

Broadcasting Regulations (No. 153 of 28 February 1997)

Unofficial translation

(As amended, most recently by Regulations No. 1324 of 18 February 2005)

Chapter 1 General provisions

Section 1 – 1 Jurisdiction - relationship to international rules

A broadcaster shall comply with Norwegian broadcasting rules if the company is under Norwegian jurisdiction according to this section.

A broadcaster is under Norwegian jurisdiction if the company is established in Norway in conformity with the EEA Agreement's Broadcasting Directive, that is to say in the following cases:

- a) where the broadcaster has its head office in Norway, and editorial decisions about programme schedules are taken in Norway, or
- b) where the broadcaster has its head office in another EEA State but editorial decisions on programme schedules are taken in Norway provided a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Norway, or
- c) where the broadcaster has its head office in Norway but editorial decisions on programme schedules are taken in another EEA State provided a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Norway, or
- d) where a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Norway as well as in another EEA State but the broadcaster's head office is in Norway, or
- e) where a significant part of the workforce involved in the pursuit of the television broadcasting activity does not operate in Norway or in another EEA State under b) to d) but where the broadcaster first began broadcasting in accordance with Norwegian legislation and maintains a stable and effective link with the economy of Norway, or
- f) where a broadcaster has its head office in Norway but editorial decisions on programme schedules are taken in a non-EEA State, or vice-versa, provided a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Norway.

Broadcasters to whom the provisions of the second paragraph are not applicable shall be deemed to be under Norwegian jurisdiction in cases where the broadcaster:

- a) uses a frequency disposed over by Norwegian authorities, or
- b) uses a satellite capacity appertaining to Norway, or
- c) uses a satellite connection/satellite up-link situated in Norwegian territory.

Broadcasters to whom the provisions of the second or third paragraph are not applicable shall moreover be deemed to be under Norwegian jurisdiction if the broadcaster is deemed to be established in Norway pursuant to the EEA Agreement article 31 et seq., and is not under the jurisdiction of another EEA State according to the provisions of Directive 97/36/EC Article 2 paragraph 3 or Article 2 paragraph 4.

If the first to fourth paragraphs are not applicable, and a television company registered in Norway is responsible for transmissions through an unbroken chain to a satellite from States which are party to neither the EEA Agreement's Directive 89/552/EEC, as amended by Directive 97/36/EC, or the Council of Europe's Convention of 5 May 1989 on Transfrontier Television, the transmissions shall be in accordance with Norwegian broadcasting legislation. This paragraph applies to television transmissions by way of satellite which can be received in States party to the Council of Europe's Convention on Transfrontier Television.

Section 1-2 Advertising broadcasts directed at States party to the Council of Europe's Convention on Transfrontier Television

Television transmissions from Norwegian territory which contain advertising specifically and frequently directed at a State party to the Council of Europe's Convention on Transfrontier Television shall comply with the rules of the receiving country relating to television advertising, insofar as the receiving country is entitled to demand such compliance under Article 16 of the Convention.

In the assessment of whether broadcasts fall within the scope of the first paragraph, importance shall be attached to, among others, the following factors:

- whether the broadcast is actually received in one or more countries,
- whether the goods and/or services advertised are available in the receiving country,
- whether the language of the receiving country is used in the advertisements, or whether they specifically address viewers in the receiving country by other means,
- whether points of sale in the receiving country are referred to or mentioned in the advertisements.

Section 1-3 Duty to register

The Norwegian Media Authority maintains a register of broadcasters and local broadcasters which are required to register under the Broadcasting Act section 2-1 third paragraph.

Broadcasting or local broadcasting activity shall be registered with the Norwegian Media Authority using the prescribed form. The registration form shall contain the information necessary to enable the Norwegian Media Authority to carry out its functions pursuant to law and regulations.

Broadcasting may not take place until the Norwegian Media Authority confirms that it has received a correctly completed registration form.

In the event of changes to the information provided upon registration, the broadcaster shall immediately communicate the changes to the Norwegian Media Authority. The broadcaster shall immediately notify its cessation of broadcasting.

Entities subject to registration under section 1-3 of the Regulations who hold a licence pursuant to earlier Regulations are obliged to register upon expiry of the licence, but not later than one year after the entry into force of these Regulations.

The licence must be used by the licensee himself. The licensee shall notify the licensing body when use of the licence has commenced.

The licence shall lapse if it is not used within six months of being granted, or if it subsequently remains unused for a period of at least one year.

The licensing body may make exceptions from the provision of the second paragraph in special cases.

Section 1-5 Facilities for broadcasting and retransmission of broadcasts

The Norwegian Media Authority may grant a licence for the establishment or operation of wireless, ground-based transmitting facilities which will mainly be used for broadcasting or retransmission of broadcasts, cf. Section 2-2 of the Act. The licence shall be granted for a specific period of time.

