and in all or in part of the country's territory.

2. In taking a decision, AMA must consider all the circumstances and in particular the special interest and response as well as special values and importance of an event for the culture of the people of the Republic of Albania.

3. In determining the extent to which circumstances specified in point 2 exist, AMA shall assess the participation of a national team or of an Albanian individual, as well as prior experience in regard to the coverage of an event or events of similar nature.

4. In its designation decision, AMA shall assess the nature of the event, time when it takes place, and practical evaluation of the broadcast in the country.

5. In making a designation decision, AMA shall consult the Minister of culture, arts, sports, and tourism, and the Appeals Committee.

6. The designation decision shall be submitted to the Parliamentary Committee on Public Information Means.

### **Article 127**

#### **Qualification of Media Service Providers to cover events with high importance to the public**

1. Two or more media service providers may enter a contract or agreement to achieve together the general coverage of an important event. In this case these media service providers would be considered together as a qualified media service provider for a general coverage.

2. A media service provider may ask AMA to solve disputes related to the free-to-air broadcasting service within the country and to the general coverage.

3. AMA may consult technical experts or other specialised people for solving the disputes.

### **Article 128**

#### **Liabilities of media service providers related to the abovementioned events**

1. If a media service provider in the Republic of Albania is not qualified, but has the exclusive right to broadcast a certain event, this media service provider provides the broadcasting of the event to the qualified media service provider upon payment by the latter of a reasonable amount of money based on the market value.

2. When a qualified media service provider has the exclusive right to broadcast the event as set forth in this chapter or based on a contract with the organiser of the event, the qualified media service provider should broadcast the event on a free-to-air service ensuring general coverage in accordance with AMA's respective decision.

3. If switchover of the right of broadcasting, as set forth in point 1, is not achieved due to the market value, the media service provider which has the exclusive right of broadcasting the said event, provides the qualified media service provider with a summary of the broadcasting of the event. The characteristics of the summary of the event broadcasting and the manner of the broadcast shall be stipulated in a special regulation of AMA.

## **Article 129**

### **Right to Short News Reports**

1. For the purpose of short news reports, every media service provider that has been created in the EU has access under equal conditions to events of high interest for the public and which are broadcast on exclusive basis by a media service provider under the Albanian jurisdiction.

2. If a media service provider that has been created in the Republic of Albania has sought exclusive rights for an event of high interest for the public, another media service provider created in Albania may demand access to the event in question from that media service provider. All media service providers are entitled to equal access to an event of high interest for the public under equal conditions.

3. AMA shall ensure that such access in the events referred to in paragraph 1 and 2 of this article be guaranteed, by allowing broadcasters to freely choose short extracts from the transmitting broadcaster's signal, providing the identification of their source.

4. Short extracts shall be used solely for general news programs and may be used in on-demand audiovisual media services only if the same program is offered on a deferred basis by the same media service provider.

5. A media service provider that broadcasts an event of high interest for the public shall be entitled to demand compensation from another media service provider for the actual costs of meeting this obligation. Where compensation is provided for, it shall not exceed the additional costs directly incurred in providing access.

6. AMA shall regulate the enforcement of this Article, including compensation arrangements, the maximum length of short extracts and time limits regarding their retransmission.

## **Article 130**

### **Appeal for designated events**

1. If a media service provider asserts that an illegal activity under Article 128 has occurred or may occur, the interested media service provider can lodge an appeal to a court against the media service providers for:

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- a. annulling the contract for exclusive broadcasting rights;
- b. assessing the civil damages caused by other providers;
- c. recognition of the right to provide the event coverage for the interested parties under the provisions of Article 126.

## **CHAPTER XIV**

### **ADMINISTRATIVE CONTRAVENTIONS AND SANCTIONS**

#### **Article 131 Sanctions**

In the event of the violation of the provisions of this law, AMA shall issue the following sanctions:

- a) Fine.
- b) Temporary suspension of a license and/or authorization
- c) Reduction of the validity period of a license and/or authorization
- c) Revocation of a license and/or authorization

In its decision, AMA shall take into consideration the extent and duration of the committed violation.

