

Royal Norwegian Ministry of Cultural Affairs

(Unofficial translation)

October 2000

ACT NO. 127 OF 4 DECEMBER 1992 RELATING TO BROADCASTING

(With subsequent amendments, most recently by Act No. 6 of 14 January 2000, with effect from 20 January 2000)

Chapter 1. Definitions, geographical extent, etc.

Section 1-1. Definitions

"Broadcasting" shall mean the transmission of speech, music, images and the like by wire or over the air, intended for direct reception by the public.

"Local broadcasting" shall mean the transmission of speech, music, images and the like by wire or over the air, intended for direct reception by the public within geographically delimited areas.

"Broadcaster" shall mean the natural or legal person who has editorial responsibility for the composition of programme services in broadcast transmissions, and who transmits them or has them transmitted by third parties.

"Advertisement" or "advertising" shall mean any form of promotion of a product, service, cause or idea in return for payment or any other form of remuneration.

"Advertisement" or "advertising" shall also mean any form of announcement on television whose purpose is to promote the broadcaster's own activity.

"Sponsorship" shall mean any direct or indirect contribution made to the production or transmission of one or more programmes by a natural or legal person not personally engaged in the production or broadcasting of such programmes.

The King settles cases of doubt concerning this section.

Section 1-2. Geographical extent

This Act also applies to Svalbard, Jan Mayen, Island and the Norwegian dependencies, as well as to facilities and devices situated on the Norwegian part of the Continental Shelf. The King may issue regulations prescribing exemptions and special rules as required by local conditions.

Broadcasting from international territory is regulated by Chapter 9.

The King may issue regulations providing that this Act or parts of it shall apply to Norwegian vessels, aircraft, drilling platforms or other facilities or devices situated in international territory beyond the provisions of Section 9-1.

This Act does not regulate telecommunications and computer services.

Chapter 2. General provisions

Section 2-1. Licence requirement, licensing authority, etc.

The Norwegian Broadcasting Corporation is authorised to pursue broadcasting activities. Parties other than the Norwegian Broadcasting Corporation must be licensed under this Act in order to engage in broadcasting or local broadcasting. Licences shall be time-limited.

The ministry issues licences for broadcasting and local broadcasting. Conditions may be attached to such licences. The King may issue regulations concerning the allocation of licences and the terms and conditions of licences, inter alia on the operation and revocation etc., of licences, on licensing areas and ownership restrictions. The King may issue regulations concerning circumstances in which a broadcaster is required to comply with Norwegian broadcasting rules. The King may also issue regulations to fulfil Norway's international obligations.

The Mass Media Authority is the administrative authority for broadcasting and local broadcasting, etc. The ministry may lay down further rules concerning the tasks of the Mass Media Authority.

The transmission of simple announcements does not require a licence.

Decisions made by the Mass Media Authority in pursuance of Section 3-1 third paragraph, cf. Sections 10-3 and 10-4, may be appealed to the Market Council. Appeals shall be dealt with using the procedural rules laid down in or pursuant to the Marketing Act.

Section 2-2. Facilities for broadcasting and retransmission of broadcasts

The establishment or operation of facilities for broadcasting or local broadcasting or the retransmission of broadcasts or local broadcasts requires a licence from the ministry or from whomever the ministry designates.

Conditions may be attached to the allocation of licences.

A party who operates a facility for broadcasting or retransmission of broadcasts shall not broadcast or retransmit broadcasts from any party not holding a licence.

Section 2-3. Prior assessment of programmes

A party who has not contributed to or who has no programme responsibility may not demand to view or listen to a programme before it is broadcast.

The first paragraph does not restrict the authority to issue orders or to decide to implement coercive measures in accordance with the Act on Court Procedure.

Section 2-4. Announcements by government authorities, etc.

Broadcasters are required, in accordance with rules prescribed by the King, to broadcast announcements from government authorities where such announcements are of major importance.

The King may issue regulations concerning broadcasting activities in time of civil emergency or war.

Section 2-5. Recording of programmes

Broadcasters are obliged to keep programme recordings for a period of no less than two months after transmission. In case of complaints concerning a programme's subject matter etc. pursuant to Chapter 5, the programme shall be kept until the complaint has been decided. The programme shall likewise be kept if notice of legal action has been given.

Broadcasters are obliged to surrender recordings of programmes to the bodies charged with supervision of provisions made in or pursuant to this Act.

Section 2-6. European television programme material

The King will issue further rules concerning broadcasters' use of European programme material, including which programme categories the rules apply to, the definition of European programme material and the implementation of such rules.

Section 2-7. Protection of minors

The King will issue regulations to prohibit the transmission of television programmes which may seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.

