

ABBOZZ TA' LIĠI msejjaħ

Att biex jemenda l-Att dwar ix-Xandir, Kap. 350

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa Att tal-2009 li jemenda l-Att dwar ix-Xandir, u għandu jftiehem u jinqara ħaġa waħda mal-Att dwar ix-Xandir, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

(2) Dan l-Att għandu jidhol fis-seħħ f'dik id-data li l-Prim Ministru jista' jistabbilixxi b'avviż fil-Gazzetta u jista' jistabbilixxi dati differenti għal disposizzjonijiet u għanijiet differenti ta' dan l-Att.

2. Minflok l-artikolu 16A tal-Att prinċipali, għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 16A ta' l-Att prinċipali.

"Liċenzi mahruġa mill-Ministru.

16A. (1) Id-disposizzjonijiet ta' dan l-Att għandhom japplikaw għax-xandara kollha li jaqgħu taħt il-ġurisdizzjoni Maltija kemm kif l-Att jeżisti fiż-żmien meta dan l-artikolu jidhol fis-seħħ kif ukoll kif jista' jiġi mfisser u estiż minn żmien għal żmien skont regolamenti magħmulin bis-saħħa tal-artikolu 37:

Iżda d-disposizzjonijiet tal-artikolu 10(2) u (5) m'għandhomx ikunu japplikaw għal:

(a) l-għoti ta' servizzi tax-xandir bis-smiġh jew bit-televiżjoni li jkollhom liċenza mill-Ministru jew minn kull persuna, korp jew awtorità li jkollhom liċenza maħruġa mill-Ministru jew skont dawk l-arranġamenti li jsiru miegħu; u

(b) kull liċenza tax-xandir mogħtija qabel l-1 ta' Gunju, 1991.

(2) Ix-xandir imsemmi fil-proviso mas-subartikolu (1) għandu jiġi assoġġettat għal dawk il-kondizzjonijiet li l-Ministru jew dik il-persuna, korp jew awtorità msemmija fil-paragrafu (a) tal-proviso għas-subartikolu (1), skont il-każ, jistgħu iqisu li jkun xieraq. Dawk il-kondizzjonijiet jistgħu wkoll jinkludu kondizzjonijiet li jkollhom kontenut simili għad-disposizzjonijiet li jkunu saru inapplikabbli għal dak ix-xandir bis-saħħa tal-paragrafu (a) tal-proviso mas-subartikolu (1).”.

Żjeda ta' Taqsima IIIA ma' l-Att prinċipali.

3. Minnufih wara l-artikolu 16B tal-Att prinċipali, għandha tiżdied din it-Taqsima ġdida li ġejja:

“TAQSIMA III A

Kontenut tal-Programmi f'Servizzi ta' Radju u ta' Televiżjoni bis-Satellita

Għoti ta' liċenzi ta' servizzi tar-radju u tat-televiżjoni bis-satellita.
Kap. 399.

16C. (1) Kull kontenut ta' programmi f'servizzi tar-radju u tat-televiżjoni bis-satellita għandhom jingħataw liċenza mill-Awtorità tax-Xandir skont din it-Taqsima ta' dan l-Att.

(2) Persuna li tkun taħt il-ġurisdizzjoni ta' Malta m'għandhiex tippovdi gabra ta' programmi bl-għan li dik il-gabra tiġi mxandra bħala servizz ta' xandir bir-radju, sew biex jinqabad f'Malta jew band'oħra, permezz ta' tagħmir ta' satellita sakemm dan ma jsirx taħt u skont liċenza għal xandir ta' kontenut bir-radju permezz ta' satellita.

(3) Persuna li tkun taħt il-ġurisdizzjoni ta' Malta fil-kuntest tat-tifsira tad-Direttiva tal-Kunsill m'għandhiex tipprovdi gabra ta' programmi bl-għan li dik il-gabra tiġi mxandra bħala servizz ta' xandir bit-televiżjoni, sew biex jinqabad f'Malta jew band'oħra, permezz ta' tagħmir ta' satellita sakemm dan ma jsirx taħt u skont liċenza għal xandir ta' kontenut bit-televiżjoni permezz ta' satellita.

(4) Applikant għal liċenza għal xandir ta' kontenut bir-radju jew bit-televiżjoni permezz ta' satellita għandu jhallas lill-Awtorità dritt tal-applikazzjoni ta' elf euro (€1,000).

(5) L-Awtorità tista' toħroġ liċenza lil persuna li permezz tagħha dik il-persuna tkun tista' tipprovdi gabra ta' programmi għall-għanijiet imsemmija fis-subartikolu (1), u dik il-liċenza għandha tissejjaħ "liċenza għal xandir ta' kontenut permezz tas-satellita" u qiegħda f'din it-Taqsima tkun magħrufa bħala "liċenza għal kontenut permezz tas-satellita".