Section 1-6 Duty to provide information

Broadcasters and owners or operators of broadcasting facilities have a duty to provide the information necessary to enable the authorities to carry out their functions pursuant to the Act, its Regulations or provisions laid down pursuant thereto.

Section 1-7 Announcement issued by government authorities

A ministry or the government authority empowered by the ministry may demand that an announcement be broadcast nationally and/or locally and/or by way of cable networks when life or health is threatened and it is of great importance that the announcement be made public by such broadcast.

The ministry may lay down further provisions for the implementation of the provision of the first paragraph.

Section 1-8 Supervisory agency

The Consumer Ombudsman shall oversee advertising in accordance with rules set out in section 3-1 second paragraph of the Act and section 3-4 and section 3-6 of the Regulations. The administrative agency responsible for overseeing compliance with a prohibition of advertising pursuant to other provisions of Norwegian law shall oversee compliance with section 3-4 first paragraph of the Regulations.

The Norwegian Media Authority shall oversee compliance with other provisions of the Act and the Regulations and provisions issued pursuant thereto. The Norwegian Media Authority is empowered under section 1-1 sixth paragraph second sentence of the Act to exempt a service entirely or in part from the provisions of the Act in special cases.

Decisions made by the Norwegian Media Authority pursuant to section 3-1 third paragraph of the Act may be appealed to the Market Council, cf section 2-1 sixth paragraph of the Act. Other individual decisions made by the Norwegian Media Authority in pursuance of the broadcasting legislation may be appealed to the Ministry of Culture and Church Affairs.

Chapter 2 European programme material on television and protection of minors etc

Section 2-1 Proportion of European programmes on television

The broadcaster shall ensure that at least 50 per cent of its television transmission time, excluding the time appointed to news, sporting events, entertainment programmes with competitive elements, advertising or teletext services, is reserved for broadcasts of European works, cf. section 2-3.

The Ministry may issue further rules concerning implementation of the provision of the first paragraph, including transitional provisions.

This section does not apply to television broadcasts intended for local viewers, provided that such broadcasts do not form part of a nationwide network.

Section 2-2 Television programmes produced by independent producers

At least 10 per cent of the television transmission time, excluding the time appointed to news, sport, entertainment programmes with competitive elements, advertising or teletext services, shall be reserved for broadcasts of European works produced by producers who are independent of the television company. An adequate proportion of transmission time shall be reserved for programmes transmitted no more than five years after they were produced.

Section 2-1 second and third paragraphs apply correspondingly.

A producer is to be regarded as an independent producer in relation to the first paragraph if:

- a) a broadcaster does not own shares or interests in the production company representing more than 25 per cent of the votes in the company. Where several broadcasters are co-owners of a production company, the broadcasters' assets must not constitute more than 50 per cent of the votes in the production company. The same applies where a production company owns shares or interests in a broadcaster.
- b) the producer does not sell more than 90 per cent of its production over a three-year period to one and the same broadcaster, unless the producer produces only one programme or a series in the course of this period.
- c) the producer holds secondary rights to its productions.

Section 2-3 Definition of European works

"European works" means works originating in States party to the EEA Agreement or in States party to the Council of Europe's Convention on Transfrontier Television. The works must be produced with the participation of authors and workers residing in one or more of the said States.

Furthermore, the works must meet at least one of the following three conditions:

- a) they must be produced by one or more producers established in the said States, or
- b) production must be actually monitored and controlled by one or more producers established in the said States, or
- c) co-producers in the said States must supply a majority share of the total cost of the co-production. The co-production shall not be controlled by one or more producers established outside the territory of the said States.

Works mainly produced with the assistance of authors and workers residing in one or more States party to the EEA Agreement, but to which the first and second paragraphs do not apply, shall be regarded as European works to an extent corresponding to the proportion of the contribution of co-producers in the States party to the EEA Agreement to the total production costs.

"European works" also means works originating in European States other than States party to the EEA Agreement or the Council of Europe's Convention on Transfrontier Television. For such works it is a condition that the works are mainly produced with the assistance of authors of workers residing in one or more European States and that:

- d) the works are either exclusively produced by or in co-production with producers established in one or more of the States party to the EEA Agreement, or
- e) the works are produced by producers established in other European states and the necessary agreements have been concluded between States party to the EEA Agreement and the state in question.

The first to fourth paragraphs apply on condition that works originating in states Party to the EEA Agreement are not subjected to discriminatory measures in the European third states in question.