2. AMA shall issue sanctions envisaged by the law not later than one year from the date on which the violation has been committed.

3. When AMA finds that laws for which other bodies are authorized to issue sanctions are violated, it shall inform these bodies.

4. The entity that has been subject to a sanction by AMA ruling can challenge it within 30 days from the date of receiving the sanction notice. AMA shall review the complaint and issue a decision within 30 days.

5. AMA decisions are executed by bailiff services, according to the provisions of Code of the Civil Procedure. AMA has no obligation to pay the tax or the fee for the bailiff service.

#### **Article 132**

##### **Fines**

Violations cited below that are committed by licensees, when they do not constitute a crime, shall be sanctioned as follows:

1. With a fine of 40,000 to 400,000 ALL in cases of:
  - a) failure to meet the obligations under Article 33 of this law;
  - b) failure to meet the deadline for preserving the recording of broadcasts as set forth in article 37 of this law;
2. With a fine of 120,000 to 2.000,000 ALL in cases of:

a) during broadcast, fails to abide by time and territorial restrictions stipulated in the provisions of the license;

b) fails to fulfil obligations that arise from Articles 42, 43, 44 and 62 of this law pertaining to the broadcast of advertisements;

c) fails to fulfil obligations that arise from Article 45 of this law on sponsorship;

ç) fails to comply with the provisions of the license pertaining to programs that are produced in the country and to European works;

d) fails to report the changes to the information given in the license/authorization application within a time limit of 30 days of these changes;

dh) prevents inspectors from accessing premises in which the audiovisual equipments of the licensee are located or fails to provide information required by them;

e) causes interference to another licensee as a result of noncompliance to the technical broadcasting terms.

3. With a fine of 1 000,000 to 3.000,000 ALL in cases of:

a) broadcasts program in an unauthorized frequency;

b) broadcasts with higher transmission power than authorized;

c) broadcast from locations other than those identified in the license;

ç) broadcasts on-demand audio and/or audiovisual services without AMA's authorisation, as set forth in Article 75;

d) provides on-demand audio and/or audiovisual services in violation of the provisions of Article 76;

4. With a fine of 1 000 000 to 5 000 000 ALL in cases when territorial broadcasts limits are not respected

5. With a fine of 5, 000 000 to 10, 000 000 ALL if a person installs television or radio equipment and goes on air with audiovisual broadcasts without authorization or a license from AMA.

6. With a fine of 300 000 All in cases of failure to respect the right to response according to article 53.

7. With a fine from 1 000.000 up to 2 .000.000 ALL, for not respecting the obligations under article 32, point 6. The fine shall be issued by the inspectors or AMA, at their own initiative or following an appeal by operators. The repetition of the offense more than five times shall be punished with the reduction of the validity period of the license/authorisation up to 50%. If the offense is repeated again, it is punished with the revocation of the license/authorisation.

8. With a fine from 100 000 up to 2.000.000 when:

a) produces, imports, allocates, sells, rents or possesses prohibited equipments for commercial purposes;

b) Installs, maintains or replaces prohibited equipments for commercial purposes;

c) Uses commercial communication to promote prohibited equipments.

d) Does not respect the licence conditions, according to article 115/70 of this law.

9. AMA decides to temporarily suspend a license and/or authorization when a subject:

a) harmful interference in a repeated manner.

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b) does not fulfil the foreseen obligation on provision 63 on exploitation of the digital network.

c) does not fulfil the obligations foreseen by point 6 of article 32 of this law.

10. Fines are imposed by the inspectors or AMA ex officio, or after complaints by the interested subjects. Punishment by the above fines applies also to ART.

11. A complaint may be made to AMA against its decision to fine a subject within 30 days from the date they are informed about it. AMA shall announce a decision within 30 days from the date the complaint is received.

12. The fine may be appealed with the court of the district.

13. The fine is an executive deed that is collected by the bailiff service and paid to the State Budget (80%) and AMA's budget (20%).