(6) Liċenza għal kontenut permezz tas-satellita għandha tkun tinkludi:

(a) kondizzjoni li tkun teħtieġ lid-detentur tal-liċenza li josserva dawk il-liġijiet, ħtiġijiet dwar *standards*, prattika u kundizzjonijiet skont ma l-Awtorità tista' tispeċifika dwar il-programmi provduti skont il-liċenza; u

(b) kondizzjoni li tkun teħtieġ lid-detentur ta' liċenza li jagħmel użu minn dik il-liċenza għal dak iż-żmien li l-Awtorità tista' tistabbilixxi b'dan illi dak it-tul ta' żmien m'għandux ikun jeċċedi t-tmien snin.

(7) Safejn għandha x'taqsam l-allokkazzjoni ta' frekwenzi tar-radju għall-użu minn programmi tar-radju u tat-televiżjoni permezz tas-satellita, dik il-funzjoni għandha titwettaq mill-Awtorità ta' Malta dwar il-Komunikazzjoni esklużivament skont pjan nazzjonali fuq il-frekwenzi tar-radju li l-Ministru responsabbli għall-komunikazzjoni jista' minn żmien għal żmien jadotta skont id-disposizzjoni tal-Att biex jirregola Komunikazzjonijiet Elettroniċi.

Għoti ta' liċenzi, eċċ. ta' servizzi għal kontenut permezz tas-satellita.

16D. (1) L-Awtorità tista' tagħti dawk il-liċenzi biex jiġu provduti servizzi ta' kontenut permezz tas-satellita skont ma hija tista' tiddeċiedi.

(2) Applikazzjoni għal liċenza biex jiġi provdut servizz ta' kontenut permezz tas-satellita:

(a) għandha issir b'dak il-mod li l-Awtorità tista' tiddeċiedi dwaru; u

(b) għandu jiġi jithallas għaliha dak id-dritt ta' liċenza li l-Awtorità tista' tiddeċiedi dwaru.

(3) Fil-kaz ta' applikazzjoni għal liċenza biex jiġi provdut servizz ta' kontenut bis-satellita, l-artikolu 41 ta' dan l-Att u l-Hames Skeda li tinsab ma' dan l-Att għandu jkollhom seħħ fil-kuntest li l-oghla ammont li d-detentur ta' dik il-liċenza jista' jintalab iħallas bħala penali amministrattiva imposta skont l-artikolu 41 ta' dan l-Att għandha minflok tkun fl-oghla ammont tagħha tliet mitt elf euro (€300,000).

Regolamenti.

16E. Il-Prim Ministru jista', bi qbil mal-Awtorità, jagħmel regolamenti biex jagħtu effett aħjar lid-disposizzjonijiet ta' din it-Taqsima u jista', bla ebda ħsara għad-disposizzjonijiet preċedenti, jagħmel regolamenti fejn jestendi l-applikazzjoni ta' regolamenti li jkun saru taħt l-artikolu 16B ta' dan l-Att għax-xandir bir-radju u t-televiżjoni permezz tas-satellita b'dak it-tibdil u addattamenti skont ma l-Prim Ministru u l-Awtorità jistgħu jiddeċiedu.

Tifsir.

16F. Għall-fini ta' din it-Taqsima:

“detentur” tfisser dik il-persuna li tingħata mill-Awtorità liċenza biex tipprovidi servizz ta' kontenut permezz tas-satellita;

“Direttiva tal-Kunsill” tfisser id-Direttiva tal-Kunsill 89/552/KEE tat-3 ta' Ottubru 1989 dwar il-koordinazzjoni ta' ċerti disposizzjonijiet imposti bil-liġi, regolamenti jew azzjoni amministrattiva fl-Istati Membri li għandhom x'jaqsmu mal-ġestjoni ta' attivitajiet ta' xandir bit-televiżjoni kif pubblikata fil-Ġurnal Uffiċjali Nru L 298/23 tas-17 ta' Ottubru

1989 kif emendata bid-Direttiva 97/36/KE tal-Parlament Ewropew u tal-Kunsill tat-30 ta' Ġunju 1997 publikata fil-Ġurnal Uffiċjali Nru L 202/60 tat-30 ta' Lulju 1997 jew kif din tista' minn żmien għal żmien tiġi emendata jew sostitwita;

“programmi” tinkludi reklami, telebejgħ u l-promozzjoni ta' programmi.”.

4. Minflok l-artikolu 31 tal-Att prinċipali għandu jidhhol dan li ġej:

Sostituzzjoni tal-artikolu 31 tal-Att prinċipali.

Kuntratti u setgħa li tiġi akkwistata jew li titneħħa proprjetà. Kap. 174.

31. L-Awtorità tista' tagħmel kull kuntratt għall-provvista ta' oġġetti jew ta' materjal jew għat-twettiq ta' xogħlijiet skont kull regolamenti dwar kuntratti pubbliċi magħmulin taħt l-Att dwar l-Amministrazzjoni Finanzjarja u l-Verifika.”.

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz hu li jiġi emendat l-Att dwar ix-Xandir sabiex l-Awtorità dwar ix-Xandir tkun tista' toħroġ liċenzi għal servizzi bir-radju u t-televizjoni permezz tas-satellita.

A BILL
entitled

AN ACT to amend the Broadcasting Act, Cap. 350.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and commencement.