Works produced within the framework of bilateral agreements on co-production concluded by States party to the EEA Agreement and other states, but to which the preceding paragraphs do not apply, shall be deemed to be European works provided that co-producers in States party to the EEA Agreement supply a majority share of the total production costs, and that production is not controlled by one or more producers established outside the member States' territories.

Section 2-4 Statistics on European works

Broadcasters shall keep annual statistics showing the proportion of European works televised, including recent productions, cf. Section 2-1, 2-2 and 2-3.

Annual statistics shall be sent to the Norwegian Media Authority by 1 March of the following year.

The Ministry may issue further provisions concerning the compilation of statistics.

Section 2-5 Prohibition of programme content which may cause serious harm to minors

The broadcasting of television programmes whose content may seriously impair the physical, mental or moral development of minors is prohibited. In the assessment of whether programmes are likely to cause serious harm to minors, particular emphasis shall be given to any pornographic content or gratuitous violence.

Section 2-6 Time of broadcast for programmes whose content may cause harm to minors

Programmes containing scenes or items which may impair the physical, mental or moral development of minors shall only be broadcast after 2100hrs. This does not however apply to news and current affairs programmes.

When programmes as referred to in the first paragraph are broadcast in unencoded form they shall be preceded either by a verbal acoustic warning to the effect that they may be harmful to minors or be identified by the presence of a visual symbol throughout their duration.

Section 2-7 Compliance with rules established in the EEA Agreement's Broadcasting Directive

Any directly affected natural or legal person residing or established in a State party to the EEA Agreement shall be entitled to approach the Norwegian Media Authority and administrative agencies in whom authority is vested under section 3-14 of these Regulations if such person deems that a Norwegian broadcaster is in breach of the rules transposing directive 89/552/EEC, as amended by directive 97/36/EC. Such cases shall be dealt with under the Public Administration Act or relevant special legislation insofar as it is appropriate.

Chapter 3 Advertising, sponsorship, supervision

Section 3-1 Duration

Advertisements shall in aggregate not exceed 15 per cent of the broadcaster's daily transmission time. Advertisements shall in aggregate not exceed 20 per cent per hour of the clock. Advertisements in the form of teleshopping or similar direct offerings to viewers relating to the sale, purchase or rental of products or services may not, however, in aggregate exceed one hour of daily transmission time. No advertisements may be broadcast outside the advertising blocks.

Section 3-2 Language

Advertising messages shall mainly be presented in Norwegian or other language used in programmes produced by the broadcaster itself.

Section 3-3 Days on which advertising is not permitted

The broadcasting of advertisements on Good Friday, Easter Sunday, Whit Sunday and Christmas Day is prohibited.

Section 3-4 Content

No advertisements may be broadcast containing a trademark or logo that is used in the promotion of a product or service the advertising of which is prohibited under Norwegian rules.

No advertisements for weapons, models of weapons or toy versions of weapons may be broadcast.

No advertisements using subliminal techniques may be broadcast.

Surreptitious advertising is prohibited.

No products and/or services may be referred to and/or shown in broadcasting programmes in a manner designed to promote sales, cf. however section 3-12 regarding prizes in broadcasting programmes.

Section 3-6 Advertising and its relationship to children and young people under the age of 18

Account must be taken of the fact that all advertising may be seen or heard by children, and particular care must be shown in respect of children's susceptibility and lack of experience.

No advertisements may be broadcast for products or services of special interest to children and young people that involve the participation of persons or figures who in the preceding 12 months have featured regularly or over a long period of time as important elements in programmes for children or young people on a radio or television channel received in Norway.

No advertisements specifically directed at children may be broadcast, cf. section 3-1 of the Act. In the assessment of whether advertising is specifically directed at children, importance shall be attached, inter alia, to the following factors:

- whether the advertisement concerns a product or a service of particular interest to children,
 - the time at which the advertisement is broadcast,

- whether children under the age of 13 are participants,
 - whether animation or other form of presentation which particularly appeals to children is used.

No advertisements may be broadcast ten minutes immediately before or after a children's programme.

A programme is to be regarded as a children's programme when children are deemed to be the primary target group for the programme. In the assessment of whether a programme is to be regarded as a children's programme, importance shall be attached, *inter alia*, to the following factors:

- the content and form of the programme,
 - whether children under the age of 13 are participants,
 - when the programme is broadcast,
 - who are potential viewers in relation to the time of broadcast,
 - actual viewers,
 - the use of language in the programme.

Teletext pages whose target group is children shall not contain advertising.

Section 3-7 Insertion of television advertisements

Broadcasts of religious services may not be interrupted by advertisements.

Where a programme may be interrupted under this section, the interruption shall be inserted in such a way that the value and integrity of the programme are not prejudiced. In this assessment particular importance shall be given to natural breaks in and the duration and nature of the programme.

