

**Law on the Establishment of Radio and Television Enterprises
and Their Broadcasts Law No. 3984 of 20 April 1994**

**CHAPTER ONE
OBJECTIVE, SCOPE and DEFINITIONS**

Objective

Article 1. The objective of this law is to prescribe the principles and procedures relating to the regulation of radio and television broadcasts and to the establishment, duties, competence and responsibilities of the Radio and Television Supreme Council.

Scope

Article 2. This law deals with matters relating to radio and television broadcasts transmitted by any and all techniques, methods or means and by electromagnetic waves or other means under any denotation for reception domestically or abroad.

Definitions

Article 3. (As amended by the Law No. 4756 on May 21, 2002.)

Of the terms used in this Law.

- a) "Supreme Council" means the Radio and Television Supreme Council.
- b) "Radio broadcast" means the sound transmission made via electromagnetic waves, data networks and other means for direct reception by the general public.
- c) "Data broadcast" means the broadcasts of data; made via electromagnetic waves, data networks and other means for direct reception by the general public, which are along with the radio and television broadcasts, associated with and independent from the radio and television programs.
- d) "Television broadcast" means non-permanent transmissions, whether accompanied by sound or not, of moving or still pictures made via electromagnetic waves, data networks and other means for direct reception by the general public.
- e) "Electromagnetic wave" means an artificially produced wave with magnetic components, which moves at the speed of light in space or through a physical medium such as cable or optical fiber.
- f) "TV channel" means the frequency bandwidth to be occupied by the electromagnetic waves transmitted by a television transmitter for television and data broadcasting.
- g) "Radio frequency" means the frequency bandwidth to be occupied by the electromagnetic waves transmitted by a radio transmitter for radio and data broadcasting.
- h) "Radio and television transmitter" means any emitting, transmitting, relaying or amplifying equipment or system, terrestrial or in space, mobile or stationary, that allows direct reception of radio, television and data broadcasts.
- i) "Cable broadcast" means the type of broadcast that provides the transmission of radio, television and data broadcasts via cable, fiber optic or a similar physical medium for reception of subscribers.
- i) "Closed circuit television system" means radio, television and data broadcasts, other than the national, regional and local broadcasts, generally made via a cable network used within a building or a group of buildings to provide access to a target audience for a specific purpose such as training, education, security or tourism.

- j) "Radio receiver" means an apparatus for reception and listening to radio and data broadcasts.
- k) "Television receiver" means an apparatus for reception and viewing of television and data broadcasts.
- l) "National broadcast" means the radio, television and data broadcasts that cover across the whole country.
- m) "Regional broadcast" means the radio, television and data broadcasts that cover the landscape of at least three neighbor provinces and minimum 70 percent landscape of a geographical region.
- n) "Local broadcast" means the radio, television and data broadcasts that cover the landscape of at least one district (including the central district of a province) and minimum 70 percent landscape of a province regarding the administrative division.
- o) "Additional broadcasting services" means independent services that accompany television or radio programs, broadcast through intervals within the assigned frequency for a television broadcast, or through supplementary carriers for radio broadcasts such as a radio data system (AMDS, RDS), data transmission, teletext or similar independent services.
- p) "Satellite broadcast" means the initial broadcast for radio or television programs by the competent broadcaster or the person or the organization that is to provide the service, via any medium that can transmit encoded or unencoded signals through space.
- r) "Retransmission" means receiving completely or partly of radio and television program services in an unchanged form and transmitting simultaneously or with a delay for reception by the general public, irrespective of the technical means employed, by the competent broadcasting enterprise,
- s) "Broadcaster" means the natural or legal person who composes radio, television program and data services for reception by the general public and transmits them or has them transmitted, complete and unchanged, to the third party.
- t) "Program service" means all the items within a single service provided by a given broadcaster as described in the preceding paragraph.
- u) "Advertisement" means any announcement directed at the general public and intended to promote the sale, purchase or rental of a product or service, to advance a cause or idea, or to bring about some other effect desired by the advertiser, for which transmission time has been assigned to the advertiser in return for remuneration or a similar consideration.
- v) "Copyright holder" means a natural person, such as a writer, composer or arranger who has created a work in the intellectual field.
- y) "Thematic channel" means the broadcasting channel whose programs are specialized only on one type of topic such as news, documentaries, sport, music or similar ones.
- z) "Communication environment" means any kind of environment that transmits the signals in the central outlet where radio and television programs are produced, to the radio, television and data delivery systems by means of any technical method used for compounding one or more radio and television channels.

CHAPTER TWO BROADCASTING STANDARDS

Broadcasting Standards

Article 4. (As amended by the Law No. 4756 on May 21, 2002 and by the Law No.4771 on 9 August, 2002.)

Radio, television and data broadcasts shall be conducted within a spirit of public service, in compliance with the supremacy of the law, the general principles of the Constitution, fundamental rights and freedom, national security and general moral values. The broadcasts shall be in Turkish language. However, it may also be broadcast for the purpose of teaching foreign languages, which may have contribution to the formation of universal culture and scientific works or transmitting music or news in those languages.

Furthermore, there may be broadcasts in the different languages and dialects used traditionally by Turkish citizens in their daily lives. Such broadcasts shall not contradict the fundamental principles of the Turkish Republic enshrined in the Constitution and the indivisible integrity of the state with its territory and nation. The principles and procedures for these broadcasts and the supervision of these broadcasts shall be determined through a regulation to be issued by the Supreme Board.