1. (1) The short title of this Act is the Broadcasting (Amendment) Act, 2009 and it shall be read and construed as one with the Broadcasting Act, hereinafter referred to as “the principal Act”.

(2) This Act shall come into force on such date as the Prime Minister may by notice in the Gazette appoint and different dates may be appointed for different provisions and different purposes of this Act.

Substitution of article 16A of the principal Act.

2. For article 16A of the principal Act there shall be substituted the following:

“Broadcasting licences issued by the Minister.

16A. (1) The provisions of this Act shall apply to all broadcasters under Maltese jurisdiction both as the Act exists at the time of the coming into force of this article and as may be defined and extended from time to time by regulations made under article 37:

Provided that the provisions of article 10(2) and (5) shall not apply to –

(a) the provision of any sound or television broadcasting services licensed by the Minister or by any person, body or authority under licence from or under arrangements with the Minister; and

(b) any broadcasting licence granted prior to the 1st June 1991.

(2) Broadcasting referred to in the proviso to subarticle (1) shall be subject to such conditions as the Minister or such person, body or authority mentioned in paragraph (a) of the proviso to sub-article (1), as the case may be, may deem appropriate. Such conditions may also include conditions similar in content to the provisions made inapplicable to such broadcasting by virtue of paragraph (a) of the proviso to subarticle (1).”.

3. Immediately after article 16B of the principal Act there shall be added the following new Part:

Addition of Part IIIA to the principal Act.

“PART IIIA

Satellite Radio and Television Programme Content Services

Licensing of satellite radio and television services. Cap. 399

16C. (1) All satellite radio and television programme content services shall be licensed by the Broadcasting Authority in terms of this Part of this Act.

(2) A person who is under the jurisdiction of Malta shall not supply a compilation of programmes for the purpose of such compilation being transmitted as a radio broadcasting service, whether for reception in Malta or elsewhere, by means of a satellite device otherwise than under and in accordance with a satellite radio content broadcasting licence.

(3) A person who is under the jurisdiction of Malta within the meaning of the Council Directive shall not supply a compilation of programmes for the purpose

of such compilation being transmitted as a television broadcasting service, whether for reception in Malta or elsewhere, by means of a satellite device otherwise than under and in accordance with a satellite television content broadcasting licence.

(4) An application fee of one thousand euro (€1,000) shall be paid to the Authority by an applicant for a satellite radio or television content broadcasting service.

(5) The Authority may issue a licence to a person whereby such person may supply a compilation of programmes for the purposes referred to in subarticle (1), and such a licence shall be known as a “provision of satellite content broadcasting licence” and is in this Part referred to as a “satellite content licence”.

(6) A satellite content licence shall include:

(a) a condition requiring the holder of the licence to comply with such legislation, requirements as to standards, practice and conditions as the Authority may specify with respect to the programmes supplied in pursuance of the licence; and

(b) a condition requiring the holder of the licence to utilize that licence for such duration as the Authority may establish provided that such duration shall not exceed a maximum period of eight years.

(7) In so far as the allocation of radio frequencies for use by satellite radio and television programme content services are concerned, such function shall be exclusively carried out by the Malta Communications Authority in accordance with the national radio frequency plan which the Minister responsible for communications may from time to time adopt in accordance with the provision of the Electronic Communications (Regulation) Act.

Licensing etc.
of satellite
content
services.

16D. (1) The Authority may grant such licences to provide satellite content services as it may determine.

(2) An application for a licence to provide satellite content service shall—

(a) be made in such manner as the Authority may determine; and

(b) be accompanied by such licence fee as the Authority may determine.

(3) In its application in relation to a licence to provide a satellite content service, article 41 of this Act and the Fifth Schedule to this Act shall have effect in the sense that the maximum amount which the holder of such a licence may be required to pay by way of an administrative penalty imposed in pursuance of article 41 hereof shall instead be of a maximum of three hundred thousand euro (€300,000).

Regulations.

16E. The Prime Minister may, following agreement with the Authority, make regulations to give better effect to the provisions of this Part and may, without prejudice to the provisions of the foregoing, make regulations extending the application of regulations made under article 16B of this Act to satellite radio and television broadcasting with such modifications and adaptations as the Prime Minister and the Authority may determine.

Interpretation.

16F. For the purposes of this Part:

“the Council Directive” means Council Directive 89/552/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities as published in the Official Journal No. L 298/23 on 17 October 1989 as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 published in the Official Journal No. L 202/60 on 30 July 1997 or as may be amended or substituted from time to time;

“holder” means the person to whom a satellite content service licence has been granted by the Authority;

“programmes” includes advertisements, teleshopping and programme promotions.”.

Substitution of article 31 of the principal Act.

4. Article 31 of the principal Act shall be substituted by the following:

“Contracts and power to acquire or dispose of property.
Cap. 174.

31. The Authority may enter into any contract for the supply of goods or materials or for the execution of works in terms of any regulations made under the Financial Administration and Audit Act regulating public contracts.”.

Object sand Reasons

The object of this Bill is to amend the Broadcasting Act to enable the Broadcasting Authority to license satellite radio and television services.