If a feature film or a film made for television is interrupted, advertisements may be broadcast during one of the interruptions if the interruption lasts at least 20 minutes. Fiction-based series and programmes may be interrupted once by advertising provided the interruption last no more than 60 seconds. If fiction-based series or programmes are interrupted by advertising, the programme may not in addition be interrupted by programme trailers or other announcements from the broadcaster.

In broadcasts of theatre performances and concerts, advertisements may only be broadcast during natural breaks in the actual performance. In sports broadcasts and other programmes consisting of autonomous parts or where natural breaks occur, advertisements may be broadcast between the parts or during the natural breaks in the actual performance or event, provided that each part of the programme lasts at least 20 minutes.

Other programmes may be interrupted by advertisements if the programme lasts 45 minutes or more, and each part of the programme lasts at least 20 minutes.

The Norwegian Media Authority decides cases of doubt under this section.

Section 3-8 Programme workers and their relationship to television advertisements

No advertisements may be broadcast involving the participation of workers who regularly appear on the broadcaster's news programmes, current affairs programmes or weather forecasts.

Section 3-9 Radio advertising

Radio advertisements shall be kept quite separate from the ordinary programme schedule by a special acoustic signal.

Section 3-10 Sponsorship of broadcasting programmes - identification

Where a programme is sponsored, information to this effect shall be given prior to and/or after the programme. Sponsors may not be identified in programmes or in programme trailers. In case of breaks in programmes, the sponsor may be identified at the start and end of each part of the programme.

Sponsor identification may not contain slogans, statements, images, sound or other form of additional information that can be linked to a sponsor or the latter's activity. Slogans, statements or the like may not be used even if these elements are a part of the sponsor's trademark or logo. Elements from the sponsor's advertising campaigns may not be used for identification purposes. Nor may trademarks, logos, advertising figures and the like be used to promote products or services the advertising of which is prohibited under Norwegian rules.

Identification of an individual sponsor may last for a maximum of 10 seconds. If a programme has three or more sponsors, sponsor identification may have a total duration of 30 seconds.

The Norwegian Media Authority may issue regulations setting a monetary threshold to identify when a programme is sponsored.

Section 3-11 Prohibition of sponsoring of broadcasting programmes

Programmes for children and young people may not be sponsored by natural or legal persons whose purpose is to pursue business activity.

Political party organisations may not sponsor broadcasting programmes.

Section 3-12 Prizes in broadcasting programmes

In programmes involving prizes, the presentation of a prize must not include information extending beyond that which is reasonably required to inform the audience about the prize. The presentation must not include information about the sponsor or about other products or services of the sponsor.

Special care shall be shown when presenting prizes in children's programmes.

Section 3-13 Special rules concerning the Norwegian Broadcasting Corporation

Pages in the Norwegian Broadcasting Corporation's teletext services containing programme overviews shall not contain advertising. As regards identification of sponsors in the Norwegian Broadcasting Corporation's broadcasts, section 3-10 is supplemented by a requirement to the effect that a sponsor may only be identified orally and/or by a non-moving image.

The Norwegian Broadcasting Corporation may accept contributions from sponsors for:

- a) production and transmission of live or recorded broadcasts of sporting events. The Norwegian Broadcasting Corporation may not accept contributions in respect of other sports programmes which are not purely broadcasts of sporting events.
- b) production from events where the production in whole or in part takes place in the Norwegian Broadcasting Corporation's auspices and the programme is to be broadcast to more than one country or is of social interest or cultural significance; principally productions from important national events.
- c) production of educational programmes. Section 3-11 first paragraph applies correspondingly to educational programmes directed at children and/or young people. In the assessment of whether an educational programme is directed at children and/or young people, section 3-6 is applicable insofar as it is appropriate.

The Norwegian Broadcasting Corporation may not accept contributions from sponsors for types of programme other than those set out in the second paragraph.

Section 3-14 Relationship to teletext services

With the exception of section 3-4, section 3-6 and section 3-13 first paragraph, the provisions of this Chapter shall not apply to teletext services.

Chapter 4 Cable broadcasts etc

Section 4-1 Definition

In these Regulations "cable owner" means the entity that owns or operates the cable network.

"Subscriber" means the entity that has entered into an agreement with the cable owner concerning the reception of cable television broadcasts. The subscriber may be a private individual, a housing co-operative, a co-ownership, a public or private institution etc.

Section 4-2 Duty to retransmit

Cable owners have a duty to retransmit the television broadcasts of the Norwegian Broadcasting Corporation, TV 2 and terrestrial local public television services licensed under section 7-3, third paragraph, first sentence.

Each broadcast to which the retransmission duty applies shall take up one channel in the cable network.