The King will issue regulations to the effect that television programmes with scenes or items which may impair the physical, emotional or moral development of minors shall only be transmitted in periods when minors will not normally see or hear such transmissions, and concerning other technical measures that prevent minors from seeing or hearing the transmissions. The King will issue regulations requiring an acoustic and optical warning where such programmes are broadcast in unencoded form.

Section 2-8. Events of major significance

A broadcaster which has acquired the exclusive right to broadcast on television events of major importance for society may not exercise such exclusive right in such a way that a substantial proportion of the viewers are deprived of the possibility of following such events on free television.

Where a broadcaster under Norwegian jurisdiction has acquired the exclusive right to broadcast on television events which a country that has acceded to the EEA Agreement has declared to be of major importance for society and which have been approved by the European Commission or EFTA's Surveillance Authority, the broadcaster may not exercise such exclusive right in such a way that a substantial proportion of the viewers in the country concerned are deprived of the possibility of following such events on free television.

The first paragraph encompasses agreements on the exercise of exclusive rights entered into after 30 July 1997 in respect of events taking place after the commencement of this Act. The second paragraph encompasses agreements on the exercise of exclusive rights entered into after 30 July 1997 in respect of events that take place after the commencement of this Act and after a country that has acceded to the EEA Agreement has implemented provisions corresponding to the first paragraph of this section.

The King may issue further regulations on the implementation of the first, second and third paragraph, including drawing up a list of events that are of major importance for society, and rules concerning the resolution of price conflicts.

Section 2-9. Compliance with rules set in accordance with the EEA Agreement's television directive

Any directly affected natural or legal person who is a citizen of or established in a country that has acceded to the EEA Agreement may approach the Norwegian authority concerned in matters concerning Norwegian broadcasters' compliance with provisions laid

down to implement Council Directive 89/552/EEC and Parliament and Council Directive 97/36/EC.

The King may issue further regulations on the implementation of the first paragraph.

Chapter 3. Advertising, sponsorship etc.

Section 3-1. Duration, content

Advertisements shall not exceed a total of 15 per cent of the broadcaster's daily transmission time. The King may make exemptions from this provision for the broadcasting of information announcements on local television.

Advertisements may not be broadcast in connection with children's programmes, nor may advertisements specifically target children.

Broadcasters may not broadcast advertisements to promote belief systems or political ends on television. This also applies to teletext services.

The King may issue further rules on the transmission, content, amount and supervision of advertising.

Announcements by the broadcaster in connection with its own programmes and ancillary products derived directly from such programmes shall not be included in the maximum amount of daily transmission time allotted to advertising under the first paragraph. The same applies to public service announcements and charity appeals broadcast free of charge.

The King may issue further rules concerning the duration of announcements and items under the fifth paragraph, as well as rules prohibiting the interruption of programmes in order to broadcast other announcements or excerpts from other programmes.

Section 3-2. Special rules on television advertising

Television advertisements shall as a rule be broadcast in blocks between programmes and shall be clearly separated from the ordinary programme schedule by a special acoustic and optical signal.

The King may issue further regulations concerning the insertion of advertisements.

Section 3-3. (Repealed by Act No. 126 of 17 December 1993, with effect from 1 January 1994.)

Section 3-4. Sponsorship

Where a programme is sponsored, information to this effect shall be given prior to and/or after the programme. Information about the sponsor may be given in the form of the name, trademark or logo of the sponsor.

The content and form of presentation of a sponsored programme must be such as to maintain the full editorial integrity of the broadcaster.

Sponsored programmes shall not promote the purchase or rental of any of the sponsor's products or services or those of a third party, and may not contain specific promotional references to such products or services.

News and current affairs programmes may not be sponsored.

Broadcasts may not be sponsored by any natural or legal person whose principal activity is to manufacture, sell or hire out products or services the advertising of which is prohibited by Norwegian legislation or rules issued pursuant to Norwegian legislation. Political party organisations may not sponsor broadcasts.

The King will issue further regulations on the sponsorship of programmes, including rules on sponsorship of programmes broadcast by the Norwegian Broadcasting Corporation Ltd.

Chapter 4. Retransmission via cable networks

Section 4-1. Scope

The provisions of this chapter do not apply to cable networks limited to 25 buildings and/or 100 households.

Section 4-2. Right to retransmission

Simultaneous and unaltered retransmission by way of cable networks of broadcasts sanctioned by law does not require a special licence.

Agreements concerning the retransmission of satellite broadcasts shall contain a clause to the effect that Norwegian cable networks may enter into the agreement on equal terms.