## **CHAPTER XV**

### **INTERIM PROVISIONS**

#### **Article 133**

##### **Terms of the members of AMA**

The NCRT Chair and members, appointed in accordance with the amended law no. 8410 dated 30.09.1998 on "Public and Private Radio and Television in the Republic of Albania," amended, shall continue to hold their positions after this law enters into force, until the termination mandate set in their appointment. The term in office shall be calculated from the first day of their appointment. Vacancies in AMA shall be completed according to the provisions of the articles 8 and 9 of this law.

#### **Article 134**

##### **Mandates of members of ART Steering Council**

1. During the first term, the chairperson, deputy chairperson and two ART Steering Council members shall be elected to a 5-year term; four members shall be elected to a 4-year term and three other members to a 3-year term. The determination of the term of members shall be decided by drawing lot in accordance with procedures laid down in the work regulation of the institution.

#### **Article 135**

##### **Full Switchover to Digital Broadcasts**

1. The deadline for the switchover to digital broadcasting is 17 June 2015.
2. The way in which the full switchover to digital broadcast will be carried out, relevant institutions involved, funding and other issues pertaining to this process shall be determined in a relevant strategy, which will be adopted by the Council of Ministers.
3. After this law comes into force, it is prohibited to issue licenses for analogue television broadcast.

### **Article 136**

#### **Amendment of the ART Statute**

1. Within 120 days of its first meeting, but not later than six months from the date this law enters into force, the ART Steering Council shall adopt amendments to the Statute in line with this law and shall submit it to the Assembly for approval.
2. In preparing the amendments to the Statute, ART shall consult beforehand with AMA and the Assembly and conduct a public consultation according to a procedure adopted beforehand by the Steering Council for this purpose.

### **Article 137**

#### **Validity of Existing Licenses**

1. Licenses for FM radio transmission issued under the amended Law No. 8410, dated 30.09.1998, shall remain in force until the expiry of their validity.
2. Cable Broadcast licenses of radio-television programs issued under the amended Law No. 8410, dated 30.09.1998, shall be replaced with the following two authorisations:
  - a) authorization for service of audio and/ or audiovisual programs issued by AMA,
  - b) general authorization under the provisions of Law No. 9918, dated 19.05.2008 "On Electronic Communication in the Republic of Albania", following notification and registration with the PECA. Aforementioned replacements shall be carried out within six months from the date this law enters into force.
3. Licenses for satellite television broadcasts issued under the amended Law No. 8410, date 30.09.1998, shall be replaced with the following two authorisations:
  - a) an authorization for service of audio and/ or audiovisual programs issued by AMA;
  - b) an appropriate authorization under the provisions of Law No. 9918, dated 19.05.2008, "For Electronic Communication of the Republic of Albania", following notification and registration with the PECA. Aforementioned replacements shall be carried out within six months from the date this law enters into force.
4. Licenses for television broadcasts issued under the amended Law No. 8410, date 30.09.1998, "For Public and Private Radio and Television in Albania", shall be replaced with licenses for audiovisual analogue broadcasting under the provisions of this law. The

replacement of the existing licenses shall be carried out within six months from the date this law enters into force, with expiry of analogue broadcasting as the deadline.

5. Until the expiry of analogue broadcasting, the audiovisual analogue broadcasting may be supported in digital networks provided by the owners of licences for digital television broadcast as licensee for audiovisual programme service.

### **Article 138**

#### **Licensing of the digital networks and programs supported by them during the transitory period**

Despite the provisions defined in articles 70 and 71 of this law, in compliance with the strategy for the switchover from analogue to digital broadcasting, approved by the Council of Ministers, AMA issues licenses for private digital networks and programs supported by them, as follows:

1. Licences for national digital networks:

a) AMA defines the number of licences of private national digital broadcasting, regional or local and licencing criteria according to the provisions of the strategy for the switchover to digital broadcasting;

b) AMA, based on the developments of audiovisual broadcasting market, defines national historic private operators and existing operators experienced in digital broadcasting, that will be invited to participate the procedure of selection, according the principles of beauty contest for national digital networks. Withing three months of entering into force of this law, AMA publishes the notification and invites operators to participate the selection process;

c) applicants participating the selection procedure, according to the letter “b” of point 1 of this article, should fulfill the below listed conditions:

i) free the arbitrary occupied frequencies, if they operate in these conditions, and migrate to the frequencies set by the Digital Plan (GE 06), according to AMA specifications, within the time limit defined in the licence;

ii) each operator will be licenced for a digital national network DVB-T2 with a compression standard MPEG-4. The time limit for the switchover to DVB-T2 dhe MPEG 4 shall be defined in the licence, but it should not exceed three years from the licencing date;

iii) support for local operators network for programs according the provisions of article 63 of this law and also for the co-using;

iv) provide equal access, transparency and non-discrimination;

v) standardize the conditional access systems for protection from programs that are considered as harming for children;

vi) applying new and interactive services

2. The licensee for digital networks fulfills all requests defined in this law.

3. Existing national analogue programs will continue broadcasting openly even after being supported in digital platforms.

4. Licences for local or regional digital networks:

a) All existing local analogue operators have the right to:

i) ask for support of their programs of the digital network of ART or other digital networks licenced according to this law;

ii) apply together for a licence of local digital network within a zone planned to be covered by a SFN network, according to the plan of digital frequencies;

iii) participate in the contest organized by AMA for licence of local digital network, according the provisions of this law;

b) within three months of entering into force of this law, every analogue operator informs AMA in written form on the manner of supporting its programs in digital networks, according to provisions in letter “a” of point 4 of this article;

c) AMA invites, within three months of entering into force of this law, all existing local analogue operators broadcasting within the region planned to be covered by a SFN DVB-T2 network, with a compression standard MPEG-4, according to the plan of digital frequencies, to apply in order to jointly possess a local digital network without going through the contest process, defining the final limit for submittal of the common agreement;

ç) if there is no final agreement to co-build the digital network, from at least 70 per cent of existing analogue operators, according to the letter “c” of point 4 of this article, AMA announces contest for the licencing of local digital network in the respective region, according to the provisions of article 70 of this law;

d) In the licencing of digital networks AMA ensures the continuity of operations for existing analogue networks in respective regions of coverages according to at least, one of the ways defined in point 4, letter “a” above and ensures also that the digital dividend spectrum is free;

dh) If the existing zone of analogue coverage surpasses an allotment coverage, existing analogue operator has the right to jointly possess with other operators the local networks up to 4 allotments, with the condition that this shall not be in infringement with the provisions of article 63 of this law.

5. Existing local analogue programs will continue to be broadcast openly even after supported in digital platforms.

6. AMA issues licences of digital network in the frequencies of the digital plan of frequencies, except frequencies of digital dividend.

7. If frequencies of digital plan are occupied by existing analogue broadcasting the existing analogue operator shall migrate on its own expenses in other frequencies set by AMA.

8. Licencing, according to this article, shall be done by AMA for a transitory period until the termination of the deadline for full switchover to the digital broadcasting, defined by article 135, point 1.

9. With termination of transitory period time limit, AMA issues licences for digital networks and/or programs supported by them, according to the licencing procedures defined in this law.

## **Article 139**

### **The deadline limit to free arbitrary occupied frequencies**

1. Subjects exercising non-licensed or non-authorized activity on audio and audiovisual broadcasting, shall stop their broadcasting within 30 days of the termination of the licensing procedure, according to the article 138, but not later than six months since this law enters into force.

2. In case of not respecting the point 1 of this article, AMA applies procedures set in article 80 of this law in order to confiscate the equipment and free the frequencies arbitrary occupied.

## **Article 140**

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AMA is charged with the task to adopt bylaws necessary to enforce this law within six months from the date this law enters into force, unless this law stipulates otherwise.

## **CHAPTER XVII**

### **FINAL PROVISIONS**

#### **Article 141**

##### **Repeals**

Amended Law No. 8410, dated 30.9.1998, "On Public and Private Radio and Television in the Republic of Albania" and Law No. 9742, dated 28.5.2007, "On Digital Broadcasts in the Republic of Albania" are repealed.

#### **Article 142**

##### **Entry into Force**

This law shall take effect 15 days following its publication in the Official Journal.

**SPEAKER**  
**JOZEFINA TOPALLI (ÇOBA)**