Programmes to which the retransmission duty applies shall be transmitted via channels available to all subscribers to the network.

Owners of cable networks with little channel capacity may apply to the Norwegian Media Authority for exemption from the retransmission duty under this section.

Section 4-3 Choice of cable broadcasts

Cable owners shall investigate which broadcasts the subscribers wish to have retransmitted via the cable network, and are obliged to implement the subscribers' choice of broadcasts in accordance with the subscribers' priorities.

Subscribers who do not wish to receive a broadcast that is not subject to the retransmission duty may demand that they be shielded from the broadcast, but must themselves cover the costs of the shielding.

If there are unutilised channels in a cable network after the subscribers have chosen broadcasts, the cable owner may use these channels, but must notify the subscribers of his proposed use two months before retransmission starts. If a majority of the subscribers oppose the proposal, the proposal may nevertheless be implemented provided the cable owner ensures shielding at no cost to those subscribers who do not wish to receive the broadcasts.

Section 4-4 Exemptions from the prohibition of retransmission

Section 4-5 first paragraph litra a) of the Act does not apply to television channels covered by the EEA Agreement's Broadcasting Directive or the Council of Europe's Convention on Transfrontier Television.

The provisions of section 4-5 first paragraph litra a) of the Act nevertheless apply to television channels which are only covered by the Council of Europe's Convention on Transfrontier Television if the channel shows advertising that is specifically and frequently directed at Norwegian viewers.

Section 4-5 Procedures related to the imposition of a prohibition of retransmission

If Norwegian authorities intend to refuse to permit the retransmission of a foreign television channel under section 4-5 of the Act, and the television channel has on at least two prior occasions during the previous 12 months infringed the same provision of section 4-5 of the Act, the broadcaster in question and the authorities of the broadcasting country shall be notified in writing of the infringement and of the fact that the Norwegian authorities intend to halt retransmission of the channel if the infringement should occur again.

If the transmitting country is party to the EEA Agreement, a prohibition may not be imposed until the EFTA Surveillance Authority has received written notification of the infringement, and Norwegian authorities have initiated consultations with the authorities of the broadcasting country and the surveillance authority with a view to eliminating the basis for refusing to allow retransmission.

If grounds for refusing to allow retransmission under section 4-5 of the Act exists fifteen days after the matter has been taken up in accordance with the first paragraph, and the second paragraph where this is necessary, the Norwegian Media Authority may impose a prohibition of retransmission.

In the assessment of whether a prohibition shall be imposed against retransmission of television channels which specifically and frequently show advertising directed at Norwegian viewers, cf. section 4-4, second paragraph, importance shall be attached, *inter alia*, to the following factors:

- whether the broadcast is in fact only received in Norway,

- whether the goods and/or services advertised are available in Norway,
- whether the Norwegian language is used in the advertisements, or whether they in another manner particularly address Norwegian viewers,
- whether the Norwegian language is used in the advertisements, or whether the advertisement is by other means specifically directed at Norwegian viewers,
- whether points of sale in Norway are referred to or mentioned in the advertisements.

When dealing with cases concerning Section 4-5 of the Act, the Norwegian Media Authority shall request bodies with expertise in the fields in question to assess whether the advertisement is incompatible with the rules in force.

Chapter 5 Utilisation of rights to televise events of major importance for society

Section 5-1 Substantial proportion of the viewers

“Substantial proportion of the viewers” means 90 per cent of the viewers.

Section 5-2 Free television

“Free television” means television channels which can be received by the public without additional payment. Licence fees and annual subscription fees to a cable network or communal aerial installation for reception of channels in accordance with section 5-2 are not regarded as additional payment.

Section 5-3 Reporting of purchase

A broadcaster who purchases exclusive rights to entire events or parts thereof that figure in other EEA states’ lists of important events approved by the EU Commission or EFTA’s Surveillance Authority and published in the Official Journal of the European Union shall immediately report the purchase to the Norwegian Media Authority.

Section 5-4 Broadcaster’s obligations in relation to other EEA states’ lists of important events

Broadcasters may only utilise broadcasting rights in another EEA state in accordance with the rules that this EEA state has notified to, and for which it has obtained approval from, the European Commission or EFTA’s Surveillance Authority.

Chapter 6 Advisory body

Section 6-1 Public Service Broadcasting Council

The ministry shall appoint a Public Service Broadcasting Council for national public service broadcasting companies. The ministry will prescribe further rules regarding the Council’s appointment, composition and tasks etc.

Chapter 7 Special provisions relating to local broadcasting

Section 7-1 Licences for the operation of local broadcasting services

The Norwegian Media Authority shall grant licences for the operation of local broadcasting services.