The owner or operator of a cable network may transmit information concerning the operation of the network or the programme services offered.

Section 4-3. Obligation to retransmit broadcasts, etc.

The King may issue regulations to the effect that certain broadcasts shall be retransmitted through cable networks, and specify conditions concerning such transmissions. The Mass Media Authority may in special cases reduce the number of broadcasts subject to obligatory retransmission.

The owner or operator of the cable network shall, in accordance with rules prescribed by the King, transmit announcements from government authorities when it is of major importance to do so.

Section 4-4. Choice of broadcasts

The cable subscribers may decide which broadcasts are to be retransmitted through the cable network in addition to the broadcasts subject to obligatory retransmission pursuant to Section 4-3.

The owner or operator of the cable network shall inform the subscribers of available broadcasts and of the conditions governing the reception and transmission of such broadcasts.

The King may issue regulations concerning procedures, etc., pertaining to the choice of broadcasts.

Section 4-5. Prohibition against retransmission

The Mass Media Authority may prohibit the retransmission of television channels which

- a) broadcast advertising in contravention of Norwegian law,
- b) broadcast programmes containing pornography or violence in contravention of Norwegian law,
- c) broadcast programmes which may have a harmful effect on children or young persons, when retransmission takes place at a time of day when children or young persons constitute a substantial proportion of the viewers, or
- d) broadcast programmes which Norwegian courts have ruled to be in contravention of Section 135 a of the General Civil Penal Code.

The King will issue further regulations concerning exemptions from the prohibition in the first paragraph a). The King will issue further regulations on procedures, etc., in connection with prohibitions under the first paragraph a), b), c) and d).

Section 4-6. Appeals, appeals authority

The subscribers and the owner or operator of the cable network may appeal to the Mass Media Authority against decisions relating to the retransmission of cable broadcasts pursuant to the provisions of this chapter, including decisions concerning the choice of broadcasts.

The parties are bound to observe the orders and decisions of the Mass Media Authority.

The King will issue further regulations concerning time limits and limitations on the right of appeal, the appeals authority and the procedure relating to appeals.

Chapter 5. Rectification

Section 5-1. Any natural or legal person whose rightful interests have been infringed by factually incorrect information presented in a broadcast programme shall be entitled to rectify the assertions made. A claim regarding rectification must be presented to the broadcaster concerned no later than three months from the day the programme was broadcast. A claim for rectification may be rejected if endorsing it would entail a criminal act or involve the broadcaster in liability.

The right pursuant to the first paragraph applies to broadcasters under Norwegian jurisdiction.

Chapter 6. The Norwegian Broadcasting Corporation Ltd.

Section 6-1. Organisation, ownership, purpose, etc.

The Norwegian Broadcasting Corporation Ltd. is a limited company. The Companies Act applies to the Norwegian Broadcasting Corporation Ltd., unless otherwise provided in this Act.

The State shall hold all shares in the Norwegian Broadcasting Corporation Ltd.

The purpose of the Norwegian Broadcasting Corporation Ltd. is to provide public service broadcasting and related activities. The Norwegian Broadcasting Corporation Ltd. may participate in other activities through subsidiaries. The King may issue regulations laying

down further rules on accounting matters between the Norwegian Broadcasting Corporation Ltd. and subsidiaries.

Section 6-2. The Board of Directors

The Board of Directors has no authority in regard to current programme activities.

The members of the Board of Directors may participate in the deliberations of the Broadcasting Council.

Section 6-3. The Director-General of Broadcasting

The Director-General is the managing director of the Norwegian Broadcasting Corporation Ltd., and is responsible for current programme activities.

The Director-General participates in the deliberations of the Broadcasting Council. The Director-General may also participate in the deliberations of the regional programme councils.

Section 6-4. Financing, etc.

The Norwegian Broadcasting Corporation Ltd.'s activities are financed by licence fees, sales revenues, etc. The activities can not be financed by advertising on the Norwegian Broadcasting Corporation Ltd's public service channels. The Norwegian Broadcasting Corporation Ltd's teletext services are not regarded as part of its public service provision. The King may issue regulations laying down further rules on advertising on the Corporation's teletext services. Licence fees are laid down by the Storting.

Section 6-5. (Repealed by Act No. 32 of 22 May 1998, with effect from 1 June 1998.)

Chapter 7. The Broadcasting Council and the Regional Programme Councils

Section 7-1. The functions of the Broadcasting Council

The Broadcasting Council shall discuss and express its opinion on the general programme policy of the Norwegian Broadcasting Corporation Ltd.

The Broadcasting Council shall express its opinion on programme matters submitted to it by the Director-General, or on programme matters which the Council itself sees reason to take up.