The broadcasting standards in radio, television and data broadcasts are as follows:

- a) Broadcasts shall not violate the existence and independence of the Turkish Republic, the territorial and national integrity of the State, the reforms and principles of Atatürk.
- b) Broadcasts shall not instigate the community to violence, terror, ethnical discrimination or shall not incite hate and hostility by making discrimination in the community in terms of the diversities of the social class, race, language, religion, sect and territory or shall not give rise to feelings of hatred in the community.
- c) Broadcasting shall not be exercised in a manner that serves to the unfair interests of broadcasting enterprises, shareholders and their relatives by blood or by marriage, up to and including those of third degree or of any other real or legal persons.
- d) Broadcasts shall not, in any manner, humiliate or insult people for their language, race, color, sex, political opinion, philosophical belief, religion, sect, and any such considerations.
- e) Broadcasts shall not violate the national and moral values of the community and Turkish family structure.
- f) The privacy of private life shall be respected.
- g) Broadcasts shall serve for the improvement of the general objectives and basic principles of the Turkish national education system and the national culture.
- h) Broadcasts shall use the Turkish language in its spoken form without destroying its characteristics and rules; shall ensure its development in the form of a modern cultural, educational and scientific language as a basic element of national unity and integrity.
- i) Broadcasts shall not offend the personality of individuals beyond the limits of criticism, shall respect the right of reply and rectification; the news, which the investigation of their accuracy is possible within the framework of code of conduct of media, shall not be broadcast without proper investigation or without being sure of their truthfulness; the given information, provided

that it be kept confident, shall not be broadcast unless there is a serious necessity for public interest.

- j) Broadcasts shall not serve to an unfair aim and interest and shall not lead to unfair competition, broadcasts qualified as proclamation and advertising shall be announced clearly without leading to any suspicion; a product promotion created by one agency with its own efforts shall not be broadcast by an other agency as if it belongs to itself; source of the news which are provided by agencies or another media source shall be indicated with particular importance,
- k) Broadcasts shall not present or declare no one as guilty unless there is a court decision; any programme item that leads people to commit a crime or raise the feeling of fear shall not be broadcast.
- l) Broadcasters shall respect the principles of impartiality, conformity and reliability in news programmes; broadcasts shall not prevent free formation of opinions; the secrecy of the source of information shall be preserved unless there is an intention for misleading the public.
- m) The advertisements which are deceptive, misleading or that would lead to unfair competition shall not be broadcast.
- n) The equality of opportunity shall be established among the political parties and democratic groups; the broadcasts shall not be biased or partial; the broadcasts shall not be violate the principles on the election bans which are determined at election times.
- o) Broadcasts shall not violate the rights of the right holders stipulated by law.
- p) Broadcasts shall not resort to contests or similar methods via information communication telephone lines, and no prizes shall be awarded to listeners or viewers or no mediation is provided for awarding prize; lotteries shall not be made, questionnaire and opinion polls via telephone shall be realised before the notary from the preparatory stage to announcement of the results.
- r) Broadcasts on subjects which includes information related or unrelated to the main programme, shall not be made via split-screen; continuous broadcasting by using frames or scrolling band technique shall not be done; scenes which are not related to the subject shall not be broadcast in news, scenes which show similarity with the content of the news should be identified as archive.
- s) All the items of the program services shall respect to human dignity and fundamental human rights.
- t) Broadcasts shall not be obscene.
- u) Broadcasts shall not encourage violence and discrimination against women, weak and minors.
- v) The broadcasts shall not encourage the use of violence or incite feelings of racial hatred,
- y) Broadcasts shall not reflect the fearful and intimidate features of crime organizations.
- z) Programmes, which could impair the physical, mental, and moral development of young people and children shall not be broadcast within the time intervals that they may be viewing.

CHAPTER THREE RADIO AND TELEVISION SUPREME COUNCIL

Establishment

Article 5. The Radio and Television Supreme Council is established as an autonomous and impartial public legal person in order to regulate radio and television broadcasting services.

Election of Supreme Council and Term of Office

Article 6. (As amended by the Law No. 5373/1 on July 5, 2005.)

Supreme Council shall be composed of nine members elected by the Turkish Grand National Assembly from among persons who have at least four years of higher education, ten years of professional working experience in public and private organizations, sufficient professional knowledge and experience and qualification for being a state employee and shall be over the age of 30.

For their election, political parties shall nominate candidates two-fold more in number in accordance with the rate of their number of seats in the Grand National Assembly and the Supreme Council members shall be elected from among these candidates on the basis of the number of members of each political party in the General Session of the Grand National Assembly. But, no decision shall be taken or no negotiation shall be implemented about whom will be voted to in the group meetings of the political parties.

Election of the Supreme Council members shall be executed in ten days following the publicly announcement of the candidates. For the every candidates nominated by the political parties, composite ballot notes shall be prepared in lists. Voting shall be realized by putting a mark on the special places across the names of candidates on the notes. In accordance with the already designated quota of the political parties as defined in the Paragraph 2, the votes which will be cast more than the members to be elected to the Supreme Council by the political parties shall be assumed invalid.

The candidates from among the others who collected the most votes for the vacant member seats shall be elected, provided that the number of decision for quorum is ensured. Result of the election shall be published in the Official Gazette.

The term of the Supreme Council members shall be 6 years. One third of the members shall be renewed in every two years. Two months before the end of members' term or in case any vacancy in the memberships occurs, from the date of vacancy or, if the Turkish Grand National Assembly is closed for holidays in the date of vacancy, in one month beginning from the end of holidays, election shall be executed using the same process. In these elections, the distribution of the vacant memberships to the political parties shall be designated by considering number of the elected members in the quotas of the political parties in the first election and the present composition of shares of political parties in the Turkish Grand National Assembly. The term of the members elected because of the vacancy of membership shall complete the remaining term of the vacating members.

Council President and Vice-President

Article 7. (As amended by the Law No. 4756 on May 21, 2002.)

The Supreme Council members shall elect a president and a vice-president among its members by holding a meeting within a fortnight as of the date of the election results is published in the Official Gazette.

The term of Presidency is two years. If the membership of the president or vice president terminates during any way of renewal or at the end of two years, members shall hold a meeting within a fortnight and elect a new president or vice-president.

Supreme Council is ruled and represented by the President, in case of his absence, by the Vice-President.

President is responsible for providing co-operative, efficient, disciplined and orderly way of working in Supreme Council and between service units and functioning of Supreme Council.

President, or in his absence, Vice-President shall inform the agenda to be decided to the Supreme Council members before the meetings. Supreme Council shall be prepared for the agenda.