Licences for the operation of local broadcasting services may not be transferred without the Norwegian Media Authority’s approval.

Section 7-2 Allocation of licences for the operation of local radio services

A licence for the operation of local radio services shall be granted for a period of five years. The Ministry may extend the licence period in special cases.

Allocations of licences as mentioned in section 7-4 second paragraph for local radio services shall apply for the remainder of the licence period.

In special cases short-term licences may be granted for local radio broadcasts to cover local events in delimited areas. The duration of a short-term licence shall be fixed in relation to the duration of the event.

In licence areas with more than one local radio transmission network, the Norwegian Media Authority decides which licensees shall transmit on the various networks. The decisions of the Norwegian Media Authority concerning assignment to a local radio transmission network may be appealed to the ministry under the rules of the Public Administration Act.

The Norwegian Media Authority will issue regulations establishing licence areas for local radio services.

Section 7-3 Allocation of licences for the operation of local television services

A licence for the operation of local television services shall be granted for a period of seven years. In special cases the Ministry may extend the licence period.

Allocations of licences as mentioned in section 7-4 second paragraph for local television services shall apply for the remainder of the licence period.

In each licence area one licence may be granted to terrestrial local public service television broadcast in the VHF or UHF waveband. In addition, licences for the same transmitter network may be granted to universities, colleges and folk high schools for the operation of educational television services.

If broadcasts from terrestrial local public service television services under the third paragraph cannot be received in an area within the licence area, a licence may be granted for terrestrial local television services limited to that area.

Section 7-4 Application for a licence to operate local broadcasting services

Opportunities to apply for a licence for local broadcasting services are announced by the Norwegian Media Authority with a fixed time-limit for application. Applications shall be submitted using the prescribed form.

Applications received after the closing date for application expires may be granted in special cases. "Special cases" means that no licence has been allocated in the first round of allocation, that the existing licence has been revoked or lapsed, etc.

Applications for short-term licences must be submitted not later than three months prior to the event whose coverage is desired, and must state the technical specifications for the desired form of transmission.

Section 7-5 Processing of applications for licences to operate local broadcasting services

When applications for licences to operate local broadcasting services are processed, importance shall be attached to the applicant's technical and financial premises for proper operation of the licence and for implementing the project in accordance with the application.

When applications for licences to operate terrestrial local public service television services are processed, special importance shall also be attached to whether the applicant intends to establish local public service television services and to cooperate with local organisations etc on programme development.

Applications for local broadcasting licences which are received after the closing date for application and applications for short-term licences shall be submitted to any existing licensees in the licence area for comment before a decision is made on the applications.

When applications for licence renewal are processed, importance shall also be attached to whether the licensees in question have complied with law, regulations and conditions pertaining to licences for local broadcasting.

Section 7-6 Local television - programme profile, retransmission etc

1. Locally produced programmes containing local material shall be broadcast on weekdays on local television. The objective is that broadcasts on all days should contain such programmes.

2. An entity holding a licence under section 7-3 third paragraph first sentence and fourth paragraph may, by agreement with the programme company concerned, retransmit advertisement-free and advertisement-financed television programmes received by satellite or other transmission media in their local television broadcasts

3. The local television licensee is responsible for ensuring that the broadcasts are not in breach of applicable broadcasting rules.

4. Agreements on retransmission as mentioned in subsection 2 must be concluded in writing. An agreement on such retransmission requires prior approval by the Norwegian Media Authority. The agreement shall contain provisions to the effect that

a) the parties shall undertake to cooperate on exchange of programmes and further development of television expertise,

b) the programme company's broadcasts shall not be in breach of Norwegian law, including Norwegian advertising rules,

c) the local television licensee shall be responsible for the broadcasts,

d) the net income from the sale of local advertising shall accrue to the local television licensee, and

d) weekday broadcasts shall contain locally produced programmes featuring local material.

5. An entity holding a licence under section 7-3 third paragraph to operate educational television services may enter into an agreement concerning retransmission for educational purposes.

Section 7-7 Local radio - programme profile, retransmission etc

In local radio broadcasts, at least 75 per cent of the licensee's daily transmission time shall be reserved for programmes produced by the licensee or by others connected with the licence area. The Norwegian Media Authority may make exceptions to this requirement in special cases.

The Norwegian Media Authority shall lay down guidelines for local radio simulcasts.

Section 7-8 Responsible editor, responsibility for broadcasts

Broadcasts may only take place when the Norwegian Media Authority has been notified of the name of an editor as specified in section 431 of the Penal Code.

The licensee shall at the start and the end of the broadcast state who is transmitting the broadcast and who is the editor responsible for the broadcast.

