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## **Law No. 97/2013**

### **on Audio and Audio-Visual Media Services in the Republic of Albania<sup>1</sup>**

Pursuant to the Article 78 and 83 cause 1 of the Constitution, upon the proposal of a group of MPs,

#### **The Assembly of the Republic of Albania**

**Decided:**

#### **CHAPTER I**

##### **General provisions**

##### **Article 1**

###### **Object**

This law regulates the activity of the audiovisual media and of their supporting services, on bases of the neutral technology principle in the territory of the Republic of Albania.

##### **Article 2**

###### **Field of application**

This law applies for the linear audiovisual broadcasting, non linearaudiovisual broadcasting and their supporting services. This law does not apply for the written media.

##### **Article 3**

###### **Definitions**

In this law, the following terms will have the following meanings:

1. "Subscription" means the service contract, concluded between paid audiovisual media service provider and the recipient of these services.
2. "Conditional access shall mean any technical measure and/or arrangement whereby access to the protected service in an intelligible form is made conditional upon prior individual authorization
3. "AMA" Audiovisual Media Authority.
4. "Receiver device" means the union of the electronic devices that realize reception and opening of the audio and/or visual broadcasting for end-users and any other device or programme related to it for this purpose.
5. "Electronic and Postal Communications Authority or AKEP" (EPCA) means the responsible regulatory authority for electronic communications, as assigned under the Law No. 9918 date 19.5.2008 "On Electronic Communications in the Republic of Albania",
6. "Teleshopping windows" mean direct provisions to the public during the broadcasted that last at least 15 minutes, aiming the sale of goods or services, including real estate, personal property or other rights, against payment. Teleshopping windows may include whether or not the possibility of immediate payment against delivery of goods, services or other real and intellectual rights subject thereof.
7. "Secret audiovisualcommunication with commercial nature" means the audio and/or visual presentation the goods, services, denomination, brand of product or of the activities of a producer of goods or provider of services in programs when such presentation, from the media service provider, intends to serve as advertising and might mislead the public on its nature. Such a statement is deemed to have intended to serve as an advertisement, when made against payment or other benefits.
8. "Audiovisual commercial communication" means the audio message or the audio/non-audio image which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such public announcements accompany or

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<sup>1</sup>This law is fully aligned with Directive 2010/13/BE European Assembly and Council, dated 10 March 2010 "On the coordination of certain provisions laid down by law, regulation or administrative acts in Member States concerning the provision of audiovisual media services" (Directive on audiovisual media service, codified version), Number CELEX: 32010L0013, Official Journal of the European Union, Series L 95 of 15. 4. 2010.

are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audio and audiovisual commercial communication are:

- a) advertising in audiovisual services;
- b) sponsoring;
- c) direct sales;
- d) teleshopping windows;
- e) product placement in programs.

9. "Community", in the sense of this law, means a collection of individuals in a specific geographic location or the community of individuals who have a special interest in common.
10. "Community with special senses' (ability) needs" means the community with complete or partial deficiency of sight or hearing, whose ability to perceive audio or audiovisual signals is limited to the extent that makes it impossible for the enjoyment of the right to information.
11. "General Support/coverage" means the coverage from a fee broadcasting service for at least 95 percent of the population in the Republic of Albania.
12. "Minister" means the minister responsible for the area of electronic communications.
13. "Terrestrial devices for the distribution of a broadcasting service" means any instrument for distributing such a service by waves.
14. "Multiplex" means a technical device for digital signals' transmission and for their joining in a digital data flow.
15. "Application programme interfaces" mean programming adapters between the applications available from AAMSP<sup>2</sup> and capacities of improved digital audiovisual broadcasting.
16. "Great importance Event" means an event with public importance in Albania, or in some parts of it, with sportive or non-sportive nature, which meets at least two of the following conditions:
  - a) the event has a special and widespread interest in the country, where interested persons are others than those who usually attend such events through television;
  - b) the event enjoys wide recognition from the general public, it has a significant cultural impact, strengthens cultural identity and there is no political party content;
  - c) the event involves the participation of the national team to a particular sport discipline, to a significant international event or competition,
  - d) historically, the event has been broadcasted free on TV and there was a high visibility in the country.
17. "Audiovisual media service provider (OSHMA/AAMSP)" means a physical or juridical person that has the editorial responsibility for the choice of the the audiovisual content of the audiovisual media service and determines the manner in which it is organised;
18. media service provider"
19. "Digital network operator" is the juridical person who provides the technical infrastructure for digital terrestrial distribution and merge of digital programs and additional services included in the digital data flow.
20. "Event organizer" is the physical or juridical person that has the legal right to sell and distribute the event.
21. Conditional access device shall mean any equipment or software designed or adapted to give access to a protected service in an intelligible form;
22. Illicit device shall mean any equipment or software designed or adapted to give access to a protected service in an intelligible form without the authorization of the service provider;

"Editorial responsibility" means the exercise of effective control both over the selection of the programmes and over their organisation:

a) in a chronological schedule, in the case of television broadcasts,

b) in a catalogue, in the case of on-demand audiovisual media services.

23. "Independent productions" mean the activities of audiovisual works production, which

satisfy one of the following conditions:

a) if they are not controlled or connected t licensed broadcasters or authorization to broadcast;

b) when for a period of three years, at least 90 percent of these products are not intended for a single broadcaster.

24. "Independent Producer" means a physical or juridical person, who is not involved in the production of audiovisual media services, who produces films, advertising programs, broadcasting or programmes with individual audiovisual nature.

25. "Radio Program" means the entirety of audio messages that make an individual element within a list or catalogue created by the service provider, the form and content of which are comparable to the form and content of radio broadcasting.

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

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<sup>2</sup>Audio and/or audiovisual media service providers

programmes include feature-length films, 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 by a public or private undertaking or by a natural person for self-promotional purposes 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;

28. "Institutional Advertising" means the advertising ordered by a state institution, to promote the activities of the institution, in order to encourage, promote and protect the values and attitudes that consolidate democracy, welfare, public health and national security.

29. "Interactive advertising" means a type of advertising, which allows the user to access more detailed contents of the advertising from the editorial part of the programme;

30. "Split-screen advertising" means advertising that is shown at the edge of the screen simultaneously with the programme broadcast as scrolling text, logotypes, short advertising spots or other type of advertising;

31. "Political advertising" means advertising with fundamental political content, which are intended to achieve political objectives.

32. "Virtual Advertising" means the advertising created through graphic processing with digital technology to insert images in a TV programme broadcasted directly or through registration.

33. "Usual Advertising" means broadcast of advertising, the duration of which does not exceed 90 seconds.

34. "Extended Advertising" means a broadcasting with profiting purposes exceeding 90 seconds, which gives the public detailed information about goods, services, companies, individuals and commercial organizations, activities or ideas.

35. "Television advertising" means any form of publication, broadcasted by a television broadcaster, against payment or other benefits or a broadcasting with self-advertising purposes by a public or private enterprise or by a physical person, connected with its profitable trading activities, or professional expertise in order to promote the provision of goods or services, including real estate, other rights and obligations against other payment.

36. "Electronic communications networks" means the broadcasting systems, and if exist, the commutation or routing systems and other sources, which allow the conduct of signals through conductors, radio, optic means or other electro-magnetic means including satellite networks, fixed networks, with commutation of circuits or with commutation of packets, including internet, movable terrestrial networks, systems of electric cable networks, for as long as the last ones are used for reasons of signal broadcasting, networks used for broadcasting audio-visual signals and televising cable networks, despite the information it conveys.

37. "Sponsorship" means any contribution made by a public or private juridical person or a physical person who is not engaged in providing audiovisual services or in the production of audiovisual works, in order to finance audiovisual media services or programs with the purpose of promoting the name, trademark, image, activities or products of that physical or juridical person.

38. "Audio broadcasting service" means a broadcasting service, which promotes or distributes news, audio, signs or signals, in order to obtain them directly from the wide public.

39. "Public broadcasting service" includes the fee broadcasting services of RTSH/ART (Albanian Radio Television)

40. "Audiovisual programme service" means a set of audiovisual programs of any kind and that is spread or distributed directly or indirectly to be obtained by the general public

41. "Protection services" are:

a) services of audio and / or audiovisual broadcasting and services of society Information provided to profit on the basis of the limited access,

b) the provision of limited access services referred to in the letter "a" of this section.

42. "On-demand audio and audiovisual media services" mean the non-linear audiovisual media services provided by a media services provider at the moment chosen by the user and upon an individual demand of the user at his individual request on the basis of the catalogue of programmes provided by the media service provider;

43. "Audiovisual media service" means a service under the editorial responsibility of a media service operator, whose main goal is to provide informational, entertaining or educative programmes, to the wide public through electronic communications networks. One such audiovisual media service is either a television broadcast or audiovisual media service, according to the request and / or audiovisual commercial communication, as defined in this law.

44. "Widescreen television service" means a television service that consists wholly or partly of programs produced to be displayed in a widescreen format. The reference format for wide screen television service is the format 16:9.

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

46. "Nonlinear Broadcasting" means the provision of the audio and / or audiovisual programme service for reception, according to individual demand and time selected by the user.
47. "Linear broadcasting" means the provision of the audio and / or audiovisual programme service for simultaneous reception from listeners and / or viewers.
48. "Free broadcasting" means the broadcasting, for the reception of which is not paid any fee to the subject that provides this service.
49. "Community Broadcasting" means the audio broadcasts to the community, provided not for profitable purposes, separate from the public and private broadcasting service provided under the provisions of this law, for social development and satisfaction of community interests.  
There are considered as community broadcasting the special audio broadcasts intended only for people with partial or complete deficiency of sight.
50. "Television broadcasting" is a linear audiovisual media service provided by a AAMS P for simultaneous viewing of programmes on the basis of a programme schedule;
51. "Product placement" means any form of audio and/or audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, in return for payment or for similar consideration;
51. "European works" are:
- a. works originating in Member States of the European Union;
  - b. works originating in countries which are party to the European Convention on Transfrontier Television of the Council of Europe, ratified by the Assembly of Albania by law no. 8525, dated 09.09.1999 "On the Ratification of the European Convention on Transfrontier Television" and that meet the requirements specified in the letter "c" of this section;
  - c. works mentioned in the letters "a" and "b" of this section are mainly produced by authors and works with employees who reside in one of the Member States referred to in the letter "a" and "b" of this section and that fulfil one of the following conditions:
    - i. are produced by one or more producers established in one or more of these states;
    - ii. the production of works is controlled and effectively monitored by one or more manufacturers established in one or more of these states;
    - iii. the contribution of co-producers of these states, in the total cost of common product, is dominant and the co-production is controlled by one or more producers established in these states;
  - d. co-produced works in the framework of agreements related to the audio and / or audiovisual broadcasting sector, concluded between the EU and third countries and that satisfy the conditions set out in these agreements;
  - e. works which are not European within the meaning of the letters "a" and "b" of this section, but that are produced within the framework of bilateral agreements for joint (common) production, concluded between the European Union member states and third countries are considered European works, when co-producers from the European Union provide the majority of the costs of production and when production is not controlled by one or more producers established outside the territory of the European Union member states.
53. "Radio-televising broadcasting coverage area" means the territory in which the signal intensity complies with the quality criteria for signal reception prescribed by international acts on radio-televising broadcasting.

#### **Article 4**

#### **The main principals on the activity of audio-visual broadcasting**

1. The audio-visual broadcasting is evolved according to these principles:
  - a. the activity of audio-visual broadcasting is free;
  - b. the activity of audio-visual broadcasting respects impartially the right for information, political and religious convictions, personality, dignity and other fundamental human rights and freedoms. This activity respects especially the interests and legal and moral requirements on the protection of minors;
  - c. the activity of audio-visual broadcasting does not allow the breach of the constitutional order, sovereignty and national integrity;
  - d. the activity of audio-visual broadcasting secures objective and impartial information of the public, presenting accurately facts and events, and also by respecting the free formation of the opinion;

e. the activity of audio-visual broadcasting guarantees the right of every citizen to receive services of audio and audio-visual broadcasting provided to the public by the operators of audio-visual services that exercise their activity in the territory of the Albanian republic.

2. The audio-visual service operators, during their activity, are guided by these principles:

- a. guaranteeing the freedom of expression,
- b. guaranteeing the right for information,
- c. keeping the secret of information sources,
- d. respecting and guaranteeing the protection of private life,
- e. prohibition of the broadcasts that simulate the intolerance among countries,
- f. prohibition of broadcasts that simulate or justify violence,
- g. guaranteeing the right of answer,
- h. guaranteeing the copyright and other rights related to it,
- i. respecting the good neighbourhood among populations,
- j. respecting the literary standard of the Albanian language.

## **Article 5** **The freedom of reception and re-broadcasting**

Albania secures the freedom of reception and re-broadcasting from the European Union Member states and from third European states, that are members to the European Convention on Transfrontier Television of the Council of Europe, and in special cases it can limit the freedom of broadcasting such services only pursuant to this international agreement and to this law.

## **CHAPTER II** **Audio-visual Media Authority (AMA)**

### **Article 6** **Status of the AMA**

1. The AMA is the regulatory authority in the field of audio and/or visual broadcasting programmes and other supportservices in the territory of the Republic of Albania.

2. The AMA is a juridical person, independent, with head office in Tirana.

3. The AMA operates pursuant to and for the implementation of the provisions of this law and of the legislation in force in the Republic of Albania.

### **Article 7** **Non-compliance and conflict of interest**

1. The AMA members cannot be individuals who are:

- a) members of parties and of political associations, run for MPs or have been elected MPs during the two recent legislatures, individuals who have run for mayors in the latest elections or have exerted the task of a mayor in the past, of the member of the Council of Ministers or the Prefect over the last three years, as well as the ones who are members of the **Complaint Commission, EPCA** or staff of the latter.
- b) are people connected to, according to the provisions of the law no. n9367 dated on 07.04.2005 “On the prevention of the conflict of interests in the exercising public functions”, or own a part of the capital or shares of the commercial companies as well as other rights in the audio-visual media field, advertisement, products of content of the audio-visual broadcasts, networks of the electronic communication or employed people, members of the steering or advisory bodies of these structures or connected to these subjects by other contracts.

2. AMA members should declare:

- a) any interest or connection with any subject licensed by AMA,
- b) any potential interest in any license that the AMA has realized/given or aims at realizing, and cannot take part in the discussion or decision-making of issues related to these interests or connection, that make up cases of disqualification, pursuant to the article 37 of the Administrative Procedure Code.

3. The AMA drafts a code of conduct for adjusting its activity for issues defined in clause 2 no later than three months from the entry into effect of this law, pursuant to the specifications of this Law and

Law no 9367, dated 7.4.2005 "On the prevention of the conflict of interest in exercising public functions" and approves codes of the same kind on administration of AMA and of the boards that can be established.

4. The AMA members must not be financially or politically influenced and must always act to accomplish or deepen the objective of the AMA.

### **Article 8** **Composition of the AMA**

1. The AMA is composed of the Chairman, the Deputy Chairman and five members.
2. Candidates for members in the AMA can be every person who has a work experience not less than 10 years in the fields of:
  - a) Media in general,
  - b) Public, commercial or non-commercial service of audio-visual broadcasts,
  - c) Audio-visual broadcast's content products,
  - d) Media technologies,
  - e) Economy, administration and rules of competition,
  - f) Issues of development of Albanian language,
  - g) Issues related to people with limited abilities and to other vulnerable groups,
  - h) Art, culture and music,
  - i) Justice, law or public administration,
  - j) Science, environment and technologic development,
  - k) Consumer protection,
  - l) social, educational activities and activities for development of local, public and national entities that are related or have a direct impact on the audio-visual activities, as defined in this Law.
3. The Chair and Deputy Chair of the AMA are appointed full-time. The salary of the Chair, of the Deputy Chair and payment of the other five members of the Council are set compliant to provisions of Law no 9584, dated 17.7.2006 "On Salaries, Payments and Structures of Independent Constitutional Institutions and Independent Institutions Established by Law."

### **Article 9** **Appointment (election) of the AMA members**

1. The AMA members are appointed by the Assembly for a five years term, with the right of renewal only once.
2. The Committee of Education and Public Information Means, with 30 days since the creation of a vacant position, invites through public information means, the following subjects to bring the candidacies:
  - a. electronic media associations or groups;
  - b. press media associations;
  - c. electric and electronic engineering professors and associations;
  - d. professors of law, of journalism-communication and economy, lawyer associations or the National Bar Chamber;
  - e. non-profitable organizations working in the field of human rights, child rights or researches in public policies, or representatives of associations that operate in the field of disabled persons' protection.

The above subjects propose the candidacies within 30 days from the receipt of invitation.

3. The Education and Means of Public Information Committee makes the selection in conformity with the Articles 7 and 8 of this law, at least among 4 candidacies for each seat of AMA member.
4. In order to select the alternative candidates for each seat of the AMA member, the Education The Education and Means of Public Information Committee applies the following procedure:
  - a. it considers all the candidacies presented from proposing subjects,
  - b. the administered candidacies, compliant to the above-cited proposals, undergo a selection procedure one by one. The selection procedure is applied according to an order - once from the Assembly majority representatives and ones from the opposition members.In each case, the Committee is attentive in keeping the balance, three candidates supported by the Assembly majority, three supported from the opposition. The candidates for AMA members are

proposed to the plenary session for approval. The selection of each candidacy must be argued by guaranteeing the respecting of the principle of non-violation of the personal and professional integrity of candidates.

5. After the end of mandate, the AMA member remains in his charge until the election of the new member.

### **Article 10** **The appointment of the Chair of AMA**

1. The seventh member and also Chair of the AMA, is elected no later than 10 days after the procedure for electing members of the AMA, according to Article 9 of this law.

2. Not later than 30 days prior to the expiration of the mandate of the Chair of AMA, the Albanian Assembly publishes the announcement for the vacant position of AMA's Chair. Every citizen who meets the provisions of Article 7 and 8 of this law may be presented as a candidate for the Chair of the AMA. Application must be accompanied by documentation proving the fulfilment of the legal criteria for the AMA's member.

3. The list of candidates is passed to the Education and Means of Public Information Committee to verify the fulfilment of the criteria set out in the law. In this list cannot be included or, if included, are excluded candidates proposed for members of the AMA's, according to clause 4 of Article 9 of this law. The Committee, after verification of the candidates, applies the following procedure:

- a) The Committee identifies four candidates who received the greatest support among Committee members. Each member of the Committee can support up to four candidates;
- b) If two or more candidates have the same support, their selection is done by lottery;
- c) The representatives of the Assembly minority representatives in the Committee exclude two of the four short-listed candidates. The remaining candidates pass to the Assembly for voting;
- d) The Chair of the AMA is elected the candidate who receives more than half of the votes of members of the Assembly (MP).

### **Article 11** **AMA's Deputy Chair**

1. The AMA selects as deputy chair one of AMA members, selected on the basis of the opposition's proposal support, according to clause 4 of Article 9 of this law.

2. Selection takes place by secret ballot, according to the following procedure:

- a) on a ballot are written the names of three members of the AMA, according to clause 1 of this Article;
- b) each of the members vote by making the respective mark for one of the names in the ballot;
- c) a member who has received 5 votes is elected as AMA's deputy chair.
- d) if none of the candidates received the required number of votes, then is made a second round of voting. The member who receives the most votes in the second round is elected as the deputy chair of the AMA. The voting takes place within the same day.

3. The meeting for the election of the Deputy Chair, when the Chair is absent, is chaired by the oldest member (in age) of the AMA and the election procedure must be performed in the presence of a notary.

### **Article 12** **Dismissal**

1. The Chair, Deputy Chair or any AMA members is dismissed (removed) from his charge from the body that had appointed him/her when:

- a) is convicted from the court with a final decisions for having committed of a criminal offence;
- b) becomes permanently incapable to work due to health conditions;
- c) fails to take part in over 1/3 of AMA meetings within one year;
- ç) is certified that have been violated the obligations of the article 7 of this law;
- d) is removed the ability to act;
- e) he or she resigns.

2. The dismissal of a member of the AMA may be required by the Committee for Education and Public

Information Means, or by not less than 5 members of the AMA. The assembly shall review the application within 10 days.

3. Before a member of the AMA is dismissed, he is given the opportunity to submit his claims before the Committee for Education and Public Information Means. The decision to dismiss the Chair, Deputy Chair, a member or more than one member must be based on the law and justified for the reasons that lead to his dismissal. The decision of the Assembly must be published.

4. Chair, Deputy Chair and each member of AMA may resign in writing at any time. The resignation is submitted to AMA at the next meeting and sent to the Assembly as soon as possible.

5. When it is ascertained one of the cases specified in clause 1 of this Article, the Chair of AMA shall notify in writing the Assembly within 5 days.

6. In all cases of dismissal, it is elected a substitute, following the procedure provided for the election and for a time equal to the time that had remained to the dismissed predecessor.

### **Article 13** **Quorum and decision-making**

1. The AMA meetings are valid when no less than four members take part in them.

2. The AMA decisions are valid when the majority of members vote in favour, excluding cases provided differently by this law.

3. The AMA meetings are held pursuant to the internal regulation approved by the AMA and are called according to a programme approved preliminarily by the Chair or at least by three members.

4. In cases when the voting result is equal (runoff) and the voting process has not been secret, the Chair's vote is definitive.

5. The decision-making procedure, their execution and the call of meetings out of the schedule, are compiled according to the dispositions of the law no.8480 dated on 27.05.1999 "On the functioning of collegial bodies of the state administration and public entities" and are part of the Internal Regulation. The regulation is proposed by the Chair and approved by qualified majority.

### **Article 14** **Competencies of the AMA chair**

1. The chair is the leader of the AMA and is responsible according to the provisions of the article 8 of the law 10296 dated on 08.07.2010 "On financial management and audit".

2. He realizes the following main tasks:

- a) Organizes, chairs and monitors meetings and activities of the AMA. In cooperation with the Secretary General and compliant to the Law and rules of the AMA, he leads the activity of AMA administration;
- b) Proposes to the AMA the topics of meetings, agenda, issues to be examined together with the relevant draft-decisions and reports;
- c) Represents the AMA in relations with third parties and with international organizations;
- d) Informs the Assembly on AMA annual activity.

3. In function of his tasks, the Chair issues orders and instructions compliant to the internal regulation.

4. At the absence of the Chair, or when he delegates his tasks, his functions are carried out by the Deputy Chair.

### **Article 15** **Organization and administration of the AMA**

1. The Administration is part of the AMA and it realizes all the necessary preparatory and administrative activity. The criteria of recruitment and promotion (rise in position) are made by the AMA, as per the definitions of Law no 8549, dated 11.11.1999 "On the Status of Civil Servants".

2. The structure and organic/personnel of the AMA are proposed by this institution and approved by the assembly.
3. The AMA administration is led by the Secretary General.
4. The Social insurance, supplementary pensions and other legal privileges for institutions of the same level are also applied by the AMA administration.

### **Article 16** **AMA Secretary General**

1. The AMA Secretary General is the highest ranking servant in the administration of the AMA and is responsible in front of the AMA for running the administration and has managerial responsibility of the authorized employee, according to the provisions of the article 9 of the law no.10206 dated on 08.07.2010 “On financial management and audit”.
2. The Secretary General performs his functions as per the instruction and directions defined by the AMA and he is responsible toward it for the way of implementation of his tasks.
3. The Secretary General can delegate some of his functions to another administration member, according to his need and his assessment, unless such delegation is not possible.
4. The secretary General is chosen by the AMA from the winning candidates of a public competition, compliant to the specifications of Law 8549, dated 11.11.1999 “On the Status of the Civil Servant”.

### **Article 17** **The Duties of the Secretary General**

1. The Secretary General replies for the:
  - a) progress of financial and other AMA resource management, record of accounts and supervision of reports issued for this purpose by the High State Audit,
  - b) assessment of systematization, procedures and practices in realizing AMA financial efficiency while exerting its own functions,
  - c) any issue related to or affecting AMA activity presented in the annual High State Audit report, submitted by the latter to the Assembly.
  - d) any issue related to the expenditure of funds allocated by the state budget for separate projects,
  - e) administration issues of human resources and execution of the legislation into power for the civil servant.

### **Article 18** **Objectives of AMA activity**

1. The AMA, while performing its own functions, shall make sure that:
  - a) all audio-visual services best serve the needs of the citizens of the Republic of Albania, taking into account the language and the variety of traditions, religious beliefs, culture and moral of the citizens;
  - b) it preserves and supports the democratic values defined in the Republic of Albania, and in particular the freedom of expression and of media,
  - c) it provides free and various broadcast services.
2. The AMA should encourage:
  - a) the promotion of multiple and free programmes,
  - b) ensuring of multiple and various programmes of a high quality and new programmes from the public and private AAMSP;
  - b) facilities for the public service broadcasters in fulfilling their objectives as stipulated in this Law;
  - c) increase of the variety of audio-visual services,
  - c) realization of a regulatory environment that facilitates development of the broadcast sector in Albania that is attentive to the needs of the audience and viewers and especially for person with special senses’ needs (disabilities).

3. AMA, while performing its own functions, shall make sure that the taking of necessary measures
- a) is in proportion with the objectives set out in this article,
  - b) will approve rules that aim the stable development for AAMSP,
  - c) makes possible and simulates the technological development and its execution on the broadcasting sector.

### **Article 19** **AMA Functions**

1. The main functions of the AMA are to:
  - a) The review of proposals and applications for the exercise of broadcasting services, including applications for digital broadcasting and the issue of relevant authorizations or licenses, in accordance with the law, including the services provided by ART,
  - b) grant and removes licenses and / or authorizations by qualified majority;
  - c) ensures fair competition, ensures at the same time further development of ART,
  - d) cooperation with the Commission for Consumer Protection to ensure consumer protection in the field of electronic media, in the case of unfair practices of AAMSP and of service's provision with abusive prices;
  - d) development of strategies for the provision of broadcasting services in the Republic of Albania;
  - f) supervision of the implementation of the service contract concluded with ART;
  - e) the development and approval of the code and audio-visual broadcasting regulations and other sublegal acts, in accordance with this law;
  - h) drafting and approval of regulations on the procedures and criteria for granting licenses and / or authorizations under the provisions of this law;
  - f) determination of fees for licenses;
  - g) preparation and issuance of guidelines for ART, concerning the fulfilling of its obligations;
  - k) determination of the criteria and regulatory measures for the co-usage of ART broadcasting infrastructure;
  - h) the resolution of disputes between the providers of audio or audio-visual broadcasting services, including disputes with public broadcaster;
  - i) co-operation with the Minister for the drafting of the National Frequency Plan;
  - j) cooperation and consultation with EPCA, the Competition Authority, the Copyright, and other bodies in the fulfilment of the obligations set forth in this law.
2. The AMA, apart from the above functions:
  - a) collects, administrates and publishes information on the broadcast sector in the Republic of Albania, including the applied technology,
  - b) supervises the evolvement of audio-visual media activities in the international level;
  - c) realizes, organizes, supports and promotes research regarding the audio-visual media issues;
  - d) cooperates with other bodies, including the representative bodies within the audio-visual media sector to help in the training activity in the audio-visual media sector;
  - e) cooperates with the homologues bodies of other states;
  - f) undertakes, encourages and takes care of research and other relevant activities, that have to do with the role of media, including cooperation with the broadcaster and other field subjects;
  - g) fulfils effectively the objectives set out in the article 18 of this law.
3. The AMA controls the implementation of this law by the subjects that exercise their activity in this field and in case of violations, it puts sanctions.
  4. The AMA monitors the integrity of programs transmitted by the AAMSP.
  5. The AMA guides the Albanian AAMSP for broadcasting from Albania toward other countries, in accordance with international or regional acts, in which the Republic of Albania is a party.
  6. The AMA, for the implementation of the sanctions provided in this law, cooperates with other public bodies, according to their competence.
  7. The AMA requires from state administration, courts, banks and other relevant bodies, as well as holders of licensed entities - the information it deems necessary to control the accuracy of the data submitted by the applicant. These data are used only for the implementation of the tasks assigned by this law. Their spreading and publication is not permitted.

8. The AMA gives the opinion on the prospective of audiovisual media activity, upon request or mainly.
9. The AMA officially expresses its proposal on the signing and on the correct application of international agreements dealing with audiovisual media.
10. The AMA participates in international activities related to strategy and development prospects of audiovisual media, representing the Republic of Albania and it supports the participation and cooperation of public and private subjects with homologue European and world organizations in the field of audiovisual media. The AMA prepares studies with recommendations for the position of the Republic of Albania in official international negotiations on audiovisual media.
11. The AMA suggests modifications of legislation and regulations, which are dictated by technological development, economic, social and cultural development in the field of audiovisual media.
12. The AMA drafts and approves the internal rules of its administration.
13. The AMA approves its annual draft-budget, reviews and approves the annual balance sheet and annual report on its activities before being presented to the Assembly.
14. At the beginning of each year, the AMA reports for its annual activity, developments in the field of broadcasting and how have been respected by the public and private network the obligations arising from this law. The report is presented to the Education and Means of Public Information Committee and to the Assembly in plenary session.
15. The AMA controls the quality of reception of signals in coverage areas and seeks solutions to public complaints about the quality of the of audiovisual signals' broadcasting.
16. The AMA makes decisions in accordance with its functions and this law.
17. The AMA proposes to the Assembly the organizational structure of the institution.
18. The AMA provides effective use of financial resources.

## **Article 20**

### **Complaint Committee**

1. The **Complaint** Committee is named by the AMA. The Committee is composed of the chair and two members, specialists of the media field, who have a three-year mandate, with a renewal right of not more than once.
2. The scope of work of the **Complaint** Committee is to supervise the implementation of the code and regulations approved by the AMA, dealing especially with respect of the dignity and of other fundamental human rights, in particular the protection of minors, the right to information and public awareness regarding the respecting of moral and ethics norms in the programs of audiovisual services' providers.
3. The main functions of the **Complaint** Committee, in fulfilment of the object of its work, are:
  - a) to supervise the implementation of codes and regulations the AAMSP and ART, as provisions of this Law;
  - b) examine the complaints under Articles 51, 52 and 53 of this Law.
4. To accomplish its functions, the **Complaint** Committee relies on other structures of the AMA.
5. The **Complaint** Committee follows periodically the extent to which a foreign broadcaster's programs, which is wholly or mostly directed to spectators in the Republic solely for informational purposes, are compliant with the broadcasting codes.
6. **Complaint** Committee, with independent expertise, can organize public surveys on ethical problems of the programs. The conclusions derived from the surveys study and public

complaints are reported to the AMA, suggesting the measures for improvement. The results can be published in public information means.

7. Every 6 months, the **Complaint** Committee publishes a summary of the conclusions drawn on the basis of clause 6 of this Article, in a special bulletin published by the AMA.
8. The salary of the **Complaint** Committee members shall be determined in accordance with applicable legislation and will be covered by the AMA.

## **Article 21**

### **The strategy of the AMA**

1. The AMA drafts and approves a strategy reflecting the own way of realisation of its legal functions.
2. The strategy should:
  - a) include the main aims and activities in the fulfilment of the AMA's objectives and the way for the reach of objectives,
  - b) be prepared taking in consideration also:
    - i) The assembly requirements,
    - ii) The suggestions of the Minister,
    - iii) The suggestions of the EPCA, Authority of Competition and other institutions,
    - iv) a form and manner contained in the recommendations that might be issued by the Minister or the requests to be submitted by the Assembly,
  - c) take into account the need for assuring the most fruitful, utile and beneficiary use of its own resources,
  - d) include a fruitful and beneficiary study of the strategy during its implementation time, by excluding the first strategy;
  - e) be at first approved within 5 months from the entry of this Law in effect, and then once in three years,
  - f) include an action-plan of AMA regarding the number, aim and nature of authorizations and/or licenses proposed to be realized over the duration covered by the strategy.
4. The AMA consults with the Compliance Committee for the preparation of the strategy.
5. Prior to the approval of the strategy, the AMA undergoes a public advisory process with different groups of interest on the strategy project.

## **Article 22**

### **The role of the minister**

1. He submits to the Council of Ministers the proposals for policy development of electronic communications networks that support audio and / or audiovisual broadcasting and follows their implementation.
2. Proposes legal acts and regulations for the development of electronic communications networks that support audio and / or audiovisual broadcasting.
3. Submits to the Council of Ministers for approval the National Frequency Plan, as well as works on the harmonization of this plan with international development policies of the frequency spectrum.
4. Monitors the implementation of obligations under international treaties, where the Republic of Albania adheres for the electronic communications networks that support the audio and / or audiovisual broadcasting.

## **Article 23**

### **AMA powers**

1. For the full realization of its functions, AMA has the following powers:
  - a) issues licenses and/or authorizations;
  - b) requires the holders of licenses and/or authorizations to pay the financial obligations toward the AMA;
  - c) ensures the implementation of the terms of licenses and/or authorizations issued by it;

d) undertakes, supports or authorizes studies.

2. The AMA, for the realization of its function, manages its funds under the legislation into force.

#### **Article 24 AMA Financing**

1. The financing resources for AMA are:

- a) incomes from payments for the grant and renewal of licenses and / or authorizations;
- b) income from annual payments of licenses and / or authorizations;
- c) income from administrative processing of requests for applications;
- d) income from fees for broadcasting services determined in tax laws, tax agent's role;
- d) financing from the state budget;
- f) other legitimate sources.

2. The AMA receives financing from the state budget when estimates that some costs are necessary for performing its functions, of a special nature and for which there is no other financing possibility.

#### **Article 25 Determination of (fees)**

1. In order to cover the necessary expenses for performing its own functions, AMA determines, by a special decision, all fees for licenses and / or authorizations of audio and audio-visual broadcasting service providers, other services, and also payments for administrative processing.

2. Fees are determined based on the principle of objectivity, transparency, non-discrimination and proportionality. They differ for public, commercial, local broadcasters' service and for different categories of licenses and/or authorizations. Community radio licenses are exempt from charges/fees.

3. The decision on fees' determination shall specify the manner of collection, payment, management, including:

- a) The methodology of calculation of the relevant fee;
- b) The time and form of realization of payment;
- c) The way of recording and supervising the fees;

4. The payment for the receipt of licenses or authorization is made at the time of receiving the license or authorization. Annual payments are made within the first quarter of each calendar year.

5. Any surplus from the incomes of fees/payments, remaining from the relevant AMA's functional expenses, at the end of the financial year, is kept at AMA's accounts and is included in next year's expenditure plan and must be taken into account in the review of the respective payments for license.

6. AMA makes periodic review of these payments to reflect its administrative costs.

7. The decision on the determination of fees/payments has to be published in the Official Journal.

#### **Article 26 Types of payment**

The types of payments are:

- a) Fee for the receipt of license and/or authorization;
- b) Annual fee for license and/or authorization;
- c) fee for processing the application, documentation, changes to the license and / or authorization.

#### **Article 27 Management of accounts and audit**

1. The AMA keeps the account of incomes and expenses in accordance with Albanian Accounting Legislation.

2. The AMA publishes on its website, a part or all expenses and incomes.

## **Article 28 Reporting**

1. AMA reports to the Assembly no later than the 31<sup>st</sup> of March of each year on the ways of fulfilment of its own functions and activities for the preceding year. An annual report should include the details determined for any kind of scheme mentioned in Chapter X of this Law.
2. The annual report should include the broadcasting developments for persons with disabilities and in particular the development achieved for the reasons determined in the broadcasting regulation.
3. The annual report shall include data on participation of AMA members in the meeting of the previous year.
4. AMA, apart from the annual report, can submit reports on its own functions, pursuant to the request of the Assembly Committee for Education and Means of Public Information.

## **Article 29 Evaluation of effects on the broadcasting market**

1. The AMA, for performing the evaluation of effects in the broadcast field examines the amount in which the broadcast development affects:
  - a. quality, possibility of providing and choice as well as reception of services from viewers and listeners,
  - b. existence of such services in the broadcasting sector,
  - c. effects of technologic developments, novelties and investments in this field,
  - ç. broadcast-related markets
  - d. other issues that AMA assesses reasonable for this purpose.
2. The AMA makes the periodical analysis of various effects in the broadcasting market with the aim of exerting its regulatory functions as appropriately as possible. For this aim, the AMA can cooperate with the relevant public institutions and with the broadcasts.

## **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 the office or its management structure is in the territory of the Republic of Albania and editorial decision-making for audio and/or audiovisual services is realized within this territory.
2. When its office or its management structure is in the territory of the Republic of Albania, but the editorial decision-making for audio and/or audiovisual services is done in an EU country, it is presumed that the media service provider is under the jurisdiction of the Republic of Albania, on the condition that most of the staff engaged in the activities of audio and / or audiovisual services, operates in Albania.
3. When a significant proportion of staff engaged in the activities of audio and / or audiovisual services operates in the Republic of Albania and in an EU country, the media service provider is presumed to be located in the Republic of Albania, if its headquarters is situated in the Republic of Albania.
4. When a significant proportion of staff in the activities of audio and / or audiovisual services does not operate either in Albania or in a EU member state, the media service provider is presumed to be located in the Republic of Albania, if its activity started for the first time in this country, in accordance with Albanian legislation, provided that he maintains stable and efficient relations with the Albanian economy.
5. The provisions of this Law shall also apply to those audio and / or audiovisual media services that, although not included in clauses 1 and 2 of this article:

- a) use a satellite connection from the territory of the Republic of Albania;
- b) do not use a satellite connection from the territory of the Republic of Albania, but use satellite broadcasting space and resources belonging to the Republic of Albania.

6. When a media service provider has its headquarters in the Republic of Albania, but the decisions audio and / or audiovisual media services are made in a third country, or vice versa, the provider is presumed to be located in the Republic of Albania, on the condition that most of the staff/manpower engaged in the activities of audio and/or audiovisual services operates in the Republic of Albania.

7. If the jurisdiction cannot be determined under clauses 2 to 6 of this Article, the competent Member State shall be that in which the AAMSP is located, within the meaning of Articles 49 and 50 of the Stabilisation and Association Agreement between the Republic of Albania and the EU and its member states.

At the date of accession of the Republic of Albania in the European Union, the issue of jurisdiction, in accordance with clause 6 of this Article shall be resolved in accordance with 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 AAMSP-s are classified according to their form of ownership in the capital, the purpose of their activities, the form of the signal distribution and respective coverage of the territory.
2. The AAMSP can be:
  - a) according to the form of ownership in the capital and purpose of activity - public, private, commercial or non commercial services;
  - b) according to the way of distribution - terrestrial, satellite, cable, Internet TV, or in any other form;
  - c) according to territory coverage - national, regional, local or cross-border.

### **Article 32**

#### **General rules on audio and/or audiovisual media service providers**

1. AAMSP shall ensure that the recipient of the service will be informed about:
  - a) name of the media service broadcaster;
  - b) address of his centre;
  - c) contact details including the electronic address or its own website;
  - d) when possible, the regulatory or supervisory bodies of the media service broadcasters.
2. The AAMSP make easily accessible, directly and permanently, the identification logo for the service recipients.
3. The audio and/or audiovisual media service providers make easily accessible, in the time intervals determined by the AMA, the name of audio service provider.
4. The AAMSP do not broadcast programmes with content that incite hate on grounds of race, gender, religion, ethnic, national, and any other form of discrimination.
5. Broadcasting services take into account the needs of persons with special needs/disabilities.
6. The AAMSP should broadcast programs, including cinematographic works, in accordance with the terms and conditions for which have signed agreements with the holders of these works' rights.

### **Article 33**

#### **The Duties of the AAMSP**

1. The audio and/or audiovisual media service providers shall:
  - a) transmit and present the broadcasted news in a real, impartial and objective way;
  - b) ensure that the treatment of events, including issues that are topics of public debates, are fair for all the subjects interested on these issues and to present it truly and impartially;
  - c) dedicate the necessary space in broadcasting to the local actuality issues;

- d) not infringe the dignity and fundamental human rights;
- e) respect the rules of ethics and public moral and shall not broadcast programs that may encourage criminal acts;
- f) not violate the right of privacy of private life of the individual in each program reported by AAMSP-and the tools used to realize these programs;
- g) not transmit pornographic programs without ensuring the protection of minors through limited access devices and parental control;
- h) respect the rights of copyright in accordance with the legislation in force for copyright and other related rights;
- i) ensure the protection of consumer rights;
- j) present the annual balance to AMA no later than the date of 30<sup>th</sup> of April of each year.

2. The determinations of the letters "a" and "b" of clause 1 of this Article shall not prevent AAMSP to broadcast the activity of political forces. AAMSP shall, during the time of this broadcasting, should not show political bias.

### **Article 34**

#### **Information broadcasted free of charge**

1. The AMA sets with rules the high interest messages to the general public, which AAMSP is obliged to broadcast free of charge.

2. State government and administration bodies have the right to ask the AAMSP to communicate free of charge the short communications of special interest to the public in the areas where they are transmitted and dealing with the protection of health, natural disasters and human services, public order and national security.

3. Audio and audio-visual media service providers are not responsible for the content of these messages.

### **Article 35**

#### **Promotion of European works**

1. The AAMSP-s reserves to European works, the majority of their broadcasting time, excluding the time appointed to news, sports events, games, advertising, teletext services and direct TV sales.
2. This time, in accordance with clause 1 of this article, is achieved gradually taking into account the informing responsibilities, the educational, cultural and recreational ones that the AAMSP has toward the public.
3. The clause 1 and 2 of this Article shall not apply to television broadcasts that are addressed to local audiences and that are not part of the national network.

### **Article 36**

#### **Promotion of independent works**

1. AAMSP reserve for the promotion of independent works:
  - a) at least 10% of their broadcast time, excluding the time appointed to news, sports events, games, advertising, teletext services and direct TV sales;
  - b) at least 10% of their programming budget, for Albanian and European jobs created by manufacturers who are independent from broadcasters.
2. AAMSP achieves the percentage, in accordance with clause 1 of this Article, in a progressive manner:
  - a) Taking into account the informational, educational, cultural and entertaining responsibility that they have toward the public that watches them, and
  - b) Determining an appropriate percentage of recent European works, which means works broadcasted within five years from their production.

3. This section shall not apply to television broadcasts that are addressed to local audiences and that are not part of the national network.

### **Article 37** **Recording of broadcasts**

1. The broadcaster, with its means and equipment and in a manner determined for this purpose by AMA, should keep the catalogue of programmes and record any broadcast or programme provided by in compliance with the license.
2. The records made pursuant to clause 1 of this article shall be maintained by the broadcaster for a period of 3 months.
3. In the cases of examination of a complaint, according to definitions of article 52 of this Law, the broadcast's recording to which the complaint is related, and the record that is considered to be related to it, should be submitted to the Compliance Committee by the broadcaster, upon a request of the Committee within the period determined by this last one.
4. Keeping the records pursuant to clause 1 of this Article, should not violate the requirements of the Law on the Copyrights and other related rights for archives and protection of personal information.

## **CHAPTER IV** **AUDIO AND/OR AUDIO-VISUAL COMMERCIAL COMMUNICATIONS AND** **ADVERTISING**

### **Article 38** **Types of Advertising**

The following types of advertising may be inserted in the audio and-or audio-visual media programmes of AAMSP:

- a) general advertising;
- b) extended advertising;
- c) split-screen advertising;
- d) Surreptitious advertising;
- e) Interactive advertising;
- f) virtual advertising;
- g) **interactive advertising.**

2. The extended advertising shall satisfy the following conditions:

- they must be identified as such for the whole period of their broadcast;
- they shall not be broadcasted between 19:00 and 23:00.

3. Split-screen advertising shall satisfy the following conditions:

- a) It may not take up more than one third of the screen area;
- b) its area may not change;
- c) it must be easily identifiable and clearly separated in the screen;
- d) The AAMSP may insert split-screen advertising in broadcasts produced by independent producers or other audio and audiovisual media service providers only with the respective permission of the holders of these products' rights.
- e) It is calculated in the general time of advertising.

4. The insertion of virtual advertising shall meet with the following conditions: a) the audiovisual media service provider informs for the existence of virtual advertising at the beginning and the end of the broadcast,

- b) the audiovisual media service provider may not insert virtual advertising without the prior consent from the event organiser, broadcast producer or author;

- c) the event organiser may not insert virtual advertising in the television signal without prior consent from the audiovisual media services provider who has obtained the broadcasting right;
  - d) virtual advertising may not be placed or broadcasted by using physical persons;
  - e) virtual advertising may be placed only on spaces that are normally used for advertising. During sports games, virtual advertising may also be placed on the field of play outside during the time that the game is being evolved in this field.
5. Prior to accessing the contents of interactive advertising, a warning in the language of the broadcast shall be shown on the screen notifying the viewer that he/she is leaving the broadcast and entering to the interactive advertising. The restrictions on the amount and duration of advertising shall not apply to interactive advertising.
  6. Direct teleshopping windows last minimally 15 minutes. There shall be no more than eight teleshopping windows per day. The total amount of their broadcasting time may not exceed three hours per day, and they shall be clearly identified as such by optical and acoustic means (audio-visually).
  7. The provisions provided in clause 2 shall not apply to programmes that broadcast completely teleshopping. Advertising shall be inserted in such programmes in accordance with the general rules on advertising provided for by this law.

### **Article 39** **Political advertising**

1. The advertising is considered political when:
  - a) It supports the interests of political parties, political groups or political leaders, looking for political purposes;
  - b) impacts a legal change;
  - c) impacts on a political or administrative decision;
  - d) affects the formation of public opinion, with regard to controversial political issues.
2. The advertising is considered political when its requestors are:
  - a) political parties and institutions;
  - b) organizations that aim to support and undertake political activities;
  - c) organizations, platforms and collectives that support a legal or normative change in order to protect their objectives;
  - d) any person or group who supports a particular project or political program.
3. During the electoral campaign period, the political advertising broadcast is made under the provisions of Law no. 10 019, dated on 29.12.2008 "The Electoral Code of the Republic of Albania", as amended.

### **Article 40** **Institutional advertising**

1. The advertising is considered institutional when the only object of this advertising is to provide information on services of public institutions.
2. Direct or indirect encouraging of confusion regarding the identification of institutions with the features of political parties is not allowed.
3. During the electoral campaign period, the institutional advertising broadcast is made under the provisions of Law no. 10 019, dated on 29.12.2008 "The Electoral Code of the Republic of Albania", as amended.

### **Article 41** **Advertising and direct teleshopping**

1. The broadcasting of a programme in a broadcast service can include the insert of advertising and direct teleshopping. The duration of advertising and teleshopping shall not be over 12 minutes for one hour of broadcast. Here are not included the announcements of the AAMSP concerning its own programmes and supplemental products for these programmes as well as announcements on sponsorships and placement of goods in programmes.
2. The AAMSP is not allowed to broadcast advertisement with political purposes or otherwise related to a judicial conflict.
3. The media service provider shall not broadcast advertisement addressed to a certain religion belief, or aimed at promoting a certain religious belief or the membership in an organization.
4. The definition in clause 2 of this Article does not prohibit the AAMSP to present the activities of political subjects, if the AAMSP during the time of this broadcast does not express any liking for a certain political force.
5. The definition in clause 3 of this Article does not prohibit the AAMSP to make an announcement that a newspaper, magazine or religious periodical publishing has been launched/issued in the market or circulation, nor the announcement for the organization of an activity or ceremony related to a certain religious belief.
6. Definitions in clause 2 of this Article are not implemented for the advertising broadcast on the occasion of the electoral campaign, as per the definitions of the Election Law.
7. The definition of advertisement, according to this Article, includes the sponsored programme broadcasts as well as programmes prepared for advertisement purposes or by one advertising subject.

#### **Article 42**

#### **Communications with commercial nature**

1. The communications with commercial nature in audio-visual broadcasts should be easily noticeable as such. Communications with a hidden commercial nature are prohibited.
2. The communications with commercial nature in audio-visual broadcasts are not allowed to use ways for seducing viewers in an irresponsible way or techniques for their suggestion.
3. The communications with commercial nature in audio-visual broadcasts are not allowed to:
  - a) affect human dignity;
  - b) include or support discrimination on sex, race, ethnic origin, national, age, belief, religion, incapacity or sexual orientation grounds;
  - c) encourage a harmful attitude for health and physical safety of individuals;
  - d) encourage behaviours or harmful actions for environmental protection.
4. All the forms of communications with commercial nature in audio-visual broadcasts on cigarettes and other tobacco-related products are prohibited.
5. The communications with commercial nature in audio-visual broadcasts on alcoholic beverages will not be allowed to refer mainly to children but should avoid attendance by minors and should not encourage their excessive use by the adults;
6. The communications with commercial nature in audio-visual broadcasts on pharmaceutical products or products for medical treatments, given only by medical prescription, are prohibited.
7. The communications with commercial nature in audio-visual broadcasts must prevent the cause of moral and physical damages to the minors, and shall not abusively expose minors in situations that are dangerous to them. For this purpose they should not encourage or push minors to buy or receive products or services, encouraging them directly to require from parents or other relatives to receive the advertised goods for them, or utilizing the children' position in relation to parents, teachers, or other relatives of them.

8. The audio-visual broadcasting service must draft codes of conduct on the unsuitable communications of a commercial nature in their broadcasts that accompany or are included in minors' programmes, of food and beverages containing harmful or useless substances to the physical health of minors, in particular substances that contain a high fat level, fatty acids, salt, sodium and sugar that go beyond the allowed norms of a healthy diet for the minors, following AMA directions.

### **Article 43** **Requirements for advertising and direct teleshopping**

1. Advertising and direct teleshopping shall be distinguishable and different from the other content that is under the editorial responsibility and is separate from other parts of the programme content even when broadcast simultaneously uses the visual and/or audio and/or division of the screen space.
2. Advertising spots and direct teleshopping can be allowed only in sport programmes.
3. Broadcasting of films, cinematographic works and new programmes can be interrupted by advertising or teleshopping spots, but not more frequently than once in 30 minutes. The serials and documentary editions are excluded from advertising or teleshopping spots interruptions.
4. Broadcasting of programmes for minors can be interrupted by advertising or teleshopping spots but not more frequently than once in 30 minutes and if the duration of the programme is longer than 30 minutes.
5. Advertising and teleshopping is not allowed during programmes of a religious nature.
6. Teleshopping for medicines, pharmaceutical products and medical services are prohibited.
7. Advertising and teleshopping on alcoholic beverages shall comply the following requirements:
  - (a) they shall not be addressed minors and shall display minors consuming such beverages;
  - (b) shall in no way be connected to the use of alcohol while driving or mention boosting of physical capacities of users due to alcohol consumption;
  - (c) shall in no way create the feeling that the use of alcohol has an impact on the successful social or sexual performance of users;
  - (d) shall not pretend or create the impression that use of alcohol has curative or regeneration qualities or that it is an encouraging, tranquilizing means that helps in resolving or facilitating personal conflicts;
  - (e) shall not encourage the non-suitable use of alcohol or interpret the lack of use of alcohol in a negative viewpoint;
  - (f) shall not highlight the high percentage of alcohol in a beverage as a positive quality of this beverage.
8. The insertion of advertisement and teleshopping in the audio-visual programmes is made taking into account the fact that the interruptions have to be natural during the duration and nature of the programme and shall and respect the rights of viewers.
9. The direct teleshopping windows in the integrated screen or relevant programmes shall be clearly identified as such through audio and audio-visual ways and shall last at least 15 minutes.
10. For the services of programmes dedicated to advertising, direct teleshopping and self-advertising, the requirements of this law will be applied according to the principle *mutatis mutandis*.

### **Article 44** **Product placement during programmes**

1. Product placement during programmes as a hidden and abusive way of commercial communication is prohibited unless in films, cinematographic works, serial produced for services of a media broadcasting, sports programmes and recreational-nature programmes.
2. The exclusion made in clause 1 is not valid for any kind of programme for minors.
3. The programmes containing product placement shall meet the following conditions:

- (a) their content and programme listing shall in no circumstance be affected in such a way as to affect the responsibility and editorial independence of the media service provider;
- (b) they shall not directly encourage the reception or use of goods and services, in particular by making a special promotional reference to these goods and services;
- (c) they shall not dedicate an excessive attention to the goods in question;
- (d) the viewers shall clearly be informed on the existence of the goods placement.

4. The programmes containing goods placement shall be clearly identified since the beginning, during or at the end of the programme and when the programme ends after an advertising break in order to avoid any misleading of viewers.

5. The programmes can in no case contain goods placement for:

- a) tobacco or cigarette products or placement of goods from companies, persons or entrepreneurships, which main activity is to produce and trade cigarettes or tobacco products, or
- b) certain pharmaceutical products, medicines or medical treatment given only by doctor's prescription.

#### **Article 45**

#### **Sponsorship of broadcast services**

1. The sponsored audio and audio-visual services shall meet the following requirements:

- (a) their content and programme list shall in no case be affected in such a way as to affect the responsibility and editorial independence of the media service;
- (b) they shall not directly affect the purchase or ordering of goods or services, in particular by specially and promotionally mentioning these goods and services;
- (c) the viewers shall be clearly informed on the sponsorship agreement where the programme is based upon. The sponsored programmes shall be easily identifiable by the name, emblem (logo) and/or other symbols of the sponsoring subject, as well as by a visible sign at the beginning, during or at the end of the programme.

2. The audio-visual broadcast services cannot be sponsored by companies, persons or entrepreneurships which main activity is the production and trading of cigarettes or other products of tobacco.

3. Sponsorship of audio-visual broadcast services or programmes from the company, persons or entrepreneurships whose main activity includes production and sale of medicines, pharmaceutical products and medical services, can mention only the name or show the emblem or other images of a representational nature of the sponsoring subject, but cannot advertise medicines, special pharmaceutical products or certain medical services.

4. The news and informing programmes related to politics cannot be sponsored.

5. It is prohibited the display of sponsorship signs in and during programs for minors, documentaries and programmes that have to do with the religious belief.

### **CHAPTER V**

### **CODES AND REGULATIONS**

#### **Article 46**

#### **Broadcasting codes**

1. The AMA prepares and reviews, as needed, the code for rules, standards and practices of broadcasting, as per the specifications of this Article.

2. The broadcasting code shall ensure that:

- a) all the broadcasted news are conveyed and presented in objective and impartial way;
- b) the treatment of events, including issues that are topics of public debates, is fair for all the subjects interested on these issues and is presented in objective and impartial way;
- c) The AAMSP shall broadcast nothing considered as infringing the rules of ethic and public moral or that can instigate a criminal offence or harm state authority;

- d) in the programmes broadcasted by the AAMSP, will not be impinged the right to confidentiality of the private life of the individual;
  - e) The AAMSP not exhibit any bias for any political force during the broadcasting time of the activities of political subjects;
  - f) in issues involving the moral and ethic aspect of programme materials, in particular viewing of violent and sexual behaviours shall be made with prudence, taking into account the public sensitiveness and effects of such programmes in the moral, mental and physical development of minors. The AAMSP are not allowed to broadcast programs which might seriously harm the physical, mental or moral development of minors, in particular programs that contain pornography or provide artificial scenes and extreme violence. The AAMSP are not allowed to broadcast other programs that may harm the physical, mental and moral development of minors, except where provided, by selecting the broadcasting time or any technical measure that minors do not normally watch or listen to such broadcasts. When such programs are openly broadcasted they should be preceded by an acoustic warning or identified by the presence of a visual symbol throughout their duration;
  - g) advertising, teleshopping materials, sponsorships and other forms of commercial communication used in each broadcasting service, in particular the ones related to issues that can directly or indirectly be connected to the interest of minors, take into consideration the special care for their health;
  - h) advertising, direct teleshopping, materials of direct teleshopping, sponsorships and other forms of commercial communication, used in every broadcasting service, especially those related to issues that directly or indirectly can be in the interest, or not, of minors, must protect their interest by paying special attention to their health;
  - i) advertising, direct teleshopping, materials of direct teleshopping, sponsorships and other forms of commercial communication, different from the ones mentioned in letter “e” (here letter “h”), must protect the best interest of viewers and listeners;
  - j) the broadcast service, which priority aim is to support the interests of an organization, must protect the interest of viewers and listeners;
  - k) there must be applied the requirements of Articles 42-46 of this law.
3. While preparing or reviewing a broadcasting code, the AMA should take into account:
- a) the level of damage or violation caused by broadcasting of a kind of material in general programmes or in programmes of a specific nature;
  - b) the amount and composition of the possible audience of the audio-visual programmes in the broadcast services in general or in specific programmes;
  - c) nature of the content of the programme and level of notification of the possible public in relation to this nature;
  - d) the will to ensure that the content of broadcasts is compliant to the relevant changes of the broadcasting codes, in the case these changes are performed;
  - e) the will of ensuring the editorial control independence on the programme content.
4. The broadcast code, approved by the AMA can prohibit advertising of special food and beverage categories considered harmful to minors, in particular if they have a high fat, sugar, and salt ingredients. In the preparation of broadcasting code, the AMA shall preliminary consult the relevant public health authorities.
5. In the broadcasting code, the AMA determines specifically:
- a) the programme standards;
  - b) the requirements for advertising addressed to minors;
  - c) the code of advertising;
  - d) the requirements for the implementation and progressive promotion of European works and independent works;
  - e) the requirements for the personal information protection.

#### **Article 47**

#### **Broadcasting rules**

1. The AMA, compliant to requirements of Articles 43-46 of this law approves the regulation on:
- a) the daily allowed time for broadcasting advertising and direct teleshopping materials in a broadcasting service, according to the condition set out in the license and/or authorization;
  - b) maximum allowed time in a time of broadcasting of pieces of advertising, teleshopping materials, as per the various categories of the broadcast services;

- c) special measures the broadcaster shall undertake to realize reception from persons suffering from a certain degree of non-capacity to sound or view broadcasted programmes.
2. Broadcasting rules related to clause 1 of this Article are related to the assurance of the following services by each audio-visual broadcaster:
  - a) language of signs (body language);
  - b) teletex services;
  - c) subtitling and audio description;
  - d) they shall bear in mind that the above-listed materials are periodically broadcasted during the day in regular intervals, during the peak viewing time and in particular in the news and activity features as well as in other programmes.
3. Rules determined in clause 1 of letter “c” of this Article can require commitment of special means for a certain percentage of the broadcast service programme enabling supply of services to the people described in this clause.
4. AMA reviews the broadcast regulation in regards to definitions of clause 1, letter “c” of this Article, a least once every year.