Functions and Powers

Article 8. The functions and powers of the Supreme Council are:

a) (This sub-paragraph was abrogated by the Law No.4756 on May 21, 2002.)

b) In keeping with Article 16, to issue, commensurate with standards of impartiality and fairness, broadcasting permits and licenses to applicants who have complied with the prerequisites; to allocate channels and frequency bands, with due respect to the use on a time sharing basis and in keeping with regional balances of at least 50 percent of the channels and frequency bands included in the national, regional and local frequency plans, excluding those channels and frequency bands used by the Turkish Radio and Television Corporation,

c) Under the provisions of Radiocommunication Law No. 2813 of 5.4.1983, to issue establishing and operating permits to radio and television enterprises for transmitting facilities to cover broadcast service areas allocated to radio and television enterprises according to national frequency plans for national, regional and local broadcasts and to supervise the compliance of the facilities with the provisions of the Radiocommunication Law and with the prerequisites for such facilities,

d) Under the provisions of this law, to issue licenses for the construction and operation of telecommunication facilities so that, in addition to the radio and television transmitters provided for in the national frequency plans and to the existing telecommunications network between stationary and mobile transmitting units, radio and television enterprises can establish radiolink stations for the purpose of linking up with satellites in order to relay their national and local broadcasts, on condition that these are used solely for the objectives set forth, and to verify that these facilities are operated in keeping with the provisions of Radiocommunication Law No. 2813 of 5.4.1983,

e) To encourage enterprises to extend their broadcasts to various regions of the country, while observing regional balances in the allocation of time sharing channels,

f) To specify and publicize, while bearing in mind the principles of the European Convention on Transfrontier Television, the prerequisites and standards to be fulfilled by public and private radio and television enterprises that intend to transmit from within the country in order to apply for broadcasting permits and licenses,

g) To establish via relevant regulations the preconditions for allocating channels and frequency bands, the deadlines for recipients of allocations to start regular broadcasts, and the broadcasting permit and licence fees to be paid by operators of radio and television stations,

h) to verify the compliance of broadcasts with the provisions of Article 4 above and with international treaties to which Turkey is a Party by setting up monitoring systems for radio and television broadcasts,

i) To decide on the relevant sanctions in cases of violation of the provisions of this Law or of the conditions for frequency allocation,

j) To permit building of radio and television transmitters by local means in parts of national territory that cannot be reached by available transmissions.

k) To ensure that broadcasts from or to national territory to be transmitted via satellite conform to national and international rules and standards, and to cooperate to this end with competent authorities in other states ,

l) To formulate the rules to be applied to encoded broadcasts and to cable radio and television installations and broadcasts within the framework of this Law, taking care not to leave any surplus capacity in the cable radio and television facilities of the PTT Administration,

m) To conduct or commission public opinion surveys in order to follow regularly the reaction, approval or sensibilities of the public and to provide appropriate guidance in relation to radio and television broadcasts, on condition that the functions and powers of the Ministry of Foreign Affairs are preserved,

n) On condition that the functions of the Directorate General of Radiocommunication and the functions and powers of the Ministry of Foreign Affairs are preserved, to represent the State at organizations that have legal personality under international law, and are concerned with radio and television broadcasts, as well as fulfilling the representation function at international organizations concerned with radio and television broadcasts but without legal personality under international law; to sign duly the instruments formulated under this paragraph,

o) To evaluate trends in public opinion by periodically consulting with institutions and agencies on radio and television broadcasts,

p) To draft the regulations and other rules regarding its own work and activities in keeping with this law and the European Convention on Transfrontier Television.

Prohibitions and Supervision

Article 9. (As amended by the Law No. 4756 on May 21, 2002.)

Members of the Supreme Council and their relatives by blood or by marriage up to and including to those third degree, provisions of Law No 5846 of Intellectual and Works of Art being reserved, shall not enter into any commitments pertaining to the function and powers of the Supreme Council within the field of radio and television services, shall not be partners or managers in private radio and television enterprises and in the enterprises that have direct or indirect partnership affiliation with these companies.

Supreme Council members shall not undertake any civil service or private post for the duration of their membership, they shall not be a party directly or indirectly in matters within the field of function and powers of private or public broadcasting enterprises or nor derive any benefit for such matters, shall not be a member to a political party. Functions in associations and foundations whose purpose is social aid and education and co-operative partnership are exceptions to this provision.

Supreme Council members shall not enter into negotiations or participate to voting in matters relating to themselves or their relatives by blood or by marriage up to and including to those third degree.

The members, who violate the above principles, shall be accepted as resigned. This issue shall be decided by the Supreme Council as a result of the evaluation either by its initiative or by the application.

Supreme Council is subject to the Prime Ministry High Supervision Council.

Tenure and Remuneration of Supreme Council Members

Article 10. Members of the Supreme Council shall be paid, for the duration of their term, the equivalent of the salary, together with the relevant social benefits, pay raises and special compensation paid to the highest official under Law No.657 on the Civil Service and its amendments.

Council members who are civil service officials shall be considered on leave without pay from their organization for the duration of their term of office. Their term on the Council shall be considered as part of their career and shall be counted toward their promotion with honours.

Council members shall maintain their affiliation with the social security agency with which they are already affiliated. Those members who have no such affiliation may opt to become affiliated with the Social Security Administration. Those already retired shall continue to receive their pension.

Council members may not be removed from their seat on the Council or from their elected post during the term of office for which they are elected.

Council members are considered officials of the civil service in regard to the implementation of the Turkish Penal code.

Council members shall submit a declaration of property annually.

Quorum for Sessions and Decisions

Article 11. (As amended by the Law No. 4756 on May 21, 2002.)

Supreme Council shall work on full time basis, shall meet at least once a week with a quorum of 5 members. The quorum for decision taking is five. Supreme Council members, who do not participate to the meetings subsequently three times without a valid excuse, shall be considered to be forfeited.

Financial Resources and the Budget

Article 12. (As amended by the Law No. 4756 on May 21, 2002.)

Financial Revenues of Supreme Council are as follows :

- a) Television and radio frequency annual allocation fees from private radio and television enterprises.
- b) Five percent share of annual gross advertising receipts of private radio and television enterprises.
- c) When needed, appropriations included under the section on transfers in the budget of Turkish Grand National Assembly Presidency.
- d) Administrative fines imposed on the radio and television enterprises in accordance with the Article 33.

Broadcasting permit and licence fees paid by the private radio and television enterprises shall be transferred to Treasury as revenue.

Annually, the Supreme Council, when necessary, shall submit to the Presidency of the Turkish Grand National Assembly the appropriation it requires from the National Assembly budget by scheduling its proceedings.

Supreme Council's budget and list of staff are reviewed with the Turkish Grand National Assembly's Presidency's budget in the Turkish Grand National Assembly Plan and Budget Commission and shall be debated and approved at the Plenary Session of the Turkish Grand National Assembly.

The remaining amount of the annual budget of the Radio and Television Supreme Council shall be transferred to an account opened at a public bank on behalf of Ministry of Culture with the aim of preserving and enlivening cultural and natural wealth at home and Turkish cultural entities abroad. The procedure and principles regarding expenditure on this account shall be determined by regulations.

Radio and Television Supreme Council is not subject to the provisions of State Tender Law no 2886. The procedure regarding the Supreme Council's purchasing-selling, renting, transporting and other transactions shall be determined by a regulation.

The Supreme Council shall request the Ministry of Finance to supervise the advertising revenue of radio and televisions together with the account of intermediary agencies.

Collection of Revenues and Fines

Article 13. (As amended by the Law No. 4756 on May 21, 2002.)

The shares collected from the advertising revenues foreseen in the item (b) of first paragraph of Article 12 shall be paid the latest 20th of the following month after the due date of advertising revenues; annual fees of the television and radio frequencies which shall be paid in accordance with item (a), shall be paid the latest 20th of January every year; administrative fines stipulated at Article 33 shall be paid by the broadcasting enterprises after the due date of fines.

In case of a delay in payment, the broadcasting enterprise shall be warned to make the payment within seven days. In a case the payment shall not be made despite of the warning, the Supreme Council shall decide on the suspension of the broadcast until the payment is done.

If the payment is not done within two months following the dates stipulated in above item, the Supreme Council shall decide on the revocation of the broadcast permit and license, and the unpaid revenue of the enterprise is collected by execution. For the delayed payments, the provisions of Law No 6183 related to Public Credit Provision Procedures shall be applied.

Relations with the Government

Article 14. Relations of the government with the Supreme Council are conducted by the Prime Minister.

Organization and Personnel of the Supreme Council

Article 15. (As amended by the Law No. 4756 on May 21, 2002.)

In order to assist to the President for the execution of the Supreme Council's auxiliary services, a General Secretary shall be appointed. General Secretary must have at least four years of higher education, ten years of professional working experience in public or in his/her professional field, and experience and qualification for being a state officer and must be over the age of 30.

Main service units shall be composed of Legal Advisory, Head of Supervisors Committee, Secretariat of Defence, Head of Monitoring and Evaluation Department, Head of Public Opinion, Broadcast Research and Measurement Department, Head of Permission and Allocation Department, Head of International Relations Department, Head of Research and Development Department under the president of the Supreme Council.

Auxiliary service units are Head of Personnel Department, Head of Training Department, Head of Administrative and Financial Affairs Department and head of Technical Services Department under the Secretary General.

Heads of Departments recruit adequate number of experts and work on the expertise base. Sub-units shall not be established.

Heads of Departments and upper level officials shall be appointed by the decision of Supreme Council on the proposal of the President of the Council.

Supreme Council's personnel rights, rules and procedures of work and other matters relevant with the personnel are subject to the provisions applied to the personnel of the Turkish Radio and Television Corporation.

Supreme Council's rules and procedure of work, its organization and procedure of appointment shall be determined with the regulations drawn by the Supreme Council in accordance with this Law.

CHAPTER FOUR ALLOCATION OF CHANNELS AND FREQUENCY BANDS, REGULATION OF BROADCASTS AND ADVERTISEMENTS

The Power to Allocate Channels and Frequency Bands

Article 16. On condition that other provisions of the Radiocommunication Law No. 2813 are observed, the power to allocate channels and frequency bands and to issue broadcasting permits and licences to public and all private radio and television enterprises, as well as the power to revoke such allocations and permits, lies exclusively with the Supreme Council.

Allocation of Channels and Frequency Bands

Article 17. One-fourth of the channels and frequency bands in the national frequency plans are allotted to the Turkish Radio and Television Corporation, the number of channels allotted not being less than three, and of frequency bands not less than four. One of the channels is reserved for transmitting the activities of the Turkish Grand National Assembly. The Speaker of the Grand National Assembly shall decide which activities shall be transmitted to what extent.

Of the remaining national, regional and local channels and frequency bands, one-half shall be allocated on a full time basis, while the other half are allocated on a time sharing basis and, if necessary, by rotation.

The term of the allocation may not exceed five years.

Obligations of Private Radio and Television Enterprises

Article 18 The enterprises to which the Supreme Council grants broadcasting permits are obliged to extend their coverage to at least 70 percent of the territory of Turkey and to broadcast at least eighty hours a week by the end of the second year from the date of the permit at the latest.

Advertising

Article 19 All advertisements shall be fair and honest. They shall not be misleading and shall not prejudice the interests of consumers; advertisements addressed to or using children shall avoid anything likely to harm their interests and shall have regard to their special susceptibilities.

The advertiser shall not interfere in any way with the content of programmes.

The amount of advertising shall not exceed 15 percent of the daily transmission time. However, this percentage may be increased to 20 percent to include forms of advertisements such as direct offers to the public for the sale, purchase or rental of products or for the provision of services, provided the amount of spot advertising does not exceed 15

percent. The amount of spot advertising within a given one-hour period shall not exceed 20 percent.

Forms of advertisements such as direct offers to the public for the sale, purchase or rental of products or for the provision of services shall not exceed one hour per day.

Form and Presentation of Advertisements

Article 20 Advertisements shall be clearly and easily distinguishable as such and recognisably separate from the other items of the programme service by optical and acoustic means; subliminal advertisements shall not be allowed.

Advertisements shall not feature, visually or orally, persons regularly presenting news and current affairs programs.

Insertion of Programmes

Article 21. Advertisements shall be inserted between programmes. Advertisements may also be inserted during programmes in such a way that the integrity and value of the programme and the rights of the rights holders are not prejudiced.

In programmes consisting of autonomous parts or in sports programmes or similarly structured events and performances comprising intervals, advertisements shall only be inserted between the parts or in the intervals. A period of at least twenty minutes should elapse between each successive advertising break.