Section 7-9 Distribution of transmission time

The licensees on each transmission network within the licence area shall decide the distribution of transmission time on the transmission network.

The distribution of transmission time and changes in such distribution shall be reported to the Norwegian Media Authority not later than one month after the distribution has been determined or changed.

If the licensees fail to agree on the distribution of transmission time, any of the parties involved may refer the dispute to the Norwegian Media Authority which may make a decision concerning the distribution. When a decision is made concerning the distribution of transmission time, account shall inter alia be taken of the licensees' need for continuity of operation, of their desire for transmission time between 0600hrs and 1800hrs and of new licensees' opportunities to establish themselves. The Norwegian Media Authority may when determining the transmission time for a new licence period change the distribution of transmission time in relation to the previous licence period. Once the transmission time for the licence period has been determined under the first paragraph or this paragraph or after an appeal under the fourth paragraph, a licensee may not be deprived of transmission time by a new decision on transmission time distribution in the same licence period. If all licensees on a transmission network agree to change the distribution of transmission time, the distribution may nevertheless be changed in the licence period. Until a decision on transmission time distribution has been made, the licensees are obliged to observe the distribution of transmission time opted for by the majority of licensees. In the event of a tied vote, the Norwegian Media

Authority may establish a provisional distribution which shall apply until the Norwegian Media Authority has made a decision on the distribution of transmission time under this paragraph.

Decisions of the Norwegian Media Authority concerning the distribution of transmission time may be appealed to the ministry under the rules of the Public Administration Act.

Section 7-10 Facilities for local broadcasting

When allocating licences under section 2-2 of the Act for the establishment or operation of facilities for local broadcasting services or the retransmission of local broadcasting services, the Norwegian Media Authority shall stipulate that the licensee shall as soon as possible make the facilities available to all parties holding a licence for local broadcasting in the licence area in question. The Norwegian Media Authority shall also stipulate that the parties shall enter into a written agreement concerning the use of the facilities and any remuneration to be paid for such use.

Section 7-11 Annual report

Using the prescribed form, the licensees shall by 1 March each year submit to the Norwegian Media Authority a report on their activity during the preceding year.

Chapter 8 Sale of equipment, taxes and charges, recovery etc

Section 8-1 Sale of receivers, etc

Sale of receivers etc as mentioned in Chapter 8 of the Act shall be carried out in accordance with the rules governing the enforcement of security interests in chattels as laid down in the Enforcement Act (No. 86 of 26 June 1992).

Section 8-2 Appeals authority in licence fee cases

The Norwegian Media Authority is the appeals authority in respect of decisions made by the Norwegian Broadcasting Corporation pursuant to section 8-3 of the Act and in respect of individual decisions made by the Norwegian Broadcasting Corporation pursuant to regulations issued under section 8-3 of the Act.

Chapter 9 Illegal broadcasting from ships and aircraft operating in international territory etc

Section 9-1 Prohibition of assistance

It is prohibited in Norwegian territory – including sea and air territory – to assist in broadcasting in or in the airspace above international waters.

It is also prohibited to assist in such activity outside Norwegian territory insofar as it falls within the scope of section 9-1 of the Act.

Assistance in broadcasting is deemed to comprise the following:

1. establishing or helping to establish, operate or manage an office with a view to broadcasting activity,
2. providing services relating to advertising for the benefit of such activity,
3. advertising, engaging in or transmitting advertisements or commissioning a transmission or the like from a broadcasting station,
4. providing financial assistance for broadcasting activity by other means
5. preparing, announcing or managing a broadcast from such a station or providing technical assistance,
6. supplying equipment, technical aids, audio tapes or the like for use in such activity, and maintaining and repairing the equipment,
7. making vessels available, providing personal services for vessels or stations, transporting crew, personnel or the like, or delivering or transporting supplies and equipment for use in broadcasting activity,

8. commissioning or producing programme material of any kind, including delivering news copy for use in broadcasting. This provision shall nevertheless not apply to the performances of performing artists when such performances are given at a place other than the station or facility intended for broadcasting activity as mentioned in section 9-1 of the Act.

Chapter 10 Sanctions

Section 10-1 Financial penalty based on listening/viewing figures

In the event of infringement of section 2-8, section 3-1 first paragraph, section 3-1 second paragraph first alternative concerning the broadcasting of advertisements in connection with children's programmes, 3-2 first paragraph of the Act or section 3-1, section 3-3, section 3-4 third and fourth paragraph, section 3-6 fourth paragraph, section 3-7, section 3-9 or Chapter 5 of these Regulations, the Norwegian Media Authority may impose a financial penalty in accordance with the following rules:

1. The financial penalty shall be determined on the basis of a basic amount and the broadcaster's listening or viewing figures.

The financial penalty shall be calculated by multiplying a rate related to the basic amount by the number of viewers or listeners who saw/heard the programme during the period in which the infringement took place. The financial penalty is calculated for each 30 second period of transmission or fraction thereof during which the infringement took place.

2. For broadcasting companies which have or have been given permission under section 2-1 of the Act to operate national television services by satellite or over the air, the financial penalty shall be fixed on the basis of rate I, which is equivalent to the basic amount. For broadcasting companies which have or have been given permission under section 2-1 of the Act to operate local television services, the penalty shall be fixed on the basis of rate II, which constitutes 40 per cent of the basic amount. For broadcasting companies which have or have been given permission under section 2-1 of the Act to operate local radio or national radio broadcasts by satellite or over the air, the penalty shall be fixed on the basis of rate III, which constitutes 20 per cent of the basic amount.

3. In cases where no listening or viewing figures are available for the time at which the infringement took place, the broadcasting company's average number of listeners or viewers at the equivalent time of broadcast during the month in which the infringement took place shall be used. For broadcasting companies not covered by ordinary listener and viewer surveys, an estimate of listening or viewing figures shall be obtained by other means.

4. In cases where it is assumed that fewer than 10,000 persons saw/heard the broadcast at the time the infringement took place, the Norwegian Media Authority shall impose the minimum penalty.

5. The basic amount under this provision is NOK 0.20.

- Rate I: NOK 0.20
 - Rate II: NOK 0.08
 - Rate III: NOK 0.04

The minimum penalty under this provision is NOK 1,000 for television and NOK 500 for radio.

6. The Norwegian Media Authority or the ministry may in special cases depart from the method of calculation specified in this provision.

Section 10-2 Financial penalty – discretionary determination

In the event of infringement of provisions of Chapter 3 of the Act or rules laid down in pursuance of Chapter 3 other than those mentioned in section 10-1 of these Regulations, the Norwegian Media Authority may impose a financial penalty determined by discretionary assessment. When the penalty is determined, importance shall be attached to what the company has earned by broadcasting the unlawful item, the nature of the infringement, its seriousness, etc. If the rules regarding sponsorship are breached, importance shall be attached to the size of the sponsor's contribution to the production.

Section 10-3 Increased financial penalty

In the event of repeated infringement of the rules, the penalties under sections 10-1 and 10-2 may be increased. "Repeated infringement" shall be taken to mean more than one infringement of the rules within a 12-month period, consisting either of more than one infringement of the same provision or infringement of different provisions.

Section 10-4 Imposition of a financial penalty

In the event of infringement of provisions administered by administrative agencies other than the Norwegian Media Authority under these Regulations, a final decision in the case must have been made before a financial penalty may be imposed.

Section 10-5 Payment of a financial penalty

A financial penalty is payable three weeks after notification of the final decision in a case concerning imposition of a financial penalty has reached the broadcasting company.

In the event of late payment of a financial penalty, interest shall run as provided by the Act related to interest on overdue payments etc (No. 100 of 17 December 1976)

If the financial penalty is not paid by the due date in accordance with the first paragraph, action to recover the penalty and interest may be taken 14 days after notice of recovery has reached the broadcaster.

Section 10-6 Time-limited prohibition of the broadcasting of advertisements

In the event of infringement of provisions of Chapter 3 of the Act or of Regulations laid down in pursuance of Chapter 3, the Norwegian Media Authority may prohibit the company from broadcasting advertisements for a period of one or more days.

Section 10-7 Revocation of licence

When a licence is revoked, the Norwegian Media Authority shall determine the duration of the period of revocation.

When an appeal is lodged against a decision to revoke a licence, revocation shall be postponed until the appeal has been decided.

Chapter 11 Entry into force etc

Section 11-1 Entry into force etc

These Regulations shall enter into force immediately.

From the same date the following shall be repealed:

- Regulations No. 8630 of 29 May 1981 relating to broadcasting etc.
- Regulations No. 3953 of 28 September 1988 relating to the right of the Norwegian Broadcasting Foundation to acquire and sell real property and to contract loans
- Regulations No. 773 of 7 October 1988 relating to cable transmissions
- Regulations No. 1220 of 22 December 1988 relating to charges on equipment for the recording and reproduction of sound or images etc
- Regulations No. 1338 of 18 December 1989 relating to charges on radio and television equipment etc
- Regulations No. 228 of 19 April 1991 relating to advertising in broadcasting
- Regulations No. 229 of 19 April 1991 relating to sponsorship etc of broadcasting programmes
- Regulations No. 1068 of 26 November 1993 issued in pursuance of the Broadcasting Act
- Regulations No. 10 of 5 January 1996 relating to local broadcasting.