#### **Article 48** **Public consultation**

1. AMA, in the process of preparation of regulatory documents, as required by the law, and before making decisions that have a significant impact on the delivery of audio and audiovisual services, is required to obtain and assess the opinion of interested parties through public consultation.
2. In the public consultation process, AMA publishes the proposed regulatory documents and requires the written opinion of interested parties, within a published time limit that should not be less than 30 days.
3. If AMA considers as necessary, it also evolves a hearing where are invited the interested parties to submit an opinion on the proposed regulatory documents.
4. After the deadline specified in clause 2 of this Article and before the approval of regulatory documents, AMA should publish the opinions and comments of interested parties, respecting the confidentiality of information.

#### **Article 49** **Submission of codes and regulations**

1. The approved Broadcasting Code and Regulations must be published in the official website of AMA.
2. AMA reports for the Assembly on the effects of the approved Broadcasting Code and Regulations in the annual report.

#### **Article 50** **Cooperation with other subjects**

1. AMA can cooperate, support or encourage one or more specialized subjects in the country and abroad for the preparation of standards of broadcasting content.
2. AMA cooperates with other public institutions according to the field of relevant competence of each in relation with the drafting of standards' content detailed in the broadcasting code and regulations.
3. AMA, apart from its own administration and the **Complaint** Commission, can also independent experts.
4. The AMA cooperates with the Copyright Office and with bodies that protect copyright and other related rights.

## **CHAPTER VI Complaints**

### **Article 51 Procedures of complaint handling**

1. AAMSP is obliged to examine every complaint submitted in writing by any person for the programs broadcasted by him, regarding the implementation of the requirements of Article 33 of this law, on the quality of provided services or on the fulfilment of contractual obligations for subscription services.
2. Complaints are submitted to AAMSP no later than 30 days from the date of broadcast, or in the case of two or more broadcasts related to each other, from the date of the most recent broadcast.
3. Every AAMSP should prepare and implement specific procedures for handling complaints. These procedures must provide for:
  - a) the manner and place of the complaint's submission;
  - b) the period within which the broadcasters should reply;
  - c) the way of resolving the respective complaint.
4. AAMSP should publish on its website or make public in any another way the complaint handling procedures, designed in accordance with the guidelines of the compliance committee.
5. The compliance committee shall prepare and publish guidelines for AAMSP in order to realize the provisions of clause 3 of this Article.
6. AAMSP shall submit to the compliance committee the information required by clause 3 of this article. This information can be published on the website of the AMA.
7. AAMSP keep the complaints made under clause 1 of this article and their answers for a period of two years from the date of registration of the complaint.
8. AAMSP is obliged to allow the compliance committee to inspect the records kept in accordance with clause 7 of this article.

### **Article 52 Complaints' Analysis**

1. The compliance committee analysis any complaint regarding the broadcasting of news and programs in violation of the provisions of Article 33 of this law and the broadcasting regulations laid down in Article 47 of this Law.
2. The complaint must be submitted in writing to the compliance committee within 30 days from the date of broadcast, or in the case of two or more broadcasts related to each other, from the date of the most recent broadcast.
3. The compliance committee, when it considers necessary, forwards the submitted complaint to AAMSP to present their claims within 7 days.
4. After the analysis of the complaint and pretensions of AAMSP, the compliance committee, if it considers that there is a violation, proposes the relevant measures to AMA. In any case, the compliance committee shall notify in writing the person filing the complaint and the respective AAMSP about the conclusions and measures.
5. AAMSP reports the conclusion to the compliance committee, when this conclusion is in favour of the person who has made the complaint, within 2 days from of receipt of notice, in the same manner with that of the realization of broadcast towards which the complaint has been made.

6. The compliance committee decides on the resolution of the complaint within the shortest period. During the complaint resolution procedures, the compliance committee may decide to organize hearings with the parties.
7. When a case has been subject of many complaints filed under this article, or for broadcast, which are outside the territorial jurisdiction of AMA, the compliance committee, if it considers it appropriate, report to AMA, regarding its aspects and ways of resolution.

**Article 53**  
**The Right to a reply**

1. Any person, whose dignity and reputation has impaired from disclosing inaccurate facts and information in a broadcast is entitled to the right of reply.
2. KKT shall prepare, within three months from entry of this Law into effect, a regulation for exercising the right to a reply, after a public consult for this issue.
3. The regulation shall determine procedures that shall be followed to exercise the right to a reply so as:
  - a) the reply will be broadcasted within 30 days since the submission of the request,
  - b) the right to a reply should contain the level to which the information during the broadcast procedures is incorrect and fraudulent and shall limit itself in the assertion of facts that are necessary for correcting the untrue facts or information.
4. The person enjoying the right to a reply, compliant to the regulation and to the requirements of this Article, shall submit a written request to the responsible media broadcaster, determining the reasons and facts that support his request.
5. The request on the right to a reply shall be presented to AAMSP not later than 10 days from the broadcasting day that the request refers to.
6. AAMSP, within 10 days from receiving the request, shall decide on the grant or refusal of the right to a reply and shall notify the requester in written for this purpose.
7. If within the term determined in the clause 6 of this Article, the requestor does not get a reply, it is presumed that AAMSP has refused his complaint.
8. AAMSP puts at the disposal of the Compliance Committee the records kept according to the clause taken 8 of the Article 51 of this law.
9. In order to realize the requests for the right of getting a reply, the broadcaster cannot apply any kind of fee.
10. The Compliance Committee, within 15 days from the submission of a complaint on the refusal of the right to a reply from an AAMSP, examines the case and if it considers right the made complaint, requires from AAMSP to make the correction of facts and information related to the interested person, in the same way and time as that of the broadcasts to which the complaint refers, within 7 days since the receipt of notification.
11. At the beginning of the complaint's analysis procedure, the Compliance Committee asks AAMSP, to which the complaint is addressed, to give explanations about this complaint.
12. The Compliance Committee sends to the appellant and to the respective AAMSP the conclusions reached on the case.
13. The Compliance Committee may refuse a complaint when:
  - a) Estimates that it is abusive and not based or made in misfaith,
  - b) The right to a reply relates to a personal opinion of the person and has no connection whatsoever with the correction of any news of a factual or informational character;
  - c) The right to a reply contains expositions of false facts and information;

- d) The right to a reply is sought to ask for the prevention of expected activities or activities that have not yet happened;
  - e) The fulfilment of the right to a reply involves a punishment, and goes beyond the good behaviour rules or causes the conviction of the media service provider in a civil court process;
  - f) The fulfilment of the right to a reply causes violation of the broadcasting license's provisions determined in Chapter VII of this Law;
  - g) The person harmed from the rejected information has no lawful interest in the moment of submission of the request for the exercise of the right to a reply;
  - h) The rejected broadcast contains a saying or a declaration of the affected person, such as it is considered equal to the excepted reply or when the person has given his preliminary consent in a formal form on the broadcast content;
  - i) A correction equal to the objected information is made in advance and the affected person is notified for this act;
  - j) the content of the sought reply violates the rights of a third party;
  - k) The issue that is object of a complaint relates to the sayings during Assembly activities, court proceedings or broadcasting of activities of political subjects;
  - l) The broadcast of the right to a reply is not in the public interest;
  - m) The request is submitted after the deadline.
14. When the Compliance Committee notices that the broadcaster has not met the obligations according to the clause 10 of this Article, it notifies AMA accordingly. AMA decides on basis of the suggestions of the Compliance Committee on the case in question.
15. AMA decision can be appealed in Tirana District Court.
16. The rule, according to the clause 2 of this article, is published by the AMA in its official website.

## **CHAPTER VII**

### **Broadcasting licenses, content and service provision licenses**

#### **Article 54**

#### **Providing audio and/or audiovisual services and networks**

1. The provision of networks for audio and/or audiovisual broadcasting, requiring the use of radio frequencies, is licensed by the AMA, according to the provisions of this law. In determining the frequency that can be used for audio and/or audiovisual broadcasting, the AMA takes into account that the frequencies are a national asset, an economic value and a social and cultural significance and should ensure avoidance of interference and effective utilization of the spectrum. The assignement of frequencies is made by the AMA on the basis of objectivity, transparency, non-discrimination, the availability of free frequencies and, in accordance with the provisions of the National Frequency Plan, only in specified frequency bands to be administered by the AMA.
2. The provision of networks for audio and/or audiovisual broadcasting, requiring the use of frequencies outside the frequency bands allocated to broadcasting, according to the National Frequency Plan, is subject to **regulation** in accordance with Law no. 9918, dated on 19.5.2008 "Electronic Communications".
3. The provision of networks for audio and/or audiovisual broadcasting that do not require the assignemetof frequencies, such as cable TV networks, satellite, subject to regulation by law no. 9918, dated 19.5.2008 "On electronic communications".
4. The provision of audio and/or audiovisual programmes services, supported in the networks described in clause 1 of this Article shall be in accordance with the requirements prescribed by this Law and regulations issued by the AMA. In this case, the AMA issues:
  - a) Audio broadcasting licenses and audiovisual broadcasting licenses, when is licensed the network and the programmeor the programs services supported in it;
  - b) Audio programmes service licenses and audiovisualprogrammesservice licenses when only the programme is licensed.

5. The provision of audio and/or audiovisual programmes services, supported in the networks described in clause 2 and 3 of this Article shall be made in accordance with the requirements prescribed by this law and regulations issued by the AMA. In this case, the AMA issues audio service authorizations and audiovisual programme services authorizations.

### **Article 55**

#### **Types of licenses and authorizations and their terms of validity (duration)**

1. Types of licenses that issues the AMA are:
  - a) Service license for audio programmes – to provide an audio programme service.
  - b) Service license for audiovisual programmes – to provide an audiovisual programme service.
  - c) Audio broadcasting license, which consists of:
    - i. Service license for audio programmes, according to letter 'a' of this clause, and
    - ii. Licence to establish and operate a digital radio network
  - d) Audiovisual broadcasting license, which consists of:
    - i. Service license for audiovisual programmes, according to letter 'b' of this clause, and
    - ii. Licence to establish and operate a digital television network.
2. The licenses shall be categorized into:
  - a) licenses according to clauses 1/a and 1/b are national, regional or local, in function of the terrestrial network category, where are supported;
  - b) licenses according to clauses 1/c and 1/d in function of the terrestrial network category, are divided into:
    - i. national – when not less than 80% of the territory is covered with signal;
    - ii. regional – for coverage of up to four regions which are located in the same geographic stretch; and
    - iii. local, for coverage of one region.
3. The licenses for the construction of digital networks, according points 1/c/ii and 1/d/ii give permission to subject to construct and operate a digital network, respectively an audio or audiovisual one.
4. The service authorizations of audio programme and service authorizations of audiovisual program, when the service is supported in the networks defined in clauses 2 and 3 of Article 54 of this Law, are:
  - a. Satellite – for satellite system supported services.
  - b. Cable – for cable system supported services.
  - c. Online service – for internet services.
  - d. Service provider, including the limited access service.
6. The maximum duration of licenses and/or authorizations is 15 years. The AMA, by resolution, determines the maximum duration of licenses and authorizations, according to their classification. In determining these limits, AMA takes into account the nature of services and reasonable time for the return of investment. An application for renewal of license and / or authorization is made 90 days prior to the expiration of the license or authorization.
7. Licenses and/or authorizations and any right or liability associated with them cannot be transferred. If the holder of the license and/or authorization, enters the civil legal relationship, the object of which is also the licensed/authorized activity, then for the assignment or transfer of rights arising from the license and/or authorization, is required the approval of the AMA. The subject that has acquired such rights is given approval in the form of a new license and/or new authorization with the same content. When the AMA does not approve the transfer, for the reasons provided in this law, the license and/or authorization becomes invalid.

### **Article 56**

#### **General requirements of the application for the license and/or authorization**

The application for obtaining any license and/or authorization shall contain:

1. Name, location, legal form of the applying subject along with the name and signature of the person who is entitled to represent it.

2. Documents proving the bank and official information on the financial capital of the applying juridical or physical person.
3. The name of the programme and network it will be supported to.
4. The object and the general characteristics of service, data for the duration of the programme and the territory that will cover, as well as the technical installation and use of the devices.
5. List of administrators, projections of expenses and incomes, origin and amount of funding provided for the duration for which the license and / or authorization is required.
6. List of names of board members and their curriculum vitae.
7. Content of programs that will be broadcasted and programme structure proposed for broadcasting, which clearly express their general pluralism and impartiality of information.
8. The application must include information on the ownership structure of the company and its shareholders.
9. The applicants must answer any questions of the regulatory authority during the application examination

### **Article 57**

#### **General principles of audio broadcasting service of the community**

The audio broadcasting service of the community:

1. It is operated, owned and managed by the community to which it serves.
2. It is provided without profiting purposes, reflecting the cultural, linguistic, demographic and religious needs of community.
3. It has informative, educational and entertaining character.
4. It provides programs of special importance to the community, including, but not limited to, development issues, health care, basic information, general education, issues of environment, reflection of local culture etc.
5. It supports the voluntary work of participants in the community.
6. It is supported by various financial sources, excluding advertising with profiting purposes.

### **Article 58**

#### **Licensing of audio broadcasting services to the community**

1. The licensing of audio broadcasting services of the community is done by the AMA through open, transparent and non-discriminatory procedure. The AMA adopts and publishes rules and licensing procedures of audio broadcasting of the community.
2. The license is granted for a limited geographic area. The AMA sets, through a regulatory document, the amount of available frequency audio broadcasting service of the community, as well as the geographical area of service provision, in accordance with the National Frequency Plan.
3. The AMA, in the licensing process, aims to achieve the objectives set out in Article 18 of this Law.
4. The AMA, in assessing the applications, conducts a public consultation process for a period of not less than 60 days.
5. The refusal of application for audio broadcasting service of the community by the AMA, is always made versus a reasoned decision.

## **Article 59**

### **Audio broadcasting license application for analogue networks**

1. To ensure the correct evolvement of audio services and providing a variety of services in the area of coverage and respect of minority interests, the AMA compiles the frequency usage plan intended for audio broadcasts, according to the National Frequency Plan.
2. The AMA, taking into account the frequency usage plan referred to in clause 1 of this Article, taking into account the existence of free frequencies for audio broadcasts, on its own initiative or at the request of interested parties:
  - a) Defines/allots the coverage area of audio broadcasting license, for which can the parties apply,
  - b) opens the competition (tender) for the grant audio broadcasting license.
3. In determining the scope of coverage, referred to in clause 2 of this Article, AMA must first:
  - a) carry out the study of interests, expectations and desires of the public in this coverage area;
  - b) carry out the study of influences in the broadcasting sector in the area.
4. The AMA publishes on its website the results of the studies, as defined in clause 3 of this article and takes into account these data and those set out in clause 2 of this article to provide the relevant license.
5. The AMA publicly announces the opening of competition for the provision of audio or audiovisual broadcasting license under this law. This license's application is made within 40 days of the publication of the competition and must describe the planned manner of service provision and criteria compliance announced in advance by the AMA.
6. The announcement of the competition' proclamation may include the invitation of interested parties to express their proposals in relation to the nature of audio broadcasting, for which the competition is opened.
7. In reviewing the applications for the grant of audio broadcasting license, the AMA decided in accordance with Article 61 of this Law, and assigns scores for each applicant.
8. The competition's proclamation is published in the AMA's website and, if possible, in a press body, which is distributed in the coverage area of the service license.
9. In the announcement of the competition's proclamation, are set out the procedures to be followed for making the application and the relevant requirements.

## **Article 60**

### **The application for the service license of audio and audiovisual programme**

1. The provision of audio and audiovisual programmes that are supported on terrestrial analogue or digital networks is made under license issued by the AMA through competition of applications in accordance with the requirements of Article 56 of this law and special rules approved by the AMA.
2. The AMA, on its own initiative or at the request of interested parties, opens the competition for the grant the service license of audio and audiovisual programmes.
3. The AMA publicly announces the opening of competition for the provision of audio and audiovisual programmes license under this law. This license's application is made within 40 days of the publication of the competition and must describe the planned manner of service provision and criteria compliance announced in advance by the AMA.
4. The announcement of the competition' proclamation may include the invitation of interested parties to express their proposals in relation to the nature of audio broadcasting, for which the competition is opened.
5. In reviewing the applications for the grant of audio and audiovisual programmes, the AMA decided in accordance with Article 61 of this Law, and assigns scores for each applicant.

## **Article 61**

## **Review and decision-making for the grant of licenses for audio broadcasting for analogue and service licenses of audio and audiovisual programmes**

1. In reviewing the applications and decision-making of the winning applicant, AMA takes into consideration:
  - a) The qualities, expertise and experience of the applicant, or, in case the applicant is a company, the qualities, expertise and experience of the steering bodies, administrators or other agencies of the company and of the owners;
  - b) Financial resources of the applicant and aspects of the economic and financial functioning of the application;
  - c) The quality, kinds and extension of programmes in Albanian and the space of the proposed programmes related to the features and needs of national culture;
  - d) the space the application creates within the service of the proposed broadcast to new artists in the field of music, recreation and theatrical shows, and in particular, of events related to the features of national culture;
  - e) The readiness to provide a variety of services in the coverage area for the various social categories, including the minority interests;
  - f) The readiness to give the possibility to any person or group of persons to have interests in several audiovisual broadcast services, according to the criteria set out in this law;
  - g) The measures through which the proposed service realizes various interest in the relevant local community or how it serves to these interests;
  - h) The provision of digital technology in broadcasting and the meeting of technical requirements for the devices for the broadcasting and realization of coverage in the license's area;
  - i) Must not be under liquidation or bankruptcy process;
  - j) Must have a registered and declared capital in the NRC in the amount of 3 500 000 ALL.
2. In addition to the provisions in clause 1 of this Article, the AMA should assess the quality of broadcasting service's realization by the applicant, a previous license holder.
3. When the AMA decided the disapproval of the application, it shall notify the applicant for:
  - a) The reasons of the decision;
  - b) The results of applicant assessment;
  - c) The result of the winning applicant.
4. Audio and audiovisual broadcasting license is not granted to persons convicted of an offense, unless 5 years have passed since the end of the conviction (sentence).
5. Broadcasting license is not given to subjects whose license has been removed or has become invalid upon the decision of the AMA, unless 10 years have passed since the date of the broadcasting license's removal. The same restriction applies to juridical persona, whose shareholders are individuals who have been shareholders in subjects to which the license has been removed upon the AMA's decision.
6. To review the applications defined in this article, the AMA must decide no later than 60 days from the date of application.

### **Article 62**

#### **Property/Ownership regulation in terrestrial audio and audiovisual broadcasting**

1. The a national license of audio broadcasting or a national license of audiovisual broadcasting is granted only to joint stock companies registered in the Republic of Albania, which have as their exclusive object the audiovisual activity.
2. The shares representing the capital in a company that holds a national license of audio broadcasting or a national license of audiovisual broadcasting, are nominative.
3. No physical or juridical person, local/national or foreign, may have more than 40 per cent of the total capital of a joint stock company, which possesses a national license of audio broadcasting or a national license of audiovisual broadcasting.

4. A physical or juridical person who holds shares in a company that has a national license of audio broadcasting or a national license of audiovisual broadcasting, cannot have more than 20 percent of total capital in a second company, which holds a national license of audio broadcasting or a national license of audiovisual broadcasting. For analogue audio broadcasting is permitted the participation up to 10 percent in a national third company. Such a person is not allowed to receive an audio broadcasting license, or regional or local nor an audiovisual broadcasting license, local or regional.
5. Also the national licenses for the service of audio and / or audiovisual programme are subject to the above conditions.
6. The local or regional license of audio broadcasting and the local or regional service license of audiovisual broadcasting are granted to physical or juridical persons registered in the Republic of Albania, which have as their exclusive object the audiovisual activity.
7. A physical or juridical person that has 100% of shares in a company which holds a local or regional audiovisual license, can be given only a second license for local or regional audio broadcasting. A physical or juridical person that has 100% of shares in a company which holds a local or regional audio license, can be given only a second license for local or regional audiovisual broadcasting.
8. A physical or juridical person, that has shares in a company which holds a local or regional audio license, cannot have more than 40% of the general capital in a second company which holds a local or regional license of audio broadcasting.
9. A physical or juridical person, that has shares in a company which holds a local or regional audiovisual license, cannot have more than 40% of the general capital in a second company which holds a local or regional license of audiovisual broadcasting.
10. In terms of this section, a shareholder is considered a holder of shares and persons related to him until the second level.
11. The above conditions are applicable also to juridical subjects authorized for the provision of audio programme services and authorizations of audiovisual programme service supported in satellite networks.
12. No holder of national licenses of audio broadcasting and of national licenses of audiovisual broadcasting, including AAMSP-s licensed for the provision of audio programme services and authorized for of audiovisual programme service supported in satellite networks, according to this law, can broadcast more than 30 percent of advertising in the audiovisual broadcasting market. The AMA monitors and publishes periodic information on the volume of advertising broadcasted by national AAMSP-s.

### **Article 63** **The use of multiplex**

1. The holders of national regional and local licenses of audio digital broadcasting and of national regional and local licenses of audiovisual digital broadcasting, are obliged to give access in right, reasonable and non-discriminating conditions, in not less than 40% of their multiplex capacity, to AAMSP-s that hold a service license of audio programme and / or a service license of audiovisual programme.
2. Notwithstanding the provisions of clause 1 of this Article, a subject licensed for digital broadcasting or for the provision of audio or audio-visual program, there cannot have more than one third of the total amount of the respective local, regional and national programmes.
3. The holders of national regional and local licenses of audio digital broadcasting and of national regional and local licenses of audiovisual digital broadcasting provide the access for broadcasting in the digital network according to the commercial agreements with AAMSP-s. The fees for providing access to digital network broadcast must be cost oriented.
4. The AMA ensures that all services provided to AAMSP-s that hold a service license of audio programme or service license or audiovisual programme service license, by the holders of national,

regional and local licenses of digital audio broadcasting and national, regional and local licenses of digital audiovisual broadcasting, are based on fair, reasonable and non-discriminatory conditions.

5. In case of disputes between AAMSP-s and holders of national, regional and local licenses of digital audio broadcasting and national licenses of digital audiovisual broadcasting, the parties shall address to the AMA.
6. The AMA, having regard to the guarantee of equal and non-discriminatory access for AAMSPs, the guarantee of fair competition and the diversity of services, after listening to the claims of the parties decides on the resolution of the dispute.
7. Against the decision of the AMA, the parties may appeal in the court.

#### **Article 64**

##### **Authorizations for services of audio and audiovisual programmes**

1. The provision of services of the audio and audiovisual programs that are supported in networks different from terrestrial analogue or digital networks, according to the provisions of clause 2 and 3 of Article 54 of this law, is made upon the authorization of AMA without competition, upon request. The subject that makes the request must be previously registered in AKEC, pursuant to the provisions of Law no. 9918, dated on 19.05.2008 "On electronic communications in the Republic of Albania".
2. AMA guarantees that the authorized will be:
  - a) responsible in relation to public interest and sensitivity, respects and understanding and social coexistence of all individuals in the Republic of Albania, complies with the requirements of this law and the conditions of the authorization, defined by AMA;
  - b) promote democratic values defined in the Constitution of Albania and in particularly the right to freedom of expression and information.
3. The authorization is granted on the basis of request to those subjects that meet the requirements of this law related to audio and audiovisual programs.
4. The authorization is granted after the review of documentation completed according the criteria of determined by the AMA with special regulations.
5. The authorization shall be granted within 30 days of receipt of completed application. Refusal of the application is always made upon a reasoned decision. If AMA does not state anything within the term stated above, from the date of receipt of the complete application, the authorization shall be deemed approved.
6. Authorization is given for a 5-year term with the right of renewal.
7. The AMA can renew this authorization upon the completion of the above conditions and according to the procedures put forward by it.
8. The holder of the license for audio and audiovisual broadcasting is entitled to provide satellite services against registration, in accordance with the procedures established by the AMA.

#### **Article 65**

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

1. The audio broadcasting licenses may contain terms and conditions that the AMA considers and determines necessary in the license. The AMA publishes in advance the terms and conditions of the audio broadcasting license.
2. Among others, in an audio broadcast license the AMA states:
  - a) The term of the license;
  - b) When a license can be renewed, the manner, conditions and time for which the renovation can be made;
  - c) the conditions for preventing the transfer of rights and obligations arising from this license;
  - d) the conditions for ensuring quality, extent and types of programs;
  - e) payments that the licensee must perform at the AMA's favour.
3. The licensed subject must notify the AMA for any change in the information of the licensed company within 30 days of making the changes.

4. Any audio broadcasting license must provide for the obligation of the licensee to submit information on their accounts, balance sheet or other information that AMA considers necessary for the realization of its functions.
5. The audio broadcasting license is an official document, administered by the AMA, as defined by Law no. 8503, dated on 30.6.1999 "On the right of information on official documents."
6. Notwithstanding the provisions of Article 37 of this Law, audio broadcasting license must include a condition that obliges the broadcasting licensees to carry out the recording and archiving of certain categories of programmes, which can be controlled by AMA during the duration of a broadcast license and for a term of up to 6 years after termination of this license.
7. The AMA, within one year from the approval of this law, shall prepare a format instruction and categories of programme required for the registration and archiving by the side of broadcasting licensed subjects, according to clause 6 of this Article.
8. In drafting the rules set out in clause 7 of this Article, the AMA takes into account the nature and quantity of programmes broadcasted by the licensee, as well as financial costs for this purpose.
9. In carrying out its functions set out in clauses 7 and 8 of this Article, the AMA considers the content of the programs, which:
  - a) are written in English, or related to national culture and actuality,
  - b) are related to developments in the field of music, theatre, shows and other national activities;
  - c) are documentaries or news reports, and any other category of programming content that the AMA considers as necessary to be recorded and archived by the licensee.
10. The AMA can realize by its own means the recording and archiving of the programmes defined above and it administers these programmes in accordance with the legislation in force on the copyright and other related rights.
11. The AMA reports annually to the assembly on the implementation of the obligations arising from this law.

#### **Article 66**

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

1. In order to secure the temporary/provisional needs of public institutions, AMA gives provisional broadcast license to cover a certain area. The terms of provisional licenses are:
  - a) up to 60 days within a calendar year for a regional audio broadcasting service;
  - b) up to 120 days within a calendar year for a local audio broadcasting service.
2. AMA may grant a license for the provision of an audio broadcasting service, with low-power, which is intended to serve only to one educational health or similar nature institution, as defined in the license.
3. The requirements of Article 33, clause 1, letter "c" and Articles 59 and 62 of this Law shall not apply in the case of a license granted under this section.
4. AMA approves and publishes rules for granting these licenses, pursuant to this law.
5. The licenses, in accordance with clause 1 of this Article are not given in the 6-month period prior to the development of local or parliamentary elections, except cases that have to do with health protection, natural and human disasters, public order and national security.

#### **Article 67**

##### **Service licenses for audiovisual programs**

1. The AMA provides service licenses for audiovisual programs, under which the licensee has the rights and obligations to establish and implement a service of audiovisual program. On the basis of the license, the licensee has the right to establish, realize and operate broadcast equipments in order to broadcast the service of audiovisual programme.

2. The AMA provides the audiovisual programme service will:
- a) Be responsible in relation to public interest and sensitivity, respects and understanding and social coexistence of all individuals in the Republic of Albania and will ensure that the programming content presents integrative elements of Albanian language and culture;
  - b) promote democratic values defined in the Constitution of Albania and in particular the right to freedom of expression and information.
  - c) take into account the need for the formation of public opinion to get to know and understand the values and European traditions;
  - d) include in reasonable proportion the news programs and those with informative nature.
  - e) comply with the requirements and conditions set forth under this law license;
  - f) reasonably include the use of the language of signs in the news for people who do not hear.

3. The licensee of audiovisual programme service implements the programme in accordance with the requirements set out in clause 2 of this Article. The AMA requires, where possible, that the majority of broadcasting time be devoted to European works, excluding the time for news, sports events, games, advertising, teletext service and direct teleshopping or to be reserved for programs of independent subjects, from the licensee himself or his related subjects.

4. In every license given under this article and every renewal according to this law, the AMA includes a condition for the broadcasting of independent productions, as defined in the clause 2 of Article 123 of this Law.

#### **Article 68**

#### **Invalidation of the license and/or authorization**

License and/or authorization is valid when:

- a) has expired the validity period, and it is not renewed;
- b) the licensee or authorized notifies AMA in a written form for the closure of the activity;
- c) AMA has issued a decision on the license and/or authorization on the basis of the power that this law gives;
- d) bankruptcy is declared;
- e) the applicant does not draw the license and/or authorization or financial obligations provided by this law are not carried out after 90 days from the moment when it gets officially notified of its approval;
- f) there is a final decision by the court to prohibit the exercise of the activity from licensee and/or authorized.

#### **Article 69**

#### **Removal of the license and/or authorization**

The AMA has the right to remove the license and/or authorization when:

It has been gained by false data presented in the application.

2. The conditions specified in the license are not met.
3. Does not pay the financial obligations of the license for a year.
4. Has not started broadcasting after the entry into force of the decision granting the license for a period of time:
  - a) 6 months in the audio local and regional broadcasts;
  - b) 9 months in audio-visual local and regional broadcasting service;
  - c) 12 months in the operation of local and regional multiplex;
  - d) 12 months in national audio broadcasts;
  - e) 18 months in the audio-visual national broadcasting service;
  - f) 24 months in the operation of the national multiplex.
5. After start of the broadcasting, during a calendar year, there are no broadcasts for 30 days without counting interruptions for technical reasons that do not depend on the license holder.
6. The license holder has faced changes that make it impossible to meet the conditions set out in the license.
7. The property of the license holder, which serves directly for the operation of audiovisual services, has come up for auction.
8. Is punished more than 3 times within a calendar year, for one of the administrative offenses

set forth in Articles 132 and 133 of this law.

## **CHAPTER VIII DIGITAL BROADCASTING**

### **Article 70**

#### **The application for the licenses of the digital networks**

1. The joint stock companies which have the right to apply for a digital network license, respectively local, regional or national are those that:

a) possess a license for audio and audio-visual programme services, respectively local national or regional;

b) do not have a license for audio and audio-visual programme services. In this case, the application is made simultaneously for a license for programme services in accordance with the requirements of Article 60 and requirements for a digital network license under this chapter. The AMA initially examines the application for programme service under Article 61 of this Law.

2. Digital network license is granted by open competition ensuring equal, objective and non-discriminatory treatment. The AMA, on its own initiative or at the request of the subjects concerned, opens the competition having in mind the frequency usage plan, as well as taking into account the existence of free frequencies for digital broadcasting.

3. Digital network licenses are granted by the AMA in accordance with the technical requirements determined based on:

a) frequency plan for digital broadcasting, adopted with the Final Acts Regional Radio-communications Conference "For the planning of terrestrial digital broadcasting in parts of Regions 1 and 3 in the frequency bands 174-230 MHz and 470-862 MHz (RRC-06), ratified by the Assembly by law no. 9851 dated 26.12.2007, excluding the frequencies of digital dividends, as defined in the Final Acts of the World Radio-communications Conference WRC-07 and WRC-2012;

b) the availability of free frequencies;

c) relevant coverage areas with programs, accompanying services and other data related to them.

4. The AMA defines the coverage area, in which it will be broadcasted, in accordance with license, and invites interested parties to participate in the competition.

5. The announcement for the opening of the race should be published on the website of the AMA and in at least three of the highest-circulation newspapers and, when possible, in the press, circulating in the defined area of the coverage. The notice must set out the procedures and performance requirements of the application and any relevant or necessary issues.

6. The AMA, in the notice referred to in clause 5 of this Article, determines the minimum area coverage in which the programme material materials related to it and other information related to it will be broadcasted. Minimum area of coverage may be less than the maximum space coverage set in the notice.

7. Despite the provisions of clause 2 of this Article, when in the announcement for the opening of applications a minimum coverage space has been set, this space should be the minimum area of coverage of the approved license, asking applicants to achieve maximum space coverage as much as possible.

8. In a notice of the opening of the competition, the AMA defines the number of programme services, audio and/or audio-visual that will be supported in the multiplex, and whether any existing service audio programme and/or audio-visual will be supported on the digital network.

### **Article 71**

#### **Examining of the applications for granting of the digital network license**

1. The AMA considers each application for a licensed digital network, based on the notification for the opening of the competition to determine the eligible applicants for the granting of the digital network

license.

2. For the examining and the determination of the suitable applicants, in accordance with clause 1 of this Article, the AMA should take into account:

- a) the nature, expertise and experience of the applicant including the nature, expertise and experience of directors, managers or officers of the company and the owners or its shareholders;
- b) the financial resources available to each applicant and the economic functioning submitted in the application;
- c) the range and type of programs proposed to be included in the multiplex and the mode of the provision of these materials;
- d) in the case of a digital network of audio-visual service, the applicant's proposal to obtain necessary equipment for viewers to allow them to receive through these devices of all multiplexes operating in that area, national services and pay per view services included and the creation of the possibility of individuals to be informed and select the programme material included in these multiplexes;
- e) the extent of the coverage area proposed to be conducted by the applicant;
- f) technical proposals, including the period of implementation, regarding the establishment and operation of the digital network;
- g) in the case of a digital audio broadcasting network, the applicant's proposal to facilitate the inclusion of any registered service of broadcasting in the digital network;
- h) any other matter that AMA considers necessary to ensure the establishment and operation of the multiplexes.

## **Article 72**

### **The conditions of the license for the digital network**

1. The AMA in digital network license defines:

- a) requirements for programs, the associated service and other data that will be supported in the multiplex, including requirements for existing programs;
- b) the terms and conditions for the realization of signal coverage area;
- c) the conditions for the provision of equipment for receiving a fee from users authorized and presentation of programs supported in all multiplexes that broadcast in that area;
- d) requirements for compliance with technical requirements and quality of service.

2. Digital network license contains conditions for the payment of fees to the AMA by the licensee, and the conditions for providing information that the AMA wants to be available for the exercising of its powers, including copies of the accounts and balance sheets..

3. The AMA, in view of the interest of users and digital network services fulfilling its regulatory targets, sets conditions to ensure effective competition between media service providers who rely on the multiplex, so that the Licensee:

- a) does not prevent users in any coverage area, to receive services of the multiplex with the receiver;
- b) ensure that each receiver is able to realize the decoding system to open all encrypted services based on digital network in the respective coverage area.

4. Network operators and service providers of digital terrestrial broadcasting ensure that programs broadcasted respect the rules of ethics and encryption and coding when intended for the public of specific age groups.

5. Digital network license contains the conditions that the AMA considers appropriate in the fulfilment of the goals of this law.

## **Article 73**

### **Widescreen Services**

1. Public electronic communications networks, designed to deliver digital television services, should be able to deliver widescreen services and television programs.

2. Network operators that receive and redistribute widescreen services or programs retain the same format.

**Article 74**  
**Term of license and transfer of rights and obligations arising from it**

1. The term of license validity of the digital network is:
  - a) 15 years for national broadcasting;
  - b) 8 years for regional and local broadcasting.
2. Transfer of rights and obligations arising from the license cannot be done without prior written approval of the AMA.
3. Change of the provisions of the statute governing the ownership and issues related to it, cannot be accomplished without the written approval in advance of the AMA.

**CHAPTER IX**  
**ON DEMAND AUDIO AND AUDIO-VISUAL MEDIA SERVICES**  
**Article 75**  
**The provision of on demand audio and audio-visual media services**

1. The provision of **on demand** audiomediaservicesand/or audiovisual, , is made based on the authorization issued bythe AMAinadditionto theinformationsocietyservices, established by law no.10 128, dated 11.05.2009"On electronic commerce".
2. Authorizationshallbegrantedwithin 30 daysfromthedataof the completion of the application.
3. In the applicationshould be filled in thename,personal identificationdocumentnumber of the applicant entity, whenit isnatural person, and the companyname, registration number and the respective information about the founding membersandtheiractivities, especiallyin the field of media, where the applicantisalegalperson. If the applicationis submitted byacommercialenterprise, it must include the information concerningthe founding members, aswellasthose of the structures of the entity, including their names andfunctions.
4. Theapplicationisaccompaniedby:
  - a) the base provision, specifying the name ofaudiomediaserviceproviders and/oraudio-visual, upon the request oftheuser, thename, the purpose of the use and the format catalogue, as well asany other informationwhichtheapplicantconsidersrelevant totheactivity that he has planned to provide;
  - b) documents proving the sources of fundingfor the first yearof its activity;
  - c) informationwhichelectroniccommunicationsnetworkwillbeused to distributethe relevant service;
  - d) documentation certifying the payment offiscaland financialobligationsto the state.
5. The AMArecords in aspecial register the audioand/oraudiovisualmediaserviceproviders upon request. This register ispublishedon the websiteofthe AMA. The contentand the maintenance of the register are establishedbyAMA.
6. Theauthorizednotifies the AMAof any changes tothe data presentedintheapplication.
7. Grantingofauthorizationfor the provision ofaudioand/oraudiovisual media, upon request of the user, doesnotincludetheprovision offrequencies.
8. Thevalidityoftheauthorizationends when:
  - a) the service provider notifies AMAfortheclosureof the activity;
  - b) does not exercise the activity for morethanayear;
  - c) does not meet the technical requirements ofthe broadcasting of the programs;
  - d) there is afinaldecisionbythecourttoprohibittheexercisingoftheactivityfrom the authorized.
9. Clauses1to 8 ofthis Article shall applyonly to thoseAAMSPaudiovisualperforming television broadcasts.

**Article 76**

## **Conditions for the provision of on demand audio and/or audiovisual media service**

1. On demand services are not allowed to include programs that stimulate hatred on the grounds of race, ethnicity, gender, nationality or religion.
2. Cinematographic works in these services shall be broadcasted under conditions approved by the respective rightholders for these works.
3. The provisions of Chapter IV are applied to **on demand** audio and/or audiovisual media services
4. Audio and/or audiovisual media services, at the request of the users, which can seriously impair the physical, mental or moral development of minors, are transmitted in the form of coding, so as to ensure their non-opening by minors in normal conditions.

### **Article 77**

#### **Promotion of production of European works from audio and/or audiovisual media services based on user demand**

1. The **on demand** audio and/or audiovisual media services, provided by the media service operators within their jurisdiction promote, where possible and by appropriate means, the production of European works and access to such works.
2. The Promotion of European works can be done through financial contribution that such media services grant for the production and purchase of European works, or in percentages and/or the dominance of European works in the catalogue of programmes provided by **on demand** audio and/or audiovisual media services, 3. The AMA defines in the regulation the method of the application of this Article.

## **CHAPTER X**

### **IMPLEMENTATION AND COMPLIANCE WITH THE TERMS OF THE LICENSE AND/OR THE AUTHORIZATION**

#### **Article 78**

##### **Inspection of the activity of the licensed/the authorized**

1. The AMA has the right to exercise the control of the programming, financial, technical and organizational activity of the holder of a license and/or authorization, pursuant to this law. Each inspection, especially the inspection of the programming activity, should not affect the freedom of expression. The licensed shall cooperate with the AMA for the realization of this function.
2. The AMA authorizes specialized officials of its administration or other specialized persons to perform this inspection if:
  - a) there are reasonable grounds to show that the licensed and/or the authorized does not realize the service in accordance with the terms of the license and/or authorization;
  - b) the implementation of the service provided by the licensed causes interferences;
  - c) there is information for unlicensed and/or unauthorized activity;
  - d) there is a justified notice by an interested third party.
3. In addition to the provisions of clause 2 of this Article, the AMA has the right to conduct periodical inspections with or without prior notice to the licensed and/or the authorized.
4. The licensed and/or the authorized persons shall submit to the person authorized to perform the inspection the information or records that pertain to this control, to allow access to its premises to carry out the inspection and to perform the examination of transmission equipment in these premises, and, when necessary, to respond to the requirements of the person authorized to exercise the inspection in order to realize it.

5. When the person authorized to perform the inspection, after the examination, determines that the licensed and/or the authorized person has committed a violation of the terms of the license and/or authorization, he informs the licensed/authorized by a record signed by both parties and shall notify him for the opportunity to present his claims in accordance with clause 7 of this article. In case that the licensed/authorized refuses to sign the record, the notice is made under article 81 of this law.

6. The licensed and/or the interested authorized person presents to the AMA the necessary information and records for the realization of the case analysis.

7. After the submission of the claims by the licensed and/or the authorized, if any, the AMA determines if he has violated or not the terms of the license and/or the authorization and takes the relevant decision, including the sanctions in accordance with this law.

8. The AMA sets out the rules for the realization of the right of the licensed and/or the authorized referred to in clause 4 of this article. The rules are adopted for the duration of the procedures set out in clause 4 of this article and may include provisions for hearings or other forms that are judged appropriate.

9. Notwithstanding the provisions of clauses 4 to 7 of this Article, in the case of interferences, is acted in accordance with clause 5 of Article 80 of this Law.

## **Article 79**

### **Frequencies spectrum monitoring**

1. AMA monitors the frequency bands, specified in the National Plan of Frequencies for audio-visual broadcasting, so that:

- a) the use of frequencies given with a license be consistent with the legal and regulatory framework in force, pursuant to the terms of the license;
- b) the frequency spectrum is used only by **allowed** users, in accordance with the provisions of this law;
- c) to create an adequate environment without harmful interferences for the operation of the systems and the stations of the audio-visual broadcasting, that will be used for private or public purposes.

2. AMA, for the frequencies monitoring, collaborates with EPCA and other institutions, responsible for the administration of the frequency spectrum.

3. Frequency monitoring is done in accordance with relevant regulations, drafted by the AMA.

4. The monitoring of frequencies can also be made at the request of the subjects, which hold a license issued by the AMA. In this case, the monitoring costs are covered by the interested subject.

## **Article 80**

### **Devices blocking and/or the prohibition of their operation**

1. When a natural or legal person conducts activities in the field of audio and audio-visual broadcasting, unlicensed by the AMA, the persons authorized by the AMA block the devices.

2. The blocked devices under clause 1 of this Article, within a month are inventoried in the presence of **a natural or legal person who carries out unlicensed activity and they are seized.**

3. The decision of the **seizure** may be appealed within 10 days to the court.

4. After the expiry of the appeal term and in the case that after the appeal the court considers eligible the seizure, the seized devices are confiscated and go to state ownership.

5. When persons authorized by the AMA reveal that the transmission devices of AAMSP cause harmful interferences, despite the fact that for their use is given a license or the relevant authorization, they shall have the right to stop their operation.

6. The blocking and stopping of the devices operation, according to this article, is indicated by a stamp, the content and form of which is determined by the AMA.

7. Against the written request of the subject that caused the interference, the person authorized by AMA performs the necessary verification and, if it finds that the harmful interferences are avoided, allows the further operation of the prohibited devices.

8. For the implementation of tasks for the blocking of devices, the AMA cooperates with the local public authorities, the State Police and the enforcement service.

### **Article 81 Notification**

1. The notification of AAMSP or other persons, as defined in this chapter should be addressed to those in the following ways:

a) sending it to the address where AAMSP or the other person carries out its activity;  
b) sending it by registered mail to the address mentioned in the letter "a" of this clause;  
c) sending it by email or fax to the address and fax of AAMSP or of the other person, unless there is a possibility of receiving confirmation email or the facsimile apparatus provides confirmation of all pages of the notice. In this case, the notice must be sent in one of the ways described in letters "a" and "b" of this clause.

2. For the purposes of this article, a registered company under the legislation in force for trade companies, is presumed that it has the address in which it is registered.

3. A copy of the notice is signed by the person authorized to conduct the inspection, stating his personal responsibility that the notice is an official document.

## **CHAPTER XI PROTECTED SERVICES**

### **Article 82 The provision of the conditional access services**

1. The provision of conditional access services and their accompanying/supporting is carried out in accordance with the requirements provided by this law and regulations issued by the AMA. Through the regulations issued pursuant to this law, the AMA provides that the protected services are provided under fair, reasonable and non-discriminatory terms.

2. The AMA has the right to impose obligations for the providers of the conditional access services to the extent necessary to ensure access by users of audio and audiovisual services, according to the specifications of this law.

3. The providers of the conditional access services provide access to interfaces/adapters of application programs or electronic manual of programs on fair, non-discriminatory and appropriate terms.

4. The AMA defines the conditions of the operation of digital television equipment for the users.

### **Article 83 Systems of conditional access**

1. The systems of conditional access for digital radio-television services should have the necessary technical capacities to enable the network operators to have full control on services that use these systems.

2. The providers of the conditional access services, that provide access to digital radio and television services, are obliged to provide to all the AAMSPs, in fair, reasonable and non-discriminatory terms, technical assistance, to enable their subscribers to have access on the services provided by through decoders.

3. For the provision of the conditional access services, the operators that provide this service hold

accounts separate from the other part of the activity.

#### **Article 84** **Prohibited activities for the conditional access**

In the territory of the Republic of Albania is forbidden the conduction of the following activities:

1. The production, importation, distribution, sale, rental, or possession for commercial purposes of the prohibited devices.
2. The installation, maintenance or replacement for commercial purposes of a prohibited device.
3. The use of commercial communication to promote forbidden devices.

#### **Article 85** **Criteria for the protection of the conditional access**

1. Failure to comply with the obligations laid down in article 84 of this law, when it does not constitute an offense, is punished with a fine as defined in article 133 of this law. The measure of punishment should be effective and proportionate to the caused damage.
2. Providers of conditional access services, whose interests are affected by an illegal activity, have the right to seek the compensation for caused damages in accordance with the legislation in force. In the case of the conclusion of this activity, AMA cooperates with the competent bodies and, where it deems appropriate, requires the disposal from the market of the illegal equipment.

#### **Article 86** **Electronic program guide**

1. The electronic program guide is the electronic way of delivering information to the public related to the list and time-table of the programme material from the broadcast service, which is a component part of the broadcast system.
2. Any natural or legal person is entitled to prepare and put into use one or more electronic program guide, under an authorization granted by the AMA.
3. The authorization for the electronic program guide should include the conditions set in the regulation prepared by the AMA for this purpose. This regulation sets out:
  - a) the form of information presentation;
  - b) the list and time-table of programs;
  - c) the priority of the order of these services provided by ART within the guide;
  - d) the priority of the order of other providers of media services;
  - e) the conditions for the simple use of the electronic guide by the users to easily obtain the information for the list and time-table of programs subject to license.
4. The AMA has the right to instruct ART or a licensed, as a provider of media services, to use the electronic program guide licensed in accordance with clause 3 of this article.

#### **Article 87** **Must Carry Obligations**

1. The AMA has the right to give to AAMSP reasonable obligations for the broadcast of one or more audio and audiovisual programs of general interest for the public, in order to obtain them in the territory of the Republic of Albania in the national, regional or local level.
2. Must Carry obligations under clause 1 of this Article, are imposed in accordance with the principles of proportionality and transparency, only to operators of electronic communications, whose networks are used by a significant number of users, as the main tool for the reception of audiovisual programs, and only if it is in the public interest.
3. In the case of application of payments for must carry of programs, in compliance with the obligations specified in clause 1 of this article, they shall be in accordance with the principles of

proportionality, transparency and non-discrimination.

4. The AMA periodically verifies must carry obligations under clause 1 of this article. Each AAMSP, on which is placed the obligation of carry, has the right to require to the AMA the review of such obligations after a 2-year period from the beginning of this obligation.

### **Article 88** **Change of license terms**

1. The AMA changes the terms of the license of audio and/or audiovisual broadcasting on its own initiative:

- a) when is changed the National Plan of Frequencies or the Plan of Frequencies Usage or the rules for the conditions of frequencies use;
- b) for public needs, that cannot be achieved in another way;
- c) when the required change serves to the efficient use of frequencies and is of public interest;
- d) when harmful interferences cannot be avoided in any other way;
- d) when the change stems from international laws, applicable in the Republic of Albania.

2. The licensed shall bear with its own expense, the performance of all the necessary actions, resulting from changes in the terms of the license of audio and/or audiovisual broadcast.

### **Article 89** **Emergency situation**

1. For the duration of the emergency situation, the AMA, with the request of the competent bodies for the management of this state, may issue an order to suspend the broadcast permit or of the network operation permit. AMA's decision must be proportional, objective and non-discriminatory for AAMSP.

2. The AMA may require to the licensed of the broadcasting to cooperate with the relevant public authorities for the dissemination of relevant information for the duration of the emergency situation.

3. When the AMA exercises the competency set out in clause 1 of this article, the licensed of the broadcasting or of the network broadcasting has the right to seek cover the costs necessary to implement the conditions stipulated in the order of the AMA and the compensation for damages caused to his property as a result of the implementation of this order.

4. At the request of the competent authorities of the emergency situation management, the AMA guides the broadcasting licensed to make available broadcasting time for state institutions announcements regarding the emergency situation.

## **CHAPTER XII** **ALBANIAN PUBLIC RADIO AND TELEVISION (ART)**

### **Article 90** **Name, location**

1. The Albanian Radio and Television (ART) is a public juridical person, non-profit, with residency in Tirana, which conducts the services of public broadcasting in the field of audio and audiovisual services in the Republic of Albania. ART has its emblem and seal set by its statute.

2. ART activity is regulated according to the provisions of this law, the declaration of scope, the service contract of the public broadcasting approved under section 17 and its statute.

3. In its composition ART has also other juridical persons, as defined by its Statute. These persons have limited legal capacity to act.

### **Article 91** **Declaration of the scope**

1. As a AAMSP dedicated to the highest ideals of the broadcasting of the national public service, ART realizes qualitative radio and television services to inform, educate and entertain the public, while

serving the nation, to all groups of society, including national minorities.

2. ART is committed to impartial coverage of news of the country and those international.
3. ART conducts programs, which shall reflect to the listeners and viewers of all ages the variety of Albanian life. ART prepares qualitative and valuable programs for enriching people's mental and spiritual world.

## **Article 92**

### **Administrative bodies**

The Administrative bodies of the ART are:

- a) The Administrative Council (KDRTSH/ACART-Administrative Council of Albanian Radio Television).
- b) The General Director.
- c) The Administrative Board.

## **Article 93**

### **The structure of the ACART**

1. ACART consists of the Chair and 10 members.
2. The candidate to be appointed chair of ACART can be any person, who has not less than 10 years job experience in the fields of:
  - a) media in general;
  - b) audio-visual broadcasting of public, commercial or non-commercial service;
  - c) production of the content of the audio-visual broadcasting;
  - d) technologies of the media;
  - e) economy, administration and rules of competition;
  - f) affairs of the development of the Albanian language;
  - g) affairs that are related disabled people or other vulnerable groups;
  - h) art, culture and music;
  - i) justice, law, public administration;
  - j) science, environment and technological development;
  - k) consumer protection;
  - l) social, educational and development activities of local public and national communities, which are related and affect directly the scopes of the audiovisual activity, as it is set by this law.

## **Article 94**

### **The appointment of the members of ACART**

1. The members of the ACART are appointed by the Assembly for a term of 5 years, with the right to be re-appointed only once.
2. The Commission for Education and Means of Public Information, within 30 days from the opening of a vacancy, invites, through the means of public information the following entities to present the nominations:
  - a) the associations and groups of electronic media;
  - b) the associations of the press;
  - c) the academics and the associations of electric and electronic engineering;
  - ç) the academics of law, journalism and communication and economy, the association of jurists and the National Bar Chamber;
  - d) the non-profit organizations that work in the field of the human rights, the rights of the children or research in public policies, or representatives of associations that work in the field of the protection of the disabled people. The above-mentioned entities propose candidacies within 30 days from the receipt of the invitation.
3. The Commission for the Education and the Means of Public Information appoints according to the definitions of Articles 93 and 97 of this law, between at least 4 candidacies for every member seat of the ACART.
4. For the appointment of the alternative candidacies for every member seat of ACART, the

Commission for the Education and the Means of Public Information applies the following procedure:

- a) examines all the presented candidacies of the proposing entities;
- b) the administered candidacies, based on the above-mentioned proposals, undergo disqualification one by one. The disqualification procedure is applied following the order: one representative of the parliamentary majority and one representative of the opposition.

In every case the commission takes into account the preservation of the balance, five candidates supported by the majority, five supported by the opposition. The candidates for members of the ACART are proposed for approval to the Assembly session.

The disqualification of every candidacy must be argued guaranteeing the respect of the principle of non-violation of and professional personal integrity of the candidates.

5. Upon completion of the term, the member of ACART holds the duty until the new member is appointed.

### **Article 95**

#### **The appointment of the chair of the ACART**

1. The eleventh member and at the same time The Chair of the ACART is appointed not later than 10 days after the member selection procedure has been completed, according to the Article 94 of this law.
2. Not later than 30 days after the end of the term of the Chair of the ACART, the Albanian assembly publishes the vacancy of the Chair of the ACART. Every citizen who meets the requirements of the Articles 93 and 97 of this law must be presented as a candidate for the Chair of the ACART. The application is presented together with the respective documentation, which proves the meeting of the legal criteria for membership in the ACART.
3. The list of candidates goes to The Commission for the Education and the Means of Public Information to verify the accomplishment of the criteria set by this law. The candidates proposed for members of the ACART cannot be included in this list, or, if they have been included, they are disqualified, according to clause 4 of the article 94 of this law. After the verification of the candidacies, the commission applies the following procedure:
  - a) identifies other candidates who have received greater support among committee members. Every member of the commission can support up to four candidates;
  - b) if two or more candidates have the same support, their selection is made by a lottery;
  - c) the representatives of the parliamentary minority in the commission disqualify two out of four of the candidates selected. The remaining candidates are left to the Assembly to be voted;
  - d) the candidate that gets more than half of the votes of the members of the Assembly is appointed chair of the ACART.

### **Article 96**

#### **Deputy-chair of the ACART**

1. ACART appoints the deputy-chair from one of the members, elected based on the support of the proposal of the opposition, according to clause 4 of Article 94 of this law.
2. The election is held as a secret voting session, according to the following procedure:
  - a) in one ballot are written the names of the five members of the ACART, according to clause 1 of this article;
  - b) each of the members votes, making the respective note, for one of the names that are in the ballot;
  - c) the member who has 7 votes is elected Deputy Chair of the ACART;
  - d) in case that none of the candidates has not taken the requested number of votes, a second voting round is made. The member that gets more votes in the second round is elected Deputy Chair of the ACART. The voting is held on the same day;
  - e) the meeting for the election of the Deputy Chair, when the Chair is missing is lead by the oldest member is age of the ACART and the election procedure is made in the presence of a notary.

### **Article 97**

#### **The incompatibilities and conflict of interests of the members of the ACART**

1. The members of the ACART cannot be individuals who:
  - a) are members of political parties and associations, run to be members of Assembly or have been elected as such during the last two legislatures, have run for mayor of the local government unit in the last elections, or have been a Mayor, Member of the Council of Ministers or Prefect in the last 3 years,

and also those that are members of the Compliance Commission, EPCA or staff of the latter.

b) are people who have connections, according to the determinations of law No. 9367, date 7.4.2005 “On the prevention of the conflict of interest in exercising public functions” or own a part of the capital or shares of the commercial companies as well as other rights in the audio-visual media field, advertisement, products of content of the audio-visual broadcasts, networks of the electronic communication or people employed during the last year, members of the steering or advisory bodies of these entities or connected to these entities by a licence.

2. The ACART members should declare:

- a) any interest or connection with any entity the ART has implemented or aims to implement;
- b) any potential interest in any contract the ART has implemented or aims to implement.

3. The members of the ACART cannot take part in the discussion or decision-making of issues related to these interests or connections.

4. KKT drafts a code of conduct for adjusting its activity for issues defined in clause 2 not later than three months from the entry into power of this law, pursuant to the specifications of this Law and Law no 9367, dated 7.4.2005 “On the prevention of the conflict of interest in exercising public functions” and approves codes of the same kind for the directors and the structures of the employees of the ART.

### **Article 98 Remuneration**

1. For participation in meetings, the chair and the members of the ACART receive a fixed monthly remuneration. The Assembly determines with a decision the amount of the remuneration of the members of the ACART.

2. The chair receives remuneration 20% higher than that of the member.

### **Article 99 The organization of the ACART**

1. ACART in the first meeting, determines the term for the drafting of the regulation of its activity.

2. ACART meets every time it is necessary for the implementation of its functions but not less than once in 2 months. It can meet outside its programme when the meeting is called by the Chair of ACART, the General Director, the Chair of the Administration Board or 3 members.

3. The General Director, the Chair of the Administration Board, the chairs of the councils created for different issues and the directors of the administration and the entities that are part of the ART have the right to participate in the meetings of the ACART, upon request of the latter or upon their request, excluding the case when the ACART decides otherwise.

4. The meetings of the ACART are valid when the majority of the members participates in them. The decisions of the ACART are taken by the majority of the votes of the participants, excluding the cases when qualified majority is requested for the decision-making, according to clause 6 of this article.

5. In the cases when the result of the voting is equal and the voting has not been secret vote, the vote of the chair is decisive.

6. The decisions of the ACART for the approval of the regulation of its activity, the statute of the ART and the appointment or the dismissal of the General Director are considered approved, when not less than 7 members vote for them.

### **Article 6 Dismissal**

1. The Chair, Deputy-chair and every member of the ACART is dismissed from the body that selected him/her when he/she:

- a) is sentenced by the court with a final decision for the commitment of a criminal offence;
- b) becomes permanently incapable to hold the duty because of health causes;
- c) is absent without any reason in more than 1/3 of the meetings of the ACART, within 1 year;
- d) it is certified that he/she has violated the obligations of the article 97 of this law;
- d) is lifted the ability to act.
- e) resigns.

2. The dismissal of one member of the ACART can be asked from the Commission of the Education and the Means of Public Information or not less than 7 members of the ACART. The assembly examines the request within 10 days.

3. Before a member of the ACART is dismissed, he is given the opportunity to present his claims in front of the Commission of the Education and the Means of Public Information. The decision to dismiss the Chair, Deputy-chair, one member or more than one member must be based in the law and must rationalize the causes that lead to their dismissal. The decision of the assembly is published.

4. The Chair, Deputy-chair, and every member of the ACART can resign in a written form at any time. The resignation is presented to the ACART the next meeting and sent to the Assembly as soon as possible.

5. If one of the cases set in clause 1 of this Article is found, the Chair informs the Assembly immediately within 5 days.

6. In every dismissal case, one substitute is found following the procedure provided for the selection and for a time which is equal to the time remained to the predecessor that was dismissed.

#### **Article 101**

#### **The tasks of the members of the ACART**

The members of the ACART exert their function in a way that:

- a) represents the interests of viewers and listeners;
- b) ensures that the activity of the ART in general and of its component subjects in particular are realized complaint to this Law and its Statute;
- c) insures independence of the ART on the establishment, production and content of the programme materials, preparation and provision of the news programmes and other issues of public interest and lack of the interference of the state, politics and business in these activities.

#### **Article102**

#### **The competences of the ACART**

The ACART has these competences:

1. Approves the regulation of its activity.
2. Approved the statute of the ART, in which it determines:
  - a) the structure of the institution;
  - b) the administrative bodies and their competences;
  - c) the criteria and the procedures for the appointment and the dismissal of the General Deputy-director, of the director of the radio and television, the constituent entities of the ART, and the heads of the departments;
  - d) the job description for all the categories of the employees;
  - e) the description of the activity of the ART, including the economical and financial ones.
3. Appoints and dismisses the General Director with 2/3 of the votes of all its members, according to the procedure set in the statute.
4. Appoints and dismisses the General Deputy-director and the directors of the constituent entities of the with a simple majority of votes, according to the proposals of the General Director, not more than 2 weeks after the proposal of the latter.
5. Appoints the members of the Administrative Board, proposed by the General Director.

6. Approves the establishment of listeners and viewers or the advising committees, according to the statute.
7. Approves the proposed strategic plan by the General Director, related to the determination of the broadcasting services, the creation of new services, and the use of the sources and assets of the ART, in accordance with the existing opportunities.
8. Approves the platform, the organizational structure, and the programming structure of the ART.
9. Approves the Statement of Purpose of the ART and its constituent entities, according to the determinations in the statute, related to the activities proposed to be implemented during a period of 5 years for the accomplishment of the purposes of the service of public broadcasting, and the one-year declarations related and in accordance with the Statement of Purpose.
10. Approves the proposals for the opening of the channels and new services of the ART, before this proposal is presented to AMA.
11. Monitors the impartiality, the objectivity and the integrity of the audio-visual information.
12. Approves the main criteria for the employment, job evaluation, and remuneration of the employees.
13. Councils the General Director in relation to the programs and helps in the designation of the programme norms and concepts, in accordance with the law.
14. Councils and helps the General Director for the accomplishment of his responsibilities.
15. Examines and approves the requests for certain broadcasts, the regulation of the procedures of archiving and preservation of the archives, and also approves the regulations for the ordering or the agreements of the broadcasting for the independent producers of content and the programs by the Member States, according to the requests of this law.
16. Examines and approves the yearly budget, the contracts which have a value of more than 1 per cent of the yearly budget, the loans, the rents, the financial-economic reports of the ART, and every proposal for the entry into economic-civil relations.
17. Examines and approves the loans before they are sent for the opinion of the Minister of Finance.
18. Drafts the report for the yearly activity of the ART, in accordance with the requirements of this article and presents it to the Assembly at the end of March of every year for the following year.

### **Article 103**

#### **The General Director of the ART**

1. The General Director manages and controls the administration of the activity of the ART and is responsible as the editor-in-chief of the ART.
2. The General Director is elected by a secret vote by the ACART for a term of five years, among not less than two candidates.
3. Candidates are selected from the ACART, based on an open competition and criteria defined in the ART Statute.

### **Article 104**

#### **The incompatibilities and the conflict of interests of the General Director of the ART**

1. The General Director of the ART is not allowed:
  - a) to be a member of political parties or associations, a candidate for member of Assembly or elected as such during the last two legislatures, to have run for mayor of the local government unit in the last elections, or to have been a Mayor, Member of the Council of Ministers or Prefect in the last 3 years, and also those that are members of the Compliance Commission, EPCA or staff of the latter.
  - b) to be a person who has connections, according to the determinations of law No. 9367, date 7.4.2005 "On the prevention of the conflict of interest in exercising public functions" or own a part of the capital

or shares of the commercial companies as well as other rights in the audio-visual media field, advertisement, products of content of the audio-visual broadcasts, networks of the electronic communication or people employed during the last year, members of the steering or advisory bodies of these entities or connected to these entities by a licence.

2. The General Director of the ART is not allowed to hold any duty, profitable activity or be connected in any second employment relationship during the time that he holds this position.

#### **Article 105**

##### **The tasks of the General Director of the ART**

1. The General Director of the ART:

- a) Manages the activity of the ART, in accordance with the requirements of this law and the statute of the ART;
- b) upon request of the ACART, informs the latter related to every information necessary in relation to its functions and the functions of the ART;
- c) nominates, discharges or dismisses, on his own or with the proposal of the heads of the consistent entities of the ART, the heads of the departments and the sectors;
- d) responds for the programs, so they are in accordance with the programming principles set by law, in the Statement of Purpose and in the statute;
- e) makes decisions related to the issues of organization, finances, and salaries, after he has consulted the Administration Board, based on the criteria set by the ACART;
- f) officially represents ART in relations with third parties;
- g) responds for the legitimacy in the activity of the institution;
- h) coordinates the work of the administrative units of the ART system and resolves within its competences, the disagreements borne among them;
- i) when absent, he can delegate his competences with special disposal to the respective person.

2. During the objective absence or the vacancy of the position of the General Director of the ART, until the new director has been appointed, his tasks are held by the deputy-director or, in case of his absence, a member of the managing administration of the ART, set for this scope by the ACART.

3. The criteria of the appointment, tasks and specific competences of the general deputy-director are set in the statute.

#### **Article 106**

##### **Dismissal of the General Director of the ART**

1. The General Director of the ART is dismissed from the duty in the cases when:

- a) violates the competences that this law gives him;
- b) commits a criminal offence for which he is sentenced by the court with a final decision;
- c) becomes permanently incapable to hold the duty because of health causes;
- d) is lifted the ability to act.
- e) resigns.

#### **Article 107**

##### **The Administration Board of the ART**

1. The Administration Board is an advisory body of the ACART and competent for preparing of

analysis related with financial issue of ART, be them external or internal issues, part from the problems that are related to programming.

2. The ART Administration Board is composed of 5 members, 3 internal and 2 external, who are experts in issues of finance, business and administration. The Administration Board members are nominated for a four year mandate and can be re-appointed for two other subsequent 4-year mandate, if during this time they do not reach the retirement age.

3. The members of the Administration Board are appointed by the ACART by a secret ballot and simple majority between at least 10 candidacies.

4. The Board elects with a simple majority and by a secret vote the chair amid at least two candidates.

### **Article 108**

#### **Dismissal from duty of the members of the Administrative Board**

The member of the Administrative Board is dismissed from his duty in the cases when:

- a) violates the obligations they are tasked with by this law and the approved regulation on the board activity;
- b) more than 5 members of the ACART consider him incapable of performing their duty;
- c) fails to attend four consecutive meetings with no justification;
- d) is convicted of a criminal offence;
- e) resigns.

### **Article 109**

#### **The incompatibilities and the conflict of interests of the members of the Administrative Board**

1. The members of the Administration Board cannot be individuals who:

- a) are people who have connections or own a part of the capital or shares of the commercial companies as well as other rights in the audio-visual media field, advertisement, products of content of the audio-visual broadcasts, networks of the electronic communication or people employed during the last year, members of the steering or advisory bodies of these entities or connected to these entities by a contract;
- b) have been elected members of the ACART;
- c) run for members of Assembly or have been elected as such;
- d) are members of the directive forums of any political party;
- e) are Mayors of communes or municipalities, regions and prefects;
- f) are members of AMA, EPCA and employees of these institutions.

2. The Members of the administration Board are not allowed, during the exertion of their functioning, to represent the interests of third parties or the competitors of the institution, or be connected to business interests with competitors or third parties.

3. The Members of the Administration Board must declare:

- a) every interest or connection with any subject, with which the ART has implemented or intends to implement a contract;
- b) every potential interest in any contract, that the ART has implemented or intends to implement a contract;

4. Cannot participate in the discussion or the decision-making of issues related to interests or connections.

5. The requests of the Code of Conduct, approved by the ACART according to clause 4 of Article 97 of this law, are obligatory for the members of the Administration Board.

### **Article 110**

#### **The Organization of the Administration Board**

1. The Administration Board gets together according to the calendar of the issues approved by him, not less than once in a month. The Board gets together despite the plan every time two of the members ask for it, ACART or the General Director of the ART.

2. In the first meeting, the administration Board defines the date for the approval of its internal regulation, in which it expresses the procedures of the activities of this organization. The regulation is approved with the majority of the votes if the members of the Board.

3. The decisions of the Administration Board are valid if for them vote the majority of the members present. When the number of the votes is equal, the vote of the chair is decisive.

### **Article 111** **The tasks of the Administration Board**

The Administration Board has these tasks:

1. Drafts rules for financial issues, which are under the jurisdiction of the General Director.
2. Gives feedback about the draft budget of the ART, the yearly accounts and follows their implementation.
3. Examines the convenience of the businesses, in which the ART is engaged, based on the analysis of the risk.
4. Examines the contracts, the amount of which passes 1 per cent of the yearly budget of the ART.
5. Gives feedback about the expenses provided for in the budget. ACART approves by a decision the proposed measurements from the Administration Board, in relation to the expenses provided for in the budget.
6. Presents to the General Director of the ART reports and financial sheets, and also holds other tasks in accordance with the regulations set in the statute of the ART.
7. Asks and gets all the necessary information for his work from the departments and the sectors of the ART.
8. In case of conflict between the General Director of the ART and the administration Board, the latter can go directly to the ACART.
9. The consent of the Administration Board is necessary for the following activities:
  - a) the employment contracts, the ending of the agreements and the negotiation of conflicts with the trade unions;
  - b) the purchase, sale, and mortgage of real estate;
  - c) the getting and the payment of loans.
10. The Administration Board of the ART is paid a fixed monthly payment. The amount of the payment is set by the ACART.
11. The Administration Board reports to the ACART after every meeting.

### **Article 112** **The council for the viewers and the listeners**

1. ART creates the council for the viewers and the listeners within 3 days from the entry into power of this law.
2. The council is composed of 15 members, selected by the ACART, among its members, journalists and other employees of the ART and at least two thirds of them must be external representatives of the different social categories.
3. The council for the viewers and listeners, in its functioning, must assure the representation of the viewers and listeners and especially the persons with special senses' needs.
4. The ART ensures the Council of the conditions for the exertion of the functions of the latter.
5. The Council for the viewers and listeners can ask from the ART, when it sees it necessary and

feasible, surveys and studies related to the watching of the broadcasting services by the minors and adults, old people and other special categories of the society.

6. In execution of its functions, the board must organize hearings in its direct broadcasts and ask from the ART, for this purpose, twice a year to make available at least one hour of broadcast, not only in the television broadcasts but also in the audio ones.

7. The council for the viewers and listeners drafts a yearly report, related to the exertion of its functions, and presents it to the ACART, the AMA, the minister and the Commission for the Education of the and the Means of Public Information of the Assembly.

### **Article 113**

#### **The financing of the ART**

1. ART collects the financial funds for the functioning and the exertion of its tasks from the:
  - a) tariff of the service for the use of the television receiver, approved by the legislation for the taxes;
  - b) the contracts with third parties for different broadcasts, using the free technical capacities;
  - c) other programme services;
  - d) the sale of music production, videos of audio-cassettes, books, newspapers and magazines that are related to its programs;
  - e) the activities of the public shows;
  - f) other activities set by the statute of the ART;
  - g) advertisements and the publication of other paid messages;
  - h) sponsorships and donations;
  - i) the sale of the programs of the ART;
  - j) the financing of the State Budget.

2. The ART can enter into loan relations, service contracts, transactions or joint entrepreneurships with other subjects, when these relationships are created based on the properties it has, according to the legislation in power that regulates this activity.

### **Article 114**

#### **The regulation of the property of the ART**

The real estate of the ART are registered as public real estate and are administered only by the ART for the accomplishment of the scope set by law.

### **Article 115**

#### **The tariff of the use for the service of the television receiver**

1. The tariff of the service for the use of the receiver is applied for the receiver of the television broadcasts in the possession of the persons in the territory of the Republic of Albania, despite the fact of the apparatus is for personal or collective use at the level, way or form set by law for the national taxes and the sub-legal acts for its execution.

2. The receiver charged with the payment of the payment of the tariff, according to this Article, is the one that serves for the reception and the following of the audio-visual services, despite the fact if this apparatus is found in a house, public place or car.

### **Article 116**

#### **The financing from the state budget**

1. The state budget finances:
  - a) the service of the audio broadcasts for Albanians outside the borders of Albania;
  - b) the service of the audio broadcasts for the foreign public;
  - c) the service of the audio broadcasts for Albanians outside the borders of the republic of Albania;
  - d) important technical projects for the use of new technologies for production and broadcast;
  - e) important projects of film productions and great national artistic activities, produced by the ART;
  - f) the symphony orchestra of the ART and the cinema.
2. The financing amounts are set in the yearly law of the State Budget, after the previous approval,

based on the proposed project.

3. The Ministries and other state institutions can finance special projects with national importance in the fields of culture, science and education, with the approval of the ACART.

### **Article 117** **The contract of the public broadcast service**

1. ART, after the organizing of a public consultation, prepares, not later than 1 year from the entry into power and after this every 5 years, a service contract for the public broadcast where it determines the principles that it implements and the activities that it undertakes for the accomplishment of its scopes as a public transmitter, which is presented to the AMA.

2. The service contract of the public broadcast must see, among other things:

- a) the nature and the number of the hours of the programs of the broadcast for minors;
- b) ) the nature and the number of the hours of the programs of the broadcast for science and technology;
- c) the number of publications that it should prepare, print, and distribute in accordance with its scopes as a public transmitter;
- d) the drafting, publication and distribution of the audio-visual materials, registered in accordance with its aims as a public transmitter.

3. AMA can sign a service contract of public broadcast or ask for its revision within 30 days from its presentation.

### **Article 118** **The main aims of the activity of the ART**

1. The main aims of the activity of the ART are:

- a) to respond to the interests, demands or concerns of the whole population, to keep in mind the need for understanding and peace in the Republic of Albania and wider, to assure that the programs represent different human and cultural levels and to give special attention to the distinguishing elements of the Albanian language and culture;
- b) to support human and democratic values, protected by the constitution, especially the right to speech and information;
- c) to keep in mind the need for information of the public and the understanding of the values and traditions of the other countries, especially the European ones;
- d) to provide a full range of the programs in the Albanian language, which represent the cultural variety, entertain, inform, and educate the public, assure coverage of the presentation of the sports activities, religious and cultural and accomplish the expectations of the public in general and of the individuals, that belong to the social minorities, respecting in every case the human dignity;
- e) to provide news programs and current issues, in-country or outside, including the coverage of the assembly activities;
- f) to help and to facilitate the expression of the contemporary culture and the fostering of the innovations and the experimenting in the field of broadcasts.

2. In accordance with the main aims of its activity, according to clause 1 of this Article, the ART must:

- a) create, maintain and start functioning the national service of audio and audio-visual broadcasts which has to be a free of charge for the public service broadcast and accessible as much as it can be, from all the individuals in the Republic of Albania;
- b) to create, maintain, and start functioning stations of broadcast and to assure installation and use of electronic communication networks for radio-television broadcasts;
- c) to provide the teletext service and information through the web-page, in relation to its services and to assure the updating and maintenance of this webpage;
- d) to create and maintain the orchestra and/or similar groups;
- e) to help and to collaborate with the respective public institutions for the preparation and the distribution of the respective information for the public in the cases of an extraordinary event;
- f) to create and maintain the archives of the respective materials that are related to the aims of its activity;
- g) to create, maintain, and start functioning a television broadcast service and an audio broadcast service, which is receivable by as many Albanians outside the Republic of Albania as possible;

- h) to create, maintain, and start functioning after the approval from the AMA, local and regional broadcast services, or for different social groups, services which have to be cheap;
- i) to create, maintain, and start functioning non-linear audio-visual services, based on the demand of the user, services which might have the character of public service;
- j) to create, maintain, and start functioning national multiplexes.

3. The ART, in accordance with its aims, as they are set in clause 1 of this Article, has the right to:

- a) use, for as long as it is possible or reasonable, the commercial opportunities, in accordance with its aims;
- b) create, order, and find programs from different sources;
- c) make contracts and agreements, to collect information and news and to subscribe to agencies of news services and other services, for the aims of the ART;
- d) to register in international companies and music, education scenic art, culture, spectacle institutions for the aims of the ART;
- e) to provide, organize and subsidize concerts, shows, and other activities, in relation to the broadcast service;
- f) to prepare, publish, and distribute, with or without payment prints that serve the aims of the ART;
- g) to make agreements with other broadcasting companies or institutions for the distribution, receiving, exchange, and re-broadcasting of programs, live or registered;
- h) to produce, publish, and distribute with or without charge, registered audio-visual materials;
- i) to invest in film-making;
- j) to realize programme broadcasting, through terrestrial, satellite, cable networks, using the new broadcasting technologies.

4. The ART can be including in the programme lists, drafted outside the republic of Albania.

5. The ART must assure broadcasting services with different topics, for certain social categories, accessible with subscription.

### **Article 119** **Audio-visual programs of the ART**

ART includes in its broadcasts free to air not less than:

- a) 2 audio-visual broadcasting national programmes;
- b) 2 audio broadcasting national programmes;
- c) 1 audio broadcasting programme in foreign languages;
- d) 1 audio broadcasting programme for the fellows nationals;
- e) the programmes of the regional audio-visual centres;
- f) 1 satellite audio-visual program;
- e) 1 live audio-visual broadcasting programme for the activity of the Assembly.

### **Article 120**

The ART is forbidden to make political or religious propaganda. The coverage of the electoral campaign is made in accordance with the determinations in the Electoral Code.

### **Article 121** **The coverage area**

1. The national programs of the ART must cover the territory inhabited by at least 90 per cent of the citizens of the Republic of Albania.
2. Within **5 days** from the entry into power of this law, at least one of the networks of the ART must cover 99 per cent of the population.

### **Article 122** **The Infrastructure of the broadcasting**

1. The AMA, after the consulting with the ART, can ask the latter to collaborate with someone licensed for audio and audio-visual broadcasting, for the usage of the means of the infrastructure and the distribution of the signal, for the services of the audio or the audio-visual broadcasting of the respective

license.

2. The licensed with the audio or the audio-visual broadcasting service pays to ART the periodic tariffs for the use of the broadcasting infrastructure.

3. The tariffs are drafted based on the principle of transparency, proportionality and non-discrimination. They are proposed from the ART and approved by AMA, which answers 30 days after the presentation of the proposal. If AMA does not answer within this deadline, the tariffs are considered approved.

### **Article 123**

#### **The fund of independent production**

1. The ART creates and administrates a fund from its incomes for the financing of independent production.

2. Independent production is the audio-visual broadcasting program, made by one person or company, who meets the following conditions:

a) the persona participating in the programme or those included in its preparation and equipment and means for the realization of the programme are put by the person itself or the contracted company for the realization of the independent production;

b) the contracted person or company for the realization of the independent production is not an audio-visual broadcaster, part of it or a shareholder of one broadcaster.

3. The fund for the independent production is used from the ART only for:

a) the ordering of the realization of the independent programs of the audio-visual broadcasting;

b) the realization of the public open competition for the selection of the proposals presented for the realization of the programs mentioned in letter “a” of this clause.

4. The ART cannot spend more than 10 percent of the independent production fund for the aim set in letter “b” of the clause 2 of this Article.

5. the fund of the independent production which is not spent within the financial year it has been created, must be spent within two years, including the respective financial year.

6. If the independent production fund is not spent within a set period in point 5 of this Article, the general Director of the ART, after the counselling with the Administration Board, proposes the ACART the passing of the remained part of the fund of the independent production to the general budget of the ART.

7. In the preparation of the proposal, according to clause 6 of this Article, the General Director of the ART takes into account:

a) the current financial obligations and the planned ones of the ART;

b) the effects in the respective financial terms for the employment and the commitment of the human resources of the ART;

c) the performance of the obligations of the ART as a public service for the realization of the independent productions of the audio-visual broadcasting.

8. Within 3 months from the end of the financial year, the ART prepares a report for the AMA for:

a) the productions orders during the past year from the fund of the independent production;

b) the name of the company or the persons contracted for this purpose;

c) the use of the independent production fund during the past year and the amount remained unused;

d) every other issue that relates to those set in clauses “a” up to “c” of this clause that

AMA might ask. Copies of these are presented to the assembly during the yearly reporting of the ART.

### **Article 124**

#### **The productions of the ART**

1. The productions of the ART, the co-productions and the ordered production of programs make at least 50 per cent of the broadcasting time.

2. The ordered production is part of the programs of the ART. The orders are made to licensed entities

for the production of audio-visual programs or films.

3. Co-production is the production of programs in collaboration with ART and one licensed entity, where each producer commits with his financial and technical potential.

4. ART provides open public competition for the ordered productions, according to the programme structures.

5. The modalities for the ordered productions and co-productions are set in the statute of the ART.

6. For the production of the audio-visual works, that are made by ordering, ART has the right to use up to 25 per cent of its budget destined for productions.

### **Article 125**

#### **The broadcasting networks of the ART**

The services of the programs of the ART are supported in the broadcasting networks as follows:

- a) networks that use the frequencies for audio-visual broadcasting. These frequencies are set by the AMA, according to the National Plan of Frequencies and are part of the service contract of the public broadcast, in accordance with article 17 of this law;
- b) networks that use frequencies outside of the audio-visual bands. These frequencies are given by EPCA, according to the determinations in the National Plan of Frequencies, in accordance with Article 54 clause 2 of this law;
- c) networks that do not ask for the determination of the frequencies. The provision of the services of these networks is made on the basis of the determinations of article 54 clause 3 of this law.

### **Article 126**

#### **Digital broadcast of the ART**

1. The ART, on the basis of the contract that it signs with the AMA, creates, uses and operates a national digital network in order to have digital broadcasts for:

- a) its free of charge audio and audio-visual services;
- b) other services with a public nature, set as such by the AMA;
- c) services of other broadcasters, based on the respective contracts.

2. The determinations of clause 1 of this Article do not prohibit the ART to ask for the creation of a second digital network.

## **CHAPTER XIII**

### **THE COVERAGE OF THE IMPORTANT EVENTS FOR THE PUBLIC**

#### **Article 127**

##### **The designation of the important events**

1. The AMA, with a decision, determines:

- a) the list of the events of great importance to the public, which are broadcasted free of charge by the AAMSP that will gain the right to broadcast this event and which assures general coverage;
- b) the method of the free of charge broadcasting of an important event, if it should be broadcasted directly, registered or in both ways and in the whole or a certain part of the territory of the country.

2. The AMA, to make the decision for the decision of the designation, must keep in mind all the circumstances and, especially, the echo and the special interest, and the special values that the event has for the culture of the whole population of the Republic of Albania.

3. In order to determine the amount, in which the designated circumstances of clause 2 of this Article exist, the AMA assesses the participation of a national team or of an Albanian individual, and the previous experience, related to the coverage of the broadcast of the event or similar events

4. The AMA, in the designation decision, assesses the nature of the event, when it is held and the practical assessment of the broadcasts in the country.

5. In the designation decision, the AMA gets advice from the minister that covers culture, art, sport and tourism and the Compliance Commission.

6. The designation decision is presented for feedback to the commission for the education and the Means of Public Information of the Assembly.

#### **Article 128**

##### **The qualification of AAMSP for the coverage of great importance events for the public**

1. Two or more AAMSP can sign a contract or agreement in order to realize together the (general ) universal coverage of a great importance event. In such a case these AAMSP are considered together as one AAMSP qualified in relation with the universal coverage.

2. One AAMSP can ask from the AMA to resolve the disagreements, related to the service free of charge service of the broadcasting within the country for the universal coverage.

3. The AMA can consult technical experts or other specialized people for the solution of the disagreement.

#### **Article 129**

##### **The obligations of AAMSP related to the designated events**

1. If an AAMSP in the jurisdiction of the Republic of Albania is not qualified, but owns the exclusive right to broadcast a designated event, this AAMSP makes available to the qualified AAMSP the broadcast of the event, having paid a reasonable price, on the basis of the value of the market, from the latter.

2. When a qualified AAMSP owns the exclusive right or the right of the broadcast of the event, according to the designations of this chapter, or based on a contract with the organizer of the event, the qualified AAMSP must broadcast the event with a free of charge service, making sure to have universal coverage, in accordance with the respective decision of the designation of the AMA.

3. If because of the value of the price of the market, the passing of the right of broadcasting, according to the designation of clause 1 of this Article, it cannot be done, AAMSP which has the exclusive right to broadcast the designated event, makes available to the qualified AAMSP to have a summary of the broadcast of the event. The characteristics of the summary of the broadcast of the event and the method of its broadcasting are set in a special regulation of the AMA.

#### **Article 130**

##### **The right to short news reports**

1. For the purposes of the short news reports, every AAMSP, created in the European Union, has access to equal conditions in events of high interest for the public, which are broadcasted on exclusive basis from an AAMSP under the jurisdiction of Albania.

2. If an AAMSP, created in the republic of Albania, has asked for exclusive rights for events of events of high interest for the public, another AAMSP, created in Albania, can ask from it access for the event. All the AAMSP have the right to access in the events that are of high interest for the public, in equal conditions.

3. The AMA makes sure that access to the referred events in clauses 1 and 2 of this Article is guaranteed allowing AAMSP to select freely a short part from the signal of designated AAMSP, identifying their source.

4. Short parts are used for the programs and can be used in the media and audio-visual services, according to the request, only if the same programme is provided on a later basis from the same AAMSP.

5. The AAMSP that transmits the event of high interest for the public has the right to ask from an AAMSP another compensation of the current cost, for the accomplishment of this obligation. The

compensation provided for must not trespass additional costs, discharged directly from the access permission.

6. The AMA regulates the application of this Article, including the preparations for the compensation, the maximal length of the short parts and the time limitations regarding their transmission.

### **Article 131** **Compliance for events of high interest**

If an AAMSP pretends that a lack of respect of Article 129 from one of the AAMSP has occurred, it can claim at the court against these AAMSP, asking:

- a) the cancellation of the contract of the exclusive broadcasting right;
- b) the designation of civil damages, caused by the other bidders;
- c) the acknowledgement of the right to provision of the coverage of the interested entity, according to the determinations of this law.

## **CHAPTER XIV** **ADMINISTRATIVE VIOLATIONS AND SANCTIONS**

### **Article 132** **Measures for the violations**

1. In the cases of the violations of the dispositions of this law, the AMA decides:
  - a) fine;
  - b) temporary suspension of the license and/or the authorization;
  - c) reduction of the license time and/or the authorization;
  - d) withdrawal of the license and/or the authorization.

The AMA in its decision takes into consideration the measure and the duration of the violation made.

2. The AMA decides sanctions provided for in the law not later than one year from the date of the violation.
3. When the AMA notices violations of the legal dispositions, for which legally other state institutions put sanctions, then it notifies the latter.
4. The sanctioned entity can present a complaint to the AMA within 30 days from the date of the announcement or notification. The AMA examines the complaint and announces the decision within 30 days. Against the decision of the AMA can be made complaints to the district court where the premises of the administrative body are.
5. The decisions of the AMA, are executed by the execution service, according to the dispositions of the Code of Civil Proceedings. The AMA is not obliged to pay the tax or the tariff for the execution service.

### **Article 133** **Fines**

The following violations, made by the licensed, when they do not constitute a criminal offense, they are administrative offences and are punished as below:

1. With a fine from 40 000 to 400 000 ALL in the cases when:
  - a) does not respect the obligations that derive from the article 33 of this law;
  - b) does not apply the term of the preservation of the registration of the broadcasts, according to the determinations of the Article 37 of this law.
2. With a fine from 120 000 to 2 000 000 in the cases when:
  - a) does not respect the time set for the broadcast, according to the conditions of the license;
  - b) does not respect the obligations of Articles 42, 43, 44 and 62 clause 12 of this law for the broadcast of the advertisement;
  - c) does not respect the obligations of Article 45 of this law on sponsorships;
  - d) does not respect the conditions of the license and/or the authorization regarding the programs

produced in the country and the European activities;

e) are not notified for the changes that have happened to the data presented in the request for the license and/or authorization, within a period of 30 days from the date of the making of the changes;

f) does not allow the inspectors to enter in the premises where the audio-visual equipment of the licensed and/or the authorized are placed or the data requested by them is not given;

e) cause indifference towards another entity as a result of a lack of technical respect in transmission.

3. With fine from 1 000 000 to 3 000 000 ALL for the cases when:

a) broadcasts are made at another frequency non-authorized;

b) broadcast with radiative higher than the one authorized;

c) transmits from different countries than those set in the license;

d) transmits audio and audio-visual services, according to the request, without the authorization of AMA, according to the determinations of article 75 of this law;

d) performs activity in the provision of audio and audio-visual services, according to the request, in contradiction to the requests of the Article 76 of this Law.

4. With a fine from 1 000 000 to 5 000 000 ALL in the case when it does not respect in broadcast the territorial borders, set in the conditions of the license;

5. With a fine from 5 000 000 to 10 000 000 ALL in the cases when one person installs TV or radio equipment, broadcasting with an audio or audio-visual signal without authorization or licensing of AMA.

6. With a fine of 300 000 ALL in the case when the licensed and/or the authorized does not respect the right to respond, according to Article 53 of this Law.

7. With a fine of 1 000 000 to 2 000 000 ALL when the obligations provided for in Article 32 clause 6 of this law are not respected. The repetition of the violation more than 3 times is punished with a decrease of the 50% of the term of the license and/or authorization. In case of repetition, the violation is punished with a withdrawal of the license and/or authorization.

8. With a fine of 100 000 to 2 000 000 ALL for the cases when:

a) it produces, imports, distributes, sells, rents, or possesses prohibited equipment for commercial aims;

b) installs, maintains, or substitutes, prohibited equipment for commercial purposes;

c) uses commercial communications for the promotion of prohibited equipment;

ç) does not respect the conditions of the license according to Article 72 of this Law.

9. AMA decides the temporary withdrawal of the license and/or the authorization in case the entity:

a) causes continuously damaging interferences;

b) does not respect the obligation provided for in Article 63 of this law for the use of the digital network;

10. The fine is given by the inspectors or the AMA, with their initiative or after the complaint of the interested entities. The punishment with the above-mentioned fines is valid also for the ART.

11. Against the action of fining can be presented a complaint to the AMA within 30 days from the date of the notice. The AMA makes a decision within 30 days from the date of the presentation of the complaint.

12. Against the decision of the AMA can be made a complaint to the district court where the administrative body has the premises.

13. The fine is an executive title that is executed from the bailiff service and 80% is deposited to the state budget and 20 per cent to the budget of the AMA.

## **CHAPTER XV TRANSITIONAL PROVISIONS**

### **Article 134 The mandates of the members of the KKRT**

The Chair and the members of the KKRT, selected according to the law No. 8410 date 30.09.1998 “On

the public and private radio and television in the Republic of Albania”, as amended, continue to stay in the duty even after the entry into power of this law, up to the end of the term defined in the appointment mandate. The vacancies of AMA are filled according to the determinations of the Articles 8 and 9 of this law.

#### Article 135

##### **Mandates of the members of the ACART**

During the first mandate, the Chair, Deputy Chair and two members of the ACART, are selected for their function for a period of 5 years, 4 members for a period of 3 years. The determination of the mandate of the members is done by lottery, according to the procedures set in the regulation of the activity of the institution.

#### Article 136

##### **The full transition to the digital broadcasting**

1. The final date of the full transition to the digital television broadcasts is the 17<sup>th</sup> June 2015.
2. The method of the full transition in the digital broadcasts, the respective institutions, the financings, and other issues related to this process, are set in the strategy for the transition from analogue broadcasting to digital broadcasting approved by the Council of Ministers.
3. With the entry into power of this law, it is not allowed to give licenses for analogue terrestrial television broadcasts.

#### Article 137

##### **The change of the statute of the ART**

1. ACART within 120 days from the collection of the first meeting, but not later than 6 months from the entry into power of this law, in accordance with this law, and presents it for approval to the Assembly.
2. In the preparation of the changes of the statute, the ART makes consultations previously with the AMA, the Assembly and makes a public consultation, according to the method approved previously from the ACART for this purpose.

#### Article 138

##### **The validity of the existing licenses**

1. The licenses for the radio FM broadcasting, given according to law no. 8410, date 30.9.1998 “On the public and private radio and television in the Republic of Albania”, as amended, remain in power until the end of their deadline.
2. The licenses for the broadcasting of the cable television programs given according to the law no. 8410, date 30.09.1998 “On the public and private radio and television in the Republic of Albania”, as amended, is substituted with the following authorizations:
  - a) the authorization for the **exchange** of the audio programs and/or the service of the audio-visual programs released by the AMA;
  - b) the general authorization, according to the determination of the law no. 9918, date 19.5.2008 “On the electronic communications in the republic of Albania”, after the notification of the EPCA. The above-mentioned substitutions are made within 6 months from the date of the entry into power of this law.
3. the licenses for the broadcast of the television programme with satellite given according to the law no. 8410 date 30.9.1998 “On the public and private radio and television in the Republic of Albania”, as amended, are replaced with the following authorizations:
  - a) with authorization for the service of the audio and/or the services of the services of the audio-visual program, released by the AMA;
  - b) with the respective authorization, according to the determination of law no. 9918, date 19.5.2008 “On the electronic communications in the Republic of Albania”, upon notification by EPCA-it. The above replacements are made within 6 months from the date of the entry into power of this law.

4. The licenses for the television broadcasting, given according to the law no. 8410, date 30.9.1998 “On the public and private radio and television in the Republic of Albania”, as amended, are replaced with licenses for audio-visual broadcast, according to the determinations of this law. The replacement of the existing licenses is made within 6 months of the entry into power of the law, with a term up to the end of the analogue broadcasts.

5. Up to the end of the analogue broadcasts, the analogue audiovisual broadcasts can be supported in digital networks provided by the owners of the licenses for television digital broadcasts, with the **position** of the licensed for the service of the audio-visual program.

### **Article 139**

#### **The licensing of the digital networks and programs that are supported by them in the transition period**

Despite how much is set in the Articles 70 and 71 of this Law, in accordance with the strategy for the implementation of the transition from analogue broadcasting to digital broadcasting, approved by the Council of Ministers, the AMA makes the licensing of the **private digital networks and the programs that are supported as follows:**

1. Licenses for digital national networks:

a) The AMA determines the number of licenses of the private national digital broadcasts, regional or local and the rules and the criteria of licensing, according to the determinations in the strategy of the transition to digital broadcasting;

b) The AMA, based on the developments of the market of the audio-visual broadcast, determines the private historic national operators, and the existing operators, experienced in digital broadcasting, who are invited to participate in the selection procedure, according to the *beauty contest* for the national digital networks.

The AMA, within three months from the entry into power of this law, notifies the public and invites the operators to participate in the selection process:

c) the applicants that participate in the selection procedure, according to letter b of clause 1 of this Article, must meet the following criteria:

i) the release of the frequencies taken arbitrarily, if they operate in such conditions, and to migrate in the frequencies set in the Digital Plan (GE 06), according to the specifications of the AMA, within a time set in the license;

ii) each operator is licensed for a digital national network DVB-T2 with a compression standard MPEG-4. In the license are included time limits established for the transition to DVB-T2 and MPEG-4, but not more than three years from the moment of the licensing;

iii) the support of the networks of the local operators for the programs, according to the determinations in Article 63 of this law, and for shared usage as well;

iv) the provision of **mutual** access, non-discrimination and transparency;

v) the standardization of the systems of conditional access for the protection from the programs with a damaging character for the minors;

vi) the application of new and interactive services.

2. The licensed for digital networks undergoes all the requests set in this law.

3. The national existing analogue programs continue to be broadcasted free to air even after having been supported in digital platforms.

4. The licensing for local and regional digital networks is made according to the following procedure:

a) all the existing analogue local operators have the right:

i) to ask for the support of their programs in the digital network of the public television or the other digital networks, licensed according to this law;

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

iii) to participate in the contest organized by the AMA for a license in the local digital network, according to the determination of this law;

b) within three months from the entry into power of this law, every analogue operator notifies AMA in a written form for the way and the support of his programs in the digital networks, according to the determinations in letter “a” of clause 4 of this article;

c) The AMA invites, within three months from the entry into power of this law, all the analogue existing local operators, that operate within an area planned to be covered by a SFN DVB-T2 network with compression standard MPEG-4, according to the plan of frequencies, to apply for common

possession of the local digital network without going to the competition process, determining also the final deadline for the presentation of the mutual agreement;

d) if the agreement for the mutual construction of the digital network is not attained of at least 70 per cent of the existing analogue operators, according to letter "c" of clause 4 of this Article, the AMA declares the competition for the licensing of a local digital network in the respective area, according to the determination in Article 70 of this law;

e) The AMA, in the licensing of the digital networks, assures continuity of the operation of existing analogue operators in the respective coverage areas, according to at least one of the ways set in clause 4 letter "a" of this Article, and the freeing of the digital dividend band;

f) if the current coverage area of a local or regional analogue operator exceeds the dimensions of a planned area for the coverage from a SFN network, this operator has the right to own, mutually with other operators not less than four local digital networks, on the condition that this does not oppose the requests of Article 63 of this law.

5. The local existing analogue programs continue to be broadcasted free to air even after they are supported on the digital platforms.

6. The licenses of the digital network are given by the AMA in the frequencies of the digital plan of the frequencies, except the frequencies of the digital dividend.

7. If the frequencies of the digital plan are busy with analogue existing transmissions, the existing analogue operator migrates with his expenses to other frequencies as set by the AMA.

8. The licensing, according to this Article, is made by the AMA for a transition period up to the end of the deadline for the full transition to the digital broadcast, set in Article 136 clause 1 of this law.

9. With the end of the transition period, the AMA makes the licensing of the digital networks and/or programs that are supported by them, according to the licensing procedures, set in this law.

#### **Article 140**

##### **The deadline for the release of frequencies occupied arbitrarily**

1. Entities that operate unlicensed in digital broadcasting, audio and/or audiovisual, are obliged, within 30 days from the end of the licensing procedure, according to Article 139 of this Law, but not later than 6 months from the entry into force of this law, to stop broadcasting.

2. In case of violation of clause 1 of this Article, the AMA implements the procedures set in Article 80 of this law to block and release equipment of the frequencies arbitrarily occupied.

#### **Article 141**

The AMA is charged to issue regulations to implement this law, within 6 months from its entry into force, except the cases when it is otherwise provided in this law.

### **CHAPTER XVI**

#### **FINAL DISPOSITIONS**

#### **Article 142**

##### **Repeals**

Law no. 8410 dated 30.9.1998 "On public and private radio and television in the Republic of Albania", as amended, and Law no. 9742 dated 28.5.2007 "For digital broadcasting in the Republic of Albania" are repealed.

#### **Article 143**

##### **Entry into power**

This law enters into power 15 days after its publication in the Official Journal.

Approved on 4.3.2013

**Proclaimed by decree no. 8061, date 15.3.2013 of the President of the republic of Albania,  
BujarNishani**