The Board of Governors and the Director-General may invite the Council to give its opinion in administrative and financial matters.

The King may issue instructions to the Broadcasting Council.

Section 7-2. The composition of the Broadcasting Council

The Broadcasting Council comprises 14 members, each with a personal deputy. The Storting appoint eight members, one of whom shall be the Director of the Sámi Programme Council. Six members, including the Chairman and the Vice-Chairman, are appointed by the King.

The members are appointed for a term of four years. A member may be reappointed for one term only.

The Chairman, or a member authorised to represent him, may attend the Board of Directors' meetings and take part in its deliberations.

Section 7-3. The Regional Programme Councils

The Regional Programme Councils shall express their opinion on the general programme policy of the Regional Offices and on programme matters which the Director-General or the Director of the Regional Office concerned submits to the Council, or which the Council itself sees reason to take up.

The Director-General and the Director of the Regional Office may invite the Council to express its opinion on administrative and financial matters.

A programme council shall be appointed for each Regional Office.

The Regional Programme Councils comprise five members, each with a personal deputy, who are appointed for a term of four years by the County Council. A member may be reappointed for one term only. The King will issue rules concerning the appointment and composition of Regional Programme Councils in cases where a Regional Office serves more than one county.

The King may issue further rules on the functions and procedure of the Regional Programme Councils.

Chapter 8. Sale of equipment, fees and charges, collection, etc.

Section 8-1. The right to possess television and radio receivers

Any person is entitled to possess a television or radio receiver.

The transfer of a television or radio receiver from one person to another shall be reported to the Norwegian Broadcasting Corporation Ltd., which issues regulations concerning the reporting requirement and exemptions from this requirement.

Section 8-2. The importation and sale etc., of television and radio receivers

The importation, domestic sale, hiring out or lending of television and radio receivers, including aerials, shall be reported to the Norwegian Broadcasting Corporation Ltd., which issues regulations concerning the reporting requirement and exemptions from this requirement.

The Norwegian Broadcasting Corporation Ltd. determines what is meant by accessories and parts for television and receivers.

The King may issue regulations attaching such conditions to importation and sale etc., as mentioned in the first paragraph, as are deemed necessary to ensure that television and radio receivers etc., are of a reasonable technical standard.

Control measures may be established to ensure that the reporting requirement of the first paragraph, and conditions attached pursuant to the second paragraph are met. For this purpose, and to the extent deemed necessary, access may be demanded to recorded accounting information, agreements and other documents of significance for control, and to the premises where dutiable equipment is manufactured, stored or sold.

The ministry issues regulations on control procedures.

Section 8-3. Licence fees and additional charges

The Storting determines the licence fees for the possession of television and radio receivers and additional charges in the event of overdue payment and failure to report pursuant to the rules of Section 8-1 second paragraph.

The Norwegian Broadcasting Corporation Ltd. issues regulations on the collection of fees and interest on overdue payment.

The Norwegian Broadcasting Corporation may, by regulations or individual decision, grant complete or partial exemption from the payment of fees or duties when special reasons obtain for doing so.

Regulations issued pursuant to the second and third paragraphs are subject to approval by the ministry.

Section 8-4. Security for and collection of fees and charges etc.

Security for overdue licence fees and additional charges is provided for by a lien on the receiver and accessories or parts. Except in cases where Act No. 37 of 2 June 1978 relating to the bona fide acquisition of chattels applies, the said lien ranks above all other rights to the object, even where the latter is transferred to a new owner. Should the lien lapse under the provisions of the Act relating to the bona fide acquisition of chattels, it passes to any subsequent television or radio receiver etc., that the debtor acquires. However, the lien ranks below a valid seller's lien.

In addition to constituting grounds for enforcement by forced sale under Chapter 8 of the Enforcement Act, overdue lien claims also constitute grounds for surrender under Chapter 13 of the Enforcement Act. In such case the receiver etc., may be sold to pay the lien claim in the manner provided by regulations issued by the King.

Licence fees and additional charges are also enforceable by execution.

In the event that the State Agency for the Recovery of Fines, Damages and Costs is instructed to collect a claim as mentioned in the third paragraph, it may do so by making deductions in pay or other similar remuneration under the rules of Section 2-7 of the Creditors Security Act. The State Agency for Recovery of Fines, Damages and Costs may also collect such a claim by establishing an attachment charge provided statutory protection for the claim can be established by means of registration in a register or by notification to a third party, cf. Chapter 5 of the Mortgages and Pledges Act, and the attachment proceedings can be held at the office of the State Agency for the Recovery of Fines, Damages and Costs pursuant to Section 7-9 first paragraph of the Enforcement Act.