The transmission of feature films and films made for television (excluding serials, entertainment programmes and documentaries), provided their duration is more than forty-five minutes, may be interrupted once at the end of each period of forty-five minutes. If a film lasts longer than forty-five minutes, it may be interrupted once for each additional period of twenty minutes after the first complete period of forty-five minutes.

Advertisements shall not be inserted in any broadcast of a religious service. News bulletins, current affairs programmes and children's programmes, when they are less than thirty minutes of duration, shall not be interrupted by advertisements.

Surreptitious advertising shall not be allowed in any broadcast.

Advertising of Particular Products

Article 22. Advertisements for alcoholic or tobacco products shall not be allowed. Advertisements for medicines and medical treatment which are only available on prescription shall not be allowed. Advertisements for other medicines and medical treatment shall be composed of elements that are honest, truthful and subject to verification, and shall comply with the requirements of protecting the individual from harm.

Programme Sponsorship

Article 23. When a programme or series of programmes is sponsored in whole or in part, it shall clearly be identified as such by appropriate credits at the beginning and/or end of the programme.

The sponsors may not exert any influence on the content and scheduling of sponsored programmes in such a way as to affect the responsibility and editorial influence of the broadcaster.

Sponsored programmes shall not encourage references to products or services of the sponsor or a third party, or their purchase, sale or rental.

Programmes may not be sponsored by natural or legal persons who are concerned with the manufacture or sale of products or the provision of services, the advertising of which is prohibited by virtue of Article 22.

Sponsorship of news and current affairs programmes shall not be allowed.

Responsibility of the Telecommunication Authority

Article 24. (As amended by the Law No. 4756 on May 21, 2002.)

In accordance with the Radio Communication Law No.2813, authorization of making studies for the frequency plans for national, regional and local radio and television channels and

frequency bands of radio and television broadcasts in Turkey are under the responsibility of the Telecommunication Authority.

Telecommunication Authority shall submit the national, regional and local plans which it shall prepare in co-operation with the Radio and Television Supreme Council, Turkish Radio and Television Corporation, General Directorate of Turkish Telecommunication Corporation and other relevant authorities and enterprises for the approval of Communication High Council in accordance with the Radio Communication Law No.2813.

Communication High Council may approve the plans as prepared or may ask for the necessary amendments. National, regional and local frequencies and channels shall be allocated with free of charge to the radios and televisions of the Turkish Radio and Television Corporation, Meteorology Radio broadcasting under the structure of General Directorate of Meteorological Affairs, Police Radio broadcasting under the structure of General Directorate of Security and local frequencies and channels shall be allocated with free of charge to the Communications Faculties which have radio and television departments. The Supreme Council shall tender the remaining television channels and radio frequencies for the usage of private enterprises under a certain plan. The Communication High Council shall determine to what extent and according to which schedule radio and television frequencies are tendered and shall notify the Supreme Council for the tender within this framework.

Turkish Grand National Assembly activities are transmitted on TRT3, one of the television channels allocated to Turkish Radio and Television Corporation via TGNA TV, and open education broadcasts are transmitted on an other channel as well. The Presidency of the Turkish Grand National Assembly shall decide to what extent the activities of the Turkish Grand National Assembly shall be broadcast in co-operation with the Turkish Radio and Television Corporation and authorities responsible for preparing the education programs shall decide for the open education broadcasts in co-operation with the Turkish Radio and Television Corporation. Other matters related with the broadcasts shall be determined with a protocol between the Presidency of Turkish Grand National Assembly and Turkish Radio and Television Corporation. Any fee shall not be charged for open education and TGNA TV broadcasts.

Telecommunication Authority shall apply the TV channel and radio frequency allocations for the enterprises notified by the Supreme Council which are granted broadcast permit and licence other than the cable medium and are allocated TV channel and radio frequency in accordance with the provisions of this Law and shall register them before the national and international authorities.

In a case where detrimental interferences occur on the national and international aviation and navigation systems caused by the radio and television systems, Telecommunication Authority shall temporarily switch off and seal the transmitters that cause the interference in order not to endanger the security of property and life, and the provision of article 391 of the Turkish Penal Code shall be implemented for the responsible persons. Activities done shall also be notified to Supreme Council.

Communication High Council shall undertake the follow-up of the duties delegated to the Supreme Council in addition to the coordination of the activities among the Supreme Council, Turkish Telecommunication Corporation and Turkish Radio and Television Corporation in accordance with the provision of Radiocommunication Law No.2813.

Suspension of Broadcasts

Article 25. With the exception of court orders, broadcasts shall not be subject to a priori control or suspension. However, in cases of acute necessity for reasons of national security or of a strong possibility that public order may be disturbed, the Prime Minister or a minister designated by him may suspend a broadcast.

Radio and television enterprises are obliged to broadcast public announcements issued by the President of the Republic or the Government for reasons of national security, public order, public health or public morals.

Appeals against executive and administrative decisions taken under the above paragraphs may be made directly to the Council of State. The Council of State shall give priority to handling and deciding these cases. It decides on appeals for a stay of execution within 48 hours.

Retransmission

Article 26. (As amended by the Law No. 4756 on May 21, 2002 and by the Law No.4771 on 9 August, 2002.)

The re-transmission of the broadcasts shall be allowed provided that it does not contradict with this Law. The principles and procedures relating to re-transmission shall be by a regulation to be issued by the Supreme Board.

The Supreme Council shall be informed about the retransmitted broadcasts.

For the transmitted and retransmitted broadcasts, provision of Article 25 and 33 are reserved.

Broadcasts by Political Parties during Elections

Article 27. Broadcasts during election periods are regulated by the High Election Board within the framework of powers vested in the Board by law.

The Supreme Council monitors transmissions during election periods in keeping with the decisions of the High Election Board.

Right of Rectification and Reply

Article 28. (As amended by the Law No. 4756 on May 21, 2002.)

Persons involved may resort to the courts for the right of reply and rectification against broadcasts which constitute attacks on individual rights of real or legal persons and against broadcasts they claim to be untrue.

Broadcasting enterprises are required to keep the taped recordings of all transmissions for a period of one year. Any person intending to initiate a lawsuit may apply in writing to the Supreme Council to obtain a copy of the taped recording for a suitable fee.

The court seized with the lawsuit shall examine the case. If it finds the claim justified, the rectification or reply shall be transmitted at the same hour and in the course of the same program when the original infringement of rights or the untruth was broadcast. The duration and form of the rectification shall be determined by the court according to the requirements of the case and the existing evidence.

An individual bringing action to the court should do so within ten days of the transmission in question. The court shall hand down its decision within three days. The court's decision may be appealed to the next higher court within three days of the serving of the notice on the verdict. The higher court shall hand down its decision on the appeal within three days. The decision of the higher court is final.

The required rectification is transmitted the day after the broadcaster is served notice of the court decision.

The top manager responsible for the broadcasts and president of the board of the corporation which owns the enterprise, that fails to transmit or transmit in keeping or not to transmit in accordance with the decision shall pay a heavy fine of thirty billion to ninety billion

Turkish Liras. Furthermore, the Supreme Council may decide on the prohibition of revenue aiming broadcasts according to the gravity of the offence of the enterprise. In a case of a second repetition of the offence, broadcast permit shall be suspended and the highest fine shall be imposed. These fines shall not be postponed. The Supreme Council shall determine which broadcasts are aiming revenue.

For broadcasters at the national level, the competent court is the Criminal Court of First Instance in Ankara, whereas, for broadcasters at the regional or local level, the competent court is the local criminal court of first instance at the plaintiff's place of residence.

The right of real and legal persons to sue for indemnity against the concerned broadcasting enterprise is reserved in accordance with the general provisions. Both the broadcasting enterprise and the president of the board of the enterprise are concurrently and successively responsible. In a case of acquisition and merger of the enterprise by another enterprise or change of the owner of the enterprise by any condition after the offence is conducted, the enterprise and also the president of the board of the enterprise which takes over, joints and become the owner or the shareholder of the enterprise shall be concurrently and successively responsible for the indemnity due to this offence. In a case of indemnity request is justified, the amount of indemnity, that would not be less than 10 billion Turkish Liras, shall be determined in accordance with the gravity of the offence. The minimum amount of ten billion Turkish Liras shall be increased in accordance with the re-evaluation ratio announced by the Ministry of Finance every year. The judge shall appoint the experts together with the consent decision at the moral indemnity cases that would be opened under this article, and shall conclude the case the latest within six months. **(the enforcement of this sub-paragraph was suspended by the Constitutional Court on 12 June, 2002.)**

In cases where the indemnity is decided, default interest shall also be applied over the **highest operation interest of the banks.**

CHAPTER FIVE PRIVATE RADIO AND TELEVISION ENTERPRISES

Establishment and Ownership

Article 29. (As amended by the Law No. 4756 on May 21, 2002.)

Conditions about share ratios and structure of the corporations which are granted or shall be granted radio and television broadcast permit are as follows.

a) Political parties, associations, labour and employer unions, professional associations, co-operatives, foundations, local governments and companies established or partially owned by local governments, commercial companies, unions, and organisations and enterprises dealing with investment, import, export, marketing and financial affairs shall not be granted radio and television broadcast permit; these enterprises could not be the partner of the enterprises which have granted radio and television broadcast permit.

b) According to this Law, radio and television broadcast permit shall be only granted to the corporations, which are established for the purpose of radio and television broadcasting, communication, education, culture and art in accordance with the provisions of the Turkish Trade Law. A single corporation may establish only one radio and television enterprise.

c) Shares of the private radio and television enterprises should be registered shares. These corporations may not enter into usufruct contracts on behalf of any individual.

d) According to the annual average viewing measurements carried out in compliance with the regulation prepared by the Supreme Council, if a television or a radio enterprise's average annual viewing or listening ratio exceeds 20 percent, then capital share of a real or legal person or a capital group in an enterprise shall not exceed 50 percent. Shares of blood relatives and relatives by marriage up to the third degree are also accounted in calculation of the shares of a

real person. **(the enforcement of this sub-paragraph was suspended by the Constitutional Court on 12 June, 2002.)**

e) If annual average viewing and listening ratio of a radio or a television, where a real or a legal person or a capital group has a share of more than 50 percent, exceeds 20 percent, then they have to decrease their share in the capital below the 50 percent by selling or offering for sale to public within ninety days after the notification of the Supreme Council. If excess of the annual rating ratio occurs as a result of total number of shares in more than one radio and television, they shall sell appropriate number of companies in order to decrease that ratio down under 50 percent. In a case of violation of this provision, broadcast permit of the enterprise shall be annulled. **(the enforcement of this sub-paragraph was suspended by the Constitutional Court on 12 June, 2002.)**

f) National viewing ratios shall be determined by the Supreme Council for each calendar year and announced in January of the following relevant year.

g) Approval of the Supreme Council is required before applying for permission to the Securities Exchange Board under the provisions of Law No. 2499 in offering the shares of the private radio and television enterprises.

h) The share of foreign capital in one private radio or television enterprise may not exceed 25 percent of the capital paid up.

i) A real or legal person of foreign nationality holding shares in a certain radio or television enterprise may not become a shareholder in another private radio or television enterprise.

i) Citizen or alien shareholders may not, under any circumstances, hold preferred shares.

j) The turnover shares of an incorporation to which broadcast permit has been granted, are informed in one month as of the date of turnover to the Supreme Council together with the information about name and surname of the shareholders, shareholding structure and share rates formed as a result of the turnover of the company. Before starting the procedures such as a turnover of companies to another company, purchase of a company by turnover or merging with a company, it is compulsory to make an application with necessary information and documents to the Supreme Council for permission. If any controversy to the provisions of this Law occur in the formulation of the corporation structure as a result of these procedure, the controversy must be eliminated in a time period given by the Supreme Council. Otherwise, the broadcast permission shall be annulled.

k) Minimum administrative, financial, technical conditions and principles of broadcasting coverage, broadcasting hours and periods that has to be acquired by the corporations which are granted or shall be granted radio and television broadcast permit shall be determined every year by the Supreme Council. Corporations must arrange their structure to comply with the determined conditions within the given period. On the contrary, broadcasting permit shall be annulled.

l) Radio and television enterprises could not put contrary provisions to their main contracts after they are granted broadcast permit, and could not include actions that are not settled with the radio and television broadcasting within their operational area.

m) It is not allowed to allocate channel, frequency and cable capacity for the radio and television enterprises, which are broadcasting, to Turkey from abroad. The equivalents of commercials and advertisement given to these enterprises abroad by the enterprises taxable in Turkey may not be deducted from their tax assessments. However, the possibilities such as the sound synchronization in Turkish language of the foreign origin broadcasts transmitted from abroad and through satellite platform and cable system, the broadcasting in multi-language in a

simultaneous manner and the broadcasting of commercials in Turkish language shall be allowed. For the broadcasts in which the commercials in Turkish language are transmitted, the relevant directive of the Supreme Council is applied.

Structure of Radio and Television Enterprises

Article 30. The minimum administrative, financial and technical prerequisites, and rules regarding transmission areas, hours and duration of transmission for private radio and television enterprises are specified by the Radio and Television Supreme Council.

Content of the program service and the use of new broadcasting techniques

Article 31. (As amended by the Law No. 4756 on May 21, 2002.)

Radio and television enterprises shall be obliged in their programming to give place in certain ratio and hours to the education, culture, Turkish folk and Turkish classical music programs. The rules relevant with the type and ratio of these programs shall be determined by the Supreme Council. Thematic channels shall be exempted from this obligation. These channels shall not change their type of broadcasting without the consent of the Supreme Council. The rules and procedures relevant with thematic channels shall be determined by the Supreme Council.

The rules and procedures of the broadcasts and services transmitted in any communication environment and with any kind of technology shall be ascertained by the Supreme Council in the framework of the strategy determined by the Communication High Board and shall be submitted by the Supreme Council to the Communication High Board for approval. The Supreme Council shall supervise the compliance of the broadcasts and services to the Law.

Broadcasts During the Election Periods

Article 32. (As amended by the Law No. 4756 on May 21, 2002.)

The principles and procedure relating to the broadcasts during election periods shall be regulated by the High Election Council within the framework of powers vested in the Council by the law.

The Supreme Council shall monitor, supervise and evaluate the broadcasts of the radio and television enterprises during the election periods in accordance with the decisions of the High Election Council.

Within seven days before the voting date, no broadcasts for or against a specific political party or candidate nor any broadcasts that may influence the citizen's vote through any kind of programmes such as news and interviews or through advertising or public opinion surveys, questionnaires, forecasts, and via information communication telephone lines under labels such as mini-referendums shall be allowed. Those not complying with these restrictions are deemed to have violated the broadcasting standards.

The provisions arranged under the Article 149/A of the Law on the Basic Principles of the Elections and the Electoral Roll, Law No. 298 shall be carried out by the Supreme Council immediately after the decisions of the High Election Council.

CHAPTER SIX SANCTIONS

Warning, Fine, Suspension and Revocation

Article 33. (As amended by the Law No. 4756 on May 21, 2002.)

The Supreme Council shall issue warnings to those private radio and television enterprises which fail to fulfill their obligations, violate the conditions of the broadcasting permit, or transmit programmes that violate the broadcasting rules and other standards stipulated in this Law, or shall require them to apologize clearly during the same broadcasting spot. In case of not complying with this request or repetition of the violation, the transmission of the programme, which contains violation, shall be suspended between one to twelve times. Within this time period, the producer of the programme and its speaker, if there is any, shall not produce any other programme under any other names. Instead of the suspended programmes, the programmes on education, culture, traffic, women and children's right, physical and moral development of adolescents, struggle against drugs and harmful habits, good use of Turkish language and environment training shall be broadcast during the same broadcasting period and without any advertisement.

In case of the repetition of the violation following administrative fines;

a) For national broadcasting enterprises, provided that it shall not be less than 125 billion TL, up to 250 billion TL in accordance with the gravity of the violation,

b) For local, regional and cable broadcasting enterprises;

1. To those which broadcast for the provinces and districts that have a population over 1.000.000, from the point of view of its broadcasting coverage, provided that it shall not be less than 60 billion TL, up to 100 billion TL in accordance with the gravity of the violation,

2. To those which broadcast for the provinces and districts that have the population between 500.000 and 1.000.000, from the point of view of its broadcasting coverage, provided that it shall not be less than 30 billion TL, up to 60 billion TL in accordance with the gravity of the violation,

3. To those which broadcast for the provinces and districts that have the population between 250.000 and 500.000, from the point of view of its broadcasting coverage, provided that it shall not be less than 20 billion TL, up to 40 billion TL in accordance with the gravity of the violation,

4. To those which broadcasts for the provinces and districts that have the population less than 250.000, from the point of view of its broadcasting coverage, provided that it shall not be less than 5 milliard TL, up to 10 milliard TL in accordance with the gravity of the violation,

c) For radio broadcasts, up to half of the amount stipulated above, shall be imposed.

The fines in this Law shall be increased in accordance with the re-evaluation ratio announced by the Ministry of Finance every year.

In case of the repetition of the violation during one year period beginning from the violation date, the administrative fines shall be increased 50 percent. In the event of the third repetition of the violation during one year period beginning from the violation date, the broadcasting permit may be suspended up to the period of one year in accordance with the gravity of the violation.

In case of violation of the broadcastings standards defined in the items (a), (b) and (c) of the second paragraph of Article 4, the broadcasting enterprise shall not be warned and its broadcasts shall be suspended for one month. In case of the repetition of the violation, the

broadcast shall be suspended for an indefinite time period and the broadcasting license permit shall be revoked.

The broadcasting licence of any enterprise, which forsakes any one of the conditions required for a broadcasting permit or which has fulfilled the conditions through fraudulent means shall be revoked.

In case of violations except for the cases, which require warning, the defence of the concerned party shall be asked.

The procedure of imposing penalties and way of public announcement with its explanatory report shall be determined by regulations.

Penalties and Confiscation

Article 34. Apart from the exceptions specified in this law, persons or owners and managers of enterprises which transmit radio or television broadcasts without the permission of the Supreme Council or despite the suspension or revocation of such a permit by the Supreme Council shall be punished by imprisonment of 6 months to 2 years and a fine of one hundred million to ten thousand million Turkish liras even if their activity constitutes another offence. The provisions of Law No. 3506 are reserved. All transmission equipment shall also be confiscated under article 36 of the Criminal Code No 765 of 1 March 1926.

Owners or managers of enterprises which fail to keep taped recordings of transmissions and which fail to submit audiovisual tapes if and when demanded by the Prosecutor shall be punished by imprisonment of one to five years and a heavy fine of one hundred million to one thousand million Turkish liras. An additional penalty of suspending transmission for one to three months shall also be imposed.

Responsibility of the Turkish Radio and Television Corporation

Article 35. This article was abrogated by the Law No.4756 on May 21, 2002.)

CHAPTER SEVEN MISCELLANEOUS

The Radio and Television High Council

Article 36. The provisions of Law No. 2954 on Turkish Radio and Television relating to the Radio and Television High Council cease to apply upon the assumption of office by the Supreme Council; the function of the High Council is thus terminated. The powers of the High Council with relation to the appointment of the Director General and Board of Directors of the Turkish Radio and Television Corporation are hereby transferred to the Supreme Council; the remaining powers of the High Council are transferred to the TRT Board of Directors.

Copyright

Article 37. Radio and television enterprises shall pay copyright holders for works featured in their broadcasts. The rules for copyright fees are formulated by the Radio and Television Supreme Council after having obtained the views of professional associations.

News Division Staff of Radio and Television Enterprises

Article 38. The staff of news divisions in radio and television enterprises are subject to Law No. 5953 on Relations between Employees and Employers in the Press. The Supreme Council specifies the minimum number of press card bearers to be employed in these news divisions.

Competent Courts

Article 39. The courts in Ankara are competent to hear any administrative lawsuits against the Supreme Council.

Regulations

Article 40. The Supreme Council prepares regulations to stipulate the principles and procedures for the functioning of the Supreme Council and its Secretariat, the conditions for allocation of channels and frequencies, the procedures for inviting and accepting bids for tenders, and the rules and procedures for protecting the rights of copyright holders and producers. These regulations shall come into force upon being published in the Official Gazette.

Entry into force

Article 41. This law shall enter into force on the date of its publication.

Implementation

Article 42. The provisions of this law are to be implemented by the Council of Ministers.

The following articles has been added by the Law No. 4756 to the Law No 3984

ADDITIONAL ARTICLE 1.- Private radio and television enterprises granted broadcast permit under this Law shall transmit their broadcasts, through television and radio frequencies allocated to them, from transmitter stations belong to the Turkish Radio Television Corporation or from transmitter stations operated under the service and responsibility of the company which is jointly established for this purpose by the Turkish Radio Television Corporation with private broadcasting enterprises. Turkish Radio Television Corporation shall take into consideration also the needs of the private broadcasting enterprises during establishing, operating, renovating of transmitter stations and modification of these stations.

The Supreme Council shall supervise whether or not the operation of the stations, which are allowed to be established complies with the requirements foreseen in this Law or permission certificate.

The rules and procedure of making use of the transmitter stations of Turkish Radio Television Corporation by private radio and television enterprises and annual hiring fees shall be put into force by being determined by Turkish Radio Television Corporation with the approval of Supreme Council.

ADDITIONAL ARTICLE 2.- Apart from the exceptions specified in this Law, persons or owners and managers of enterprises which transmit radio and television broadcasts without the permission of the Supreme Council or despite the suspension or revocation of such a permit by the Supreme Council shall be punished by imprisonment of 6 months to 2 years and a fine of one billion to ten billion Turkish liras even if their activity constitutes another offence. Persons whose broadcasts were suspended or broadcasting permits were revoked by determining their broadcasts incite destructive and divisive actions against to the existence and independence of the Turkish Republic, the territorial and national integrity of the State, owners and managers of these enterprises and the persons who are in charge of these kind of broadcasts shall be

punished under article 314 of the Turkish Penal Code. All transmission equipment shall also be confiscated under article 36 of the Turkish Penal Code.

Owners or managers of enterprises which fail to keep taped recordings of broadcasts and which fail to submit audio-visual tapes if and when asked by the Supreme Council or the Prosecutor shall be punished by heavy imprisonment of six months to one year and a heavy fine of one billion to ten billion Turkish liras. An additional penalty of suspending broadcast for one to three months shall also be imposed. In case of the tape sent is not the one requested in terms of content of view or in case of damaging, removing or erasing the tape, heavy imprisonment of two to ten years and a heavy fine of two billion to ten billion shall also be imposed additionally.

The fines mentioned in this article shall be increased in accordance with the re-evaluation ratio announced by the Ministry of Finance every year.

ADDITIONAL ARTICLE 3.- Radio and television broadcasts, in compliance with the broadcasting rules and standards stipulated in this law;

- a) National, regional and local broadcasts shall be monitored and evaluated by the Supreme Council.
- b) The monitoring and recording of regional and local broadcasts of areas where the Supreme Council determines may be transferred to units assigned by The Ministry of Interior. In this case, the Supreme Council shall provide necessary technical equipment and training of relevant personnel and shall undertake the cost. Tapes of the broadcasts, which are suspected to violate the broadcasting standards and other principles stipulated in this Law, shall be sent to Supreme Council for evaluation. The co-operation between Ministry of Interior and the Supreme Council shall be organised with a protocol.

In case the Telecommunication Authority has the ability to monitor the broadcasts under the framework of the National Monitoring Activities, this broadcasts shall be monitored by the Telecommunication Authority and shall be sent to the Supreme Council for evaluation within the framework of a protocol signed between the Supreme Council and Telecommunication Authority.

ADDITIONAL ARTICLE 4.- The enterprise to which the Radio and Television Supreme Council grants broadcasting licence may transfer this licence, transmission stations and networks to a third party with the permission of the Supreme Council.

The requested technical and financial qualifications, transfer and other preliminary qualifications for the enterprises which request broadcasting permit shall be determined by regulations by the Supreme Council.

ADDITIONAL ARTICLE 5.- The term used in this Law "Directorate General of Radiocommunication" is revised as "Telecommunication Authority".