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

Section 9-1. Prohibition against broadcasting, etc.

It is prohibited to establish or engage in broadcasting on board ships, aircraft etc., and on any facilities operating on or above international waters if the broadcast is liable to be received in Norway, Denmark, Finland or Sweden or any other state signatory to the European Agreement of 22 January 1965 for the Prevention of Broadcasts transmitted from Stations outside National Territories, or if it interferes with radio reception in the said countries. Radio reception encompasses broadcasting as well as radio navigation, air navigation, etc.

Section 9-2. Prohibition against complicity, etc.

It is prohibited to assist in the passage through, or the presence in, Norwegian territory - including sea and air territory - of ships, aircraft etc., or any facilities which serve or are intended to serve broadcasting purposes in or above international waters, even when the broadcast is not of the type mentioned in Section 9-1. This prohibition does not apply where an emergency situation makes it absolutely necessary to enter Norwegian territory in order to save human lives, a vessel or cargo.

Section 9-3. Regulations prohibiting complicity

The King may issue regulations prohibiting complicity on Norwegian territory - including sea and air territory - in broadcasting in or above international waters, which may include prohibiting the establishment or operation of offices for such activity, the contribution of financial or technical assistance, advertising or promotion and the supply or transportation of equipment, materials, magnetic tapes, etc., in respect of such activity.

Regulations as mentioned in the first paragraph may also prohibit complicity outside Norwegian territory, insofar as such complicity involves activities prohibited under Section 9-1.

Chapter 10. Penalties, entering into force of the Act, etc.

Section 10-1. Penalties

A person shall be liable to fines or imprisonment for a term not exceeding six months if he wilfully or negligently

- a) violates the provisions of Chapters 2, 3, 4, Sections 8-1 and 8-2, or any regulations issued pursuant to the said provisions,
- b) violates the conditions laid down in any licence issued pursuant to Section 2-1 or Section 2-2,
- c) violates Section 9-1 or Section 9-2 or any regulations issued pursuant to Section 9-3,
- d) is accessory to offences mentioned in a), b) or c).

Where the violation has been committed to further the interests of the enterprise, or the enterprise has benefited from the violation, this should be regarded as an aggravating circumstance for the purpose of assessing a sentence pursuant to the first paragraph.

The penal provisions of the first paragraph c) and d) apply irrespective of the limitations imposed by Sections 12, 12 a) and 13 first and second paragraphs of the General Civil Penal Code. Only nationals or residents of Norway, Denmark, Finland or Sweden may be held criminally liable for violation of regulations issued pursuant to Section 9-3.

Violations of penal provisions in this section are deemed to be misdemeanours.

Section 10-2. Warning

Where a violation of this Act or of provisions or conditions laid down pursuant to this Act has been committed by a person acting on behalf of a person or enterprise that is entitled to pursue broadcasting activities or that has been granted a licence pursuant to Section 2-1 or 2-2, the Mass Media Authority may issue a warning.

Section 10-3. Violation charge

The Mass Media Authority may upon violation of Chapter 3 of this Act or of regulations laid down pursuant to Chapter 3 impose a violation charge payable to the State, calculated in accordance with further rules prescribed by the King. The same applies in the event of violation of Section 2-8 of this Act or regulations issued pursuant to that Section.

A violation charge shall be imposed on any person who pursuant to Section 2-1 has or has been given the right to operate the broadcasting or local broadcasting services in question. The King may issue rules concerning increased charges in the event of repeated violation. The Mass Media Authority may in special circumstances waive an imposed violation charge.

Any violation charge imposed is enforceable by execution. The King may issue further rules concerning the implementation of the provisions of this section, including recovery and time-limits for payment. It may be determined that interest shall be paid on a violation charge.

Section 10-4. Time-limited prohibition against the broadcasting of advertisements, revocation of a licence, etc.

Where a provision of Chapter 3 or of regulations laid down pursuant to Chapter 3 has been violated by someone acting on behalf of a broadcaster, the Mass Media Authority may prohibit that company from broadcasting advertisements for a time-limited period.

In the event of repeated or serious violations of this Act or of provisions or conditions laid down pursuant to this Act committed by someone acting on behalf of a person or enterprise that has been granted a licence pursuant to Section 2-1 or Section 2-2, the Mass Media Authority may revoke the licence. Such revocation may be time-limited.

The King may issue further rules concerning decisions to prohibit advertising and the revocation of licences, including the broadcaster's duty to provide information.

Section 10-5. Entering into force of the Act, etc.

This Act shall enter into force in whole or in part on the date the King decides.

On the same date the following shall be repealed: