

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE ABELA
President

6 ta' Ġunju, 2011

ATT Nru. VIII tal-2011

ATT biex jemenda l-Att dwar ix-Xandir biex iwessa' l-pluraliżmu fix-xandir u biex jippermetti l-liċenzjar ta' operatur tan-network tal-oġġettivi ta' interess ġenerali u detenturi tal-liċenzja b'kontenut ta' xandir ta' interess ġenerali.

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2011 li jemenda l-Att dwar ix-Xandir, u dan għandu jinqara u jiftiehem haġa waħda mal-Att dwar ix-Xandir, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor u bidu fis-sehh.

Kap. 350.

2. Artikolu 10 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 10 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "mill-Awtorità" għandhom jiżdiedu l-kliem "u lanqas jista' jirritrasmetti servizzi ta' xandir ta' smiġh jew ta' televiżjoni minn Malta għal xi stat barrani mingħajr ma jkollu liċenza bil-miktub tal-Awtorità."

(b) minflok is-subartikolu (4) tiegħu, għandu jidhol dan li ġej:-

“(4) Il-licenzi jistgħu jkunu ta’ klassijiet jew deskrizzjonijiet partikulari u għandhom b’mod partikulari jinkludu licenzi għal:

(a) servizzi tat-televiżjoni fuq firxa nazzjonali;

(b) servizzi tar-radju fuq firxa nazzjonali;

(ċ) servizzi tar-radju fil-komunità;

(d) servizzi tar-radju bis-satellita;

(e) servizzi tat-televiżjoni bis-satellita;

(f) servizzi oħra li jistgħu jixxandru jew jiġu provduti minn jew permezz ta’ *network* ta’ komunikazzjonijiet elettronici kif imfisser fl-artikolu 2 tal-Att biex jirregola Komunikazzjonijiet Elettronici skond kif tista’ tistabbilixxi l-Awtorità.”;

(ċ) minnufih wara s-subartikolu (4) tiegħu, għandhom jidhlu dawn is-subartikoli ġodda li ġejjin:-

“(4A) Safejn dak li għandu x’jaqsam ma’ servizzi tat-televiżjoni fuq firxa nazzjonali, l-Awtorità tista’ toħroġ dawn il-kategoriji ta’ licenzi tat-televiżjoni kif ġej:

(a) licenza ta’ xandir għal kontenut ta’ interess ġenerali lil xi xandar ħlief għal kumpannija msemmija fis-subartikolu (4Ċ);

(b) licenza ta’ xandir għal kontenut kummerċjali maħruġa lil xi xandar.

(4B) L-Awtorità tista’ tagħmel regolamenti biex tagħti effett aħjar lid-dispożizzjonijiet tas-subartikoli (4) u (4A) u tista’, mingħajr preġudizzju għall-ġeneralità

ta' dak imsemmi hawn qabel, tagħmel regolamenti dwar il-proċess tal-applikazzjoni għas-servizzi kollha u applikazzjonijiet għal liċenzi, inkluż li tiġi stabbiltà l-applikazzjoni li tgħodd u hłasijiet tal-liċenza għaliha u li tistabilixxi kriterji ta' evalwazzjoni għaldaqstant.”;

(4C) Stazzjonijiet li jkunu proprjetà jew kontrollati mill-kumpannija tal-Gvern imsemmija fis-subartikolu (4D) jew li dwarhom dik il-kumpannija tkun responsabbli tkun responsabbli editorjalment għandu jkollhom liċenza mill-Ministru. Sabiex Awtorità tkun tista' taqdi d-dmirijiet regolatorji tagħha skond il-ligi, il-Ministru għandu, kemm jista' jkun malajr, wara d-data tal-ħruġ ta' kull liċenza lill-kumpannija tal-Gvern hawn qabel imsemmija, jinnotifika bil-miktub lill-Awtorità b'kopja ta' dik il-liċenza. Id-dispożizzjonijiet tal-artikolu 119 tal-Kostituzzjoni ta' Malta, dan l-Att u kull ligi sussidjarja magħmula taħtu għandhom jibqgħu japplikaw għal dak id-detentur ta' dik il-liċenza.

(4D) Il-Gvern jista', permezz ta' kumpannija msemmija mill-Ministru b'ordni fil-Gazzetta, bhala kumpannija li tkun qed tipprovdi servizzi ta' xandir pubbliku, ikollu bi proprjetà, jikkontrolla jew ikun editorjalment responsabbli għal servizzi tat-televiżjoni u tar-radju mal-pajjiż kollu msemmija fis-subartikolu (4C):

Izda l-Gvern ma jistax ikollu bi proprjetà ta' servizzi ta' xandir jew jippartecipa fil-proprjetà, kontroll jew ikun editorjalment responsabbli għal xi servizzi bħal dawk hłief jekk mhux permezz ta' dik il-kumpannija, u li ebda kumpannija oħra li fiha l-Gvern ikollu l-kontroll ma tista' jkollha ishma partecipattivi ta' voti f'kumpannija li tipprovdi servizz ta' xandir.

(4E) Il-frazzjiet li ġejjin huma mfissra kif ġej:-

“servizz b'ogġettiv ta' interess ġenerali” tfisser servizz ta' xandir ta' televiżjoni li jieħu l-obbligu li jxandar ammont speċifikat ta' programmi li jkunu ta' interess ġenerali u li jitqiesu mill-Politika għax-Xandir Nazzjonali bhala fis-seħh minn żmien għal

żmien biex tiffirma parti mill-kompetenza għas-servizz ta' xandir tas-servizz pubbliku. Servizz b'ogġettiv ta' interess ġenerali jista' jkun kemm servizz ġeneralist kemm servizz niche;

“servizz niche” tfisser servizz ta' xandir tat-televiżjoni li l-biċċa l-kbira minnu jkun jittrasmetti programmi ta' għadd limitat ta' *genres* ta' xorta speċjalizzata;

“servizz ġeneralist” tfisser servizz ta' xandir tat-televiżjoni li jxandar firxa wiesgħa ta' ġeneru ta' programmi; u

“servizz ta' xandir ta' televiżjoni kummerċjali” tfisser servizz ta' xandir tat-televiżjoni li jista' jkun kemm servizz ġeneralist kemm servizz niche u li ma jkunx soġġett għall-obbligazzjonijiet ta' servizz b'ogġettiv ta' interess ġenerali.”.

(d) minflok is-subartikolu (5) tiegħu, għandu jidhol dan li ġej:-

“(5) Liċenza għal xi servizz tax-xandir tista' tingħata biss lil kumpannija li tkun regolament inkorporata f'Malta skond l-Att dwar il-Kumpanniji, iżda liċenzi għal servizzi tar-radju tal-komunità jistgħu jiġu mogħtija wkoll lil individwi li jkunu soltu residenti f'Malta.”;

Kap. 386.

(e) minflok is-subartikolu (6) tiegħu, għandu jidhol dan li ġej:-

“(6) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu u mingħajr preġudizzju għad-dispożizzjonijiet tas-subartikolu (4D) ta' dan l-artikolu, l-istess organizzazzjoni, persuna jew kumpannija tista', fl-istess ħin, tkun proprjetarja, tikkontrolla jew tkun editorjalment responsabbli għal iżjed minn servizz wieħed tar-radju mal-pajjiż kollu u servizz wieħed tat-televiżjoni mal-pajjiż kollu, iżda:-

(a) ikun servizz wieħed biss tar-radju mal-pajjiż kollu li jista' jkollu liċenza fuq il-frekwenza FM għall-istess organizzazzjoni, persuna jew kumpannija;

(b) mhux iżjed minn żewġ servizzi tat-televiżjoni mal-pajjiż kollu generalisti ma jista' jkollhom liċenza għall-istess organizzazzjoni, persuna jew kumpannija;

(c) l-istess organizzazzjoni, persuna jew kumpannija ma tistax tkun proprjetarja, tikkontrolla jew tkun editorjalment responsabbli għal iżjed minn servizz wieħed tar-radju jew tat-televiżjoni mal-pajjiż kollu li l-biċċa l-kbira jkun jittrasmetti aħbarijiet u għarrijiet kurrenti.”; u

(f) minnufih wara s-subartikolu (6) tiegħu, għandhom jiddiedu dawn is-subartikoli li ġejjin:-

“(6A) L-istess organizzazzjoni, persuna jew kumpannija ma tistax tkun proprjetarja, tikkontrolla jew tkun editorjalment responsabbli għal iżjed minn servizz wieħed tar-radju tal-komunità u kull organizzazzjoni li tkun proprjetarja, tikkontrolla jew tkun editorjalment responsabbli għal servizz tar-radju mal-pajjiż kollu jew għal kull servizz ieħor kif imsemmi fil-paragrafu (d) tas-subartikolu (4) ma tistax tkun proprjetarja, tikkontrolla jew tkun editorjalment responsabbli għal servizz tar-radju tal-komunità.

(6B) Meta operatur ta' *network* ta' komunikazzjonijiet elettronici ma jxandar ebda kontenut ta' programm fuq xi stazzjon partikolari għal perjodu ta' zmien hekk kif l-Awtorità tistabilixxi, għaldaqstant, minkejja d-dispożizzjonijiet ta' dan l-Att, l-ebda ammont ta' ħin ta' trasmissjoni ma jista' jintuza biex jixxandru spots ta' telebejgħ, spots ta' reklami u forum oħra ta' reklami fuq dak l-istazzjon. Għandu jkun id-dmir tal-imsemmi operatur tan-*network* li jipprovdi lill-Awtorità bl-iskedi ta' programmi f'dawk il-perjodi ta' zmien raġonevoli li l-Awtorità tista' tistabilixxi, biex tkun tista' tesegwixxi minn qabel is-setgħat tagħha taħt dan is-subartikolu.

(6Ċ) F'ebda każ, sew jekk fuq stazzjon tal-komunità kemm fuq servizz tar-radju jew servizz tat-televiżjoni mal-pajjiż kollu, m'għandu jithalla ixandar kontenut ta' loġhob interattiv jew kontenut ta' loġhob tal-ażżard interattiv u dan skont kriterji stabbiliti mill-Awtorità tax-Xandir minn żmien għal żmien.

Kap. 363.

(6D) Kunsilli Lokali mwaqqfa taħt l-Att dwar il-Kunsilli Lokali, ma jistgħux, skond l-artikolu 77 tal-Att dwar il-Kunsilli Lokali, ikollhom bi proprjetà, jikkontrollaw jew ikunu editorjalment responsabbli għal xi servizz ta' xandir, inkluż servizz tar-radju tal-komunità.

(6E) Għall-finijiet ta' dan l-artikolu, it-trasmissjoni simultanja ta' l-istess servizz ta' xandir fuq mezzi differenti għandha tiġi kkunsidrata bħala servizz tax-xandir wieħed.”.

Emenda ta' l-artikolu 11 tal-Att prinċipali.

3. Is-subartikolu (1) ta' l-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-paragrafu (ċ) tiegħu għandu jidhol dan li ġej:

“(ċ) li servizzi ta' xandir privati għandhom jithallew joperaw b'dak il-mod li jiġi żgurat li jkun hemm firxa wiesgħa ta' programmar li tappella għall-interessi ġenerali kif ukoll dawk speċifiċi u interessi varji. Il-Ministru jista' minn żmien għal żmien jipprepara u jippubblika l-politika tax-xandir tal-Gvern u jaġġornaha;” u

(b) minflok il-paragrafu (e) tiegħu, għandu jidhol dan li ġej:-

“(e) illi fl-għoti ta' liċenzi lill-persuni differenti, hija għandha tikkonsidra wkoll il-possibiltà ta' xandir bis-satellita, bil-fili, televiżjoni diġitali terrestriju, radju diġitali jew ta' *networks* ta' komunikazzjonijiet elettronici li jistgħu jkunu possibbli minn żmien għal żmien.”.

4. Artikolu 13 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 13 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem minn “Ikun id-dmir tal-Awtorità li tissodisfa lilha innifisha illi,” sal-kliem “dawn il-htigiet li ġejjin, jiġifieri –” għandhom jidhlu l-kliem “F’dak li għandu x’jaqsam mas-servizzi ta’ xandir ta’ interess ġenerali u fejn l-Awtorità tħalli programmi ta’ aħbarijiet u grajjiet kurrenti jiġu mxandra minn dawn is-servizzi, ikun id-dmir tal-Awtorità li tissodisfa lilha nnifisha, kemm jista’ jkun, li l-programmi imxandra minn kull servizz ta’ xandir ta’ interess ġenerali ikun konformi ma’ kollha jew xi wħud mill-htigiet li ġejjin kif l-Awtorità tista’ timponi fil-liċenza tax-xandir, jiġifieri –”; u

(b) minnufih wara l-proviso li jinsab ma’ dan is-subartikolu għandu jizdied dan is-subartikolu ġdid li ġej:

“Izda wkoll l-Awtorità tista’, meta tagħti l-liċenza għal xandir lil stazzjon kummerċjali, timponi xi wieħed mill-htigiet imsemmija fil-paragrafi (a) sa (f) ta’ dan is-subartikolu fl-imsemmija liċenza.”.

5. L-artikolu 16 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 16 tal-Att prinċipali.

(a) minflok il-proviso għas-subartikolu (1) tiegħu, għandu jidhol dan li ġej:

“Izda d-dispożizzjonijiet ta’ dan is-subartikolu m’għandhomx japplikaw għal liċenza ta’ kontenut ta’ interess ġenerali u m’għandux ikun permess lill-Awtorità li tawtorizza xi mizuri imsemmija fil-paragrafi (i) sa (vi) ta’ dan is-subartikolu.”; u

(b) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem “(magħdudin provvedimenti għall-finijiet stabbiliti fl-Ewwel Skeda li tinsab ma’ dan l-Att)” għandhom jithassru; u

(ii) minnufih wara l-kliem “mad-dispożizzjonijiet ta’ dan l-Att.” għandhom jizdiedu l-kliem “L-Ewwel

Skeda li tinsab ma' dan l-Att għandha tapplika għal dik il-liċenza u kuntratt kif imsemmi hawn qabel.”.

Thassir ta' l-artikolu 16A tal-Att prinċipali.

6. Artikolu 16A tal-Att prinċipali għandu jithassar.

Emenda ta' l-artikolu 16M tal-Att prinċipali.

7. Is-subartikolu (4) tal-artikolu 16M tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tiegħu, minflok il-kliem “il-provditur ta' servizzi tal-mezzi.” għandhom jidhlu l-kliem “il-provditur ta' servizzi tal-mezzi; jew”; u

(b) minnufih wara l-paragrafu (b) tiegħu, għandu jizdied dan il-paragrafu ġdid li ġej:

“(c) xorb alkoħoliku li jkun fih aktar minn 1.2% ta' alkoħol li jixxandru bejn is-6.00a.m. u d-9.00p.m.; prodotti tal-logħob tal-azzard li jixxandru bejn is-6.00a.m. u s-7.00p.m.; infant formula; u armi u munizzjon.” .

Emenda ta' l-artikolu 17 tal-Att prinċipali.

8. Fl-artikolu 17 tal-Att prinċipali, minflok it-tifsira “Ministru”, għandu jidhol dan li ġej:

“ “il-Ministru” tfisser il-Ministru responsabbli għall-komunikazzjonijiet; u ”.

Emenda ta' l-artikolu 18 tal-Att prinċipali.

9. Minnufih wara s-subartikolu (5) ta' l-artikolu 18 tal-Att prinċipali, għandu jizdied dan is-subartikolu li ġej:-

“(6) Minkejja id-dispożizzjonijiet tas-subartikoli (1) sa (5) ta' dan l-artikolu, id-dispożizzjonijiet li ġejjin għandhom japplikaw għal servizzi tat-televiżjoni mal-pajjiż kollu:-

(a) fil-każ ta' applikant għal servizz tat-televiżjoni kummerċjali mal-pajjiż kollu, huwa għandu jinforma lill-Awtorità fuq liema *network* ta' komunikazzjonijiet elettronika ikun ser jingarr is-servizz tiegħu. Meta jagħmel dan, l-imsemmi applikant għandu jinforma lill-Awtorità dwar bid-dettalji tal-operatur tan-*network* u l-frekwenza speċifika li tkun ser tiġi allokata biex is-servizz imsemmi jiġi trasmess;

(b) fil-każ tax-xandar tas-servizz pubbliku u ta' servizzi b'oggettiv ta' interess ġenerali, kapaċità ta' trasmissjoni għandha, bla ħsara għal dawk il-kundizzjonijiet, kif jista' jkun japplika għall-użu ta' dik il-kapaċità ta' trasmissjoni, jkun allokat mill-Awtorità fuq is- servizzi b'oggettiv ta' interess ġenerali msemmi fl-artikolu 40(1) ta' dan l-Att.”.

10. Minnufih wara s-subartikolu (3) tal-artikolu 21 tal-Att prinċipali għandu jiġdied dan is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 21 tal-Att prinċipali.

“(4) Għal għanijiet ta' dan l-artikolu, l-espressjoni “trasmissjoni bit-teletext” għandha tinkludi gwidi ta' programmi elettronici u *radio data systems*.”.

11. Fl-ewwel proviso għas-subartikolu (1) ta' l-artikolu 23 tal-Att prinċipali, minflok il-kliem “il-klassijiet kollha ta' servizzi tar-radju” għandhom jidhru l-kliem “il-klassijiet kollha ta' servizzi tar-radju u s-servizzi ta' kontenut ta' xandir ta' televiżjoni kummerċjali”.

Emenda għal artikolu 23 tal-Att prinċipali.

12. Minflok l-artikolu 35 tal-Att prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 35 tal-Att prinċipali.

“Setgħa li jsiru regolamenti. 35. (1) Il-Prim Ministru, flimkien mal-Awtorità, jista' jagħmel regolamenti biex jagħti effett aħjar lid-dispożizzjonijiet ta' dan l-Att.

(2) Dawn ir-regolamenti jistgħu jhassru d-dispożizzjonijiet tar-Raba' Skeda li tinsab ma' dan l-Att:

Izda sakemm isiru dawk ir-regolamenti skond is-subartikolu (1), ir-Raba' Skeda li tinsab ma' dan l-Att għandha tibqa' tapplika.”.

13. Minflok l-artikolu 40 tal-Att prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 40 tal-Att prinċipali.

“L-operatur tan-network tal-oġġettivi ta' interess ġenerali u detenturi tal-liċenza b'kontenut ta' xandir ta' interess ġenerali. 40. (1) L-Awtorità għandha taħtar u tagħti liċenza lil operatur tan-network (hawn iżjed 'il quddiem imsejjaħ bħala “l-operatur tan-network”) biex imexxi in-network tal-oġġettivi ta' interess ġenerali li jkun inġhata liċenza mill-Awtorità ta' Malta dwar il-Komunikazzjoni skond l-Att biex jirregola Komunikazzjonijiet Elettronici.

(2) L-Awtorità għandha tiddeċiedi, wara sejha għall-applikazzjonijiet, liema detenturi tal-liċenza ta' servizzi oġġettivi b'kontenut ġenerali approvat minnha għandhom jingarru mill-operatur tan-*network*. L-ewwel sejha għall-applikazzjonijiet li tinhareg mill-Awtorità għandha tkun miftuħa għal dawk is-servizzi tax-xandir eżistenti fl-1 ta' Diċembru 2010 bħala xandara free-to-air analogue. Wara li toħroġ l-ewwel sejha għall-applikazzjonijiet, l-Awtorità tista' toħroġ it-tieni sejha jew oħrajn sussegwenti biex talloka l-kanali fuq in-*network* tal-oġġettivi ta' interess ġenerali:

Izda kull servizz tat-televizjoni tas-servizz pubbliku li kien qiegħed ixandar fl-1 ta' Diċembru 2010, għandu awtomatikament jitqies li jkun jikkwalifika għall-finijiet ta' din id-dispożizzjoni bħala servizz ta' xandir ta' interess ġenerali mingħajr il-ħtieġa li japplika kif imsemmi hawn qabel.

(3) Meta jsiru regolamenti biex jiġu stabbiliti l-kriterji tal-mod kif l-applikazzjoni tiġi evalwata għal servizz ta' xandir ta' interess ġenerali mal-pajjiż kollu, il-Prim Ministru, wara konsultazzjoni mal-Awtorità, għandu jikkunsidra dawn il-kriterji li ġejjin:

(a) kriterja ġenerali dwar programmar ta' kwalita' mifruxa fuq medda ta' gosti u interessi tal-pubbliku;

(b) programmar b'kontenut edukattiv u kulturali;

(ċ) programmar ta' aħbarijiet u grajjiet kurrenti;

(d) servizz ta' informazzjoni komprensiv u preċiż fl-interess ta' soċjetà demokratika u pluralista.

(4) L-Awtorità għandha tistabbilixxi is-sekwenza ta' kif jidhru l-kanali fuq in-*network* tal-oġġettivi tal-interess ġenerali minn fost id-detenturi tal-kontenut tax-xandir b'interess ġenerali u l-operatur

tan-*network* għandu jikkonforma ruħu ma' dik id-deċiżjoni. Id-deċiżjoni tal-Awtorità tkun finali.

(5) Minkejja d-dispożizzjonijiet ta' kull liġi oħra, detenturi tal-liċenzi tal-oġġettivi ta' interess ġenerali fuq in-*network* tal-oġġettivi tal-interess ġenerali għandhom joffru l-kontenut tax-xandir tagħhom bla ħlas lil dawk in-*networks* tal-komunikazzjonijiet elettronici hekk kif l-Awtorità tista' minn żmien għal żmien tordna jew tapprova.

(6) L-Awtorità tista' tagħmel regolamenti biex timplimenta aħjar id-dispożizzjonijiet ta' dan l-artikolu u tista', mingħajr preġudizzju għall-ġeneralità msemmija hawn qabel, tagħmel regolamenti dwar id-soluzzjoni ta' tilwim bejn l-operatur tan-*network* u s-servizz b'oġġettiv ta' interess ġenerali, ir-regolament tan-*network* tal-oġġettivi ta' interess ġenerali bil-għan li jiġi żgurati li l-operatur tan-*network* jimxi skond id-dispożizzjonijiet ta' dan l-artikolu u ta' kull regolament ieħor li jsir tahtu u, b'mod ġenerali, biex jiġi żgurati li l-operatur tan-*network* jipprovdi servizz li jkun bla interruzzjoni:

Izda fil-każ ta' tilwima bejn l-operatur tan-*network* u d-detentur tal-liċenza tax-xandir b'oġġettiv ta' interess ġenerali, dak it-tilwim għandu jintbagħat quddiem tribunal tal-arbitraġġ li għandu jkun magħmul minn persuna maħtura mill-Awtorità tax-Xandir li tippresjedi, persuna appuntata mill-Awtorità ta' Malta dwar il-Komunikazzjoni u persuna oħra maħtura bi qbil bejn l-Awtorità tax-Xandir u l-Awtorità ta' Malta dwar il-Komunikazzjoni. Dak it-tribunal għandu jiddeciedi l-ilment kemm jista' jkun malajr u d-deċiżjoni tiegħu tkun finali.”.

(7) L-Awtorità għandha tapprova l-kundizzjonijiet u l-ħlasijiet li jiġu mposti fil-kuntratt bejn l-operatur tan-*network* u servizzi b'oġġettivi ta' interess ġenerali.

14. L-Ewwel Skeda li tinsab mal-Att prinċipali għandha tiġi sostitwita b'dan li ġej:

Sostituzzjoni tal-Ewwel Skeda li tinsab mal-Att prinċipali.

“L-EWWEL SKEDA**Artikolu 16(3)**

GHANIJET LI DWARHOM GHANDU JIĠI PROVDUT
F’LICENZI
U
KUNTRATTI GHALL-PROVDIMENT TA’ SERVIZZI TAX-
XANDIR

1. Licenza għandha tinkludi –

(a) dawk il-kundizzjonijiet li l-Awtorità jkun jidhrilha li jkunu xierqa fir-rigward ta’ kull dmir li jkun jew li jista’ jkun impost fuqha, jew fuq id-detentur tal-licenza, bi jew taħt dan l-Att;

(b) kundizzjonijiet li jawtorizzaw is-sorveljanza u l-infurzar ta’ livelli tekniċi f’konnessjoni mal-provdiment tas-servizz b’licenza (inkluż l-użu tal-frekwenza allokata);

(ċ) kundizzjonijiet li jitolbu l-ħlas mid-detentur tal-licenza (kemm jekk ma’ l-għoti tal-licenza kemm f’dawk iż-żminijiet wara dak l-għoti li jistgħu jiġu stabbiliti mill-licenza jew bis-saħħa tal-licenza, jew it-tnejn) ta’ dritt jew drittijiet ta’ ammont jew ammonti hekk stabbiliti;

(d) kundizzjonijiet li jitolbu lid-detentur tal-licenza biex iforni lill-Awtorità, b’dak il-mod u f’dawk iż-żminijiet li l-Awtorità tista’ raġonevolment titlob, b’dak it-tagħrif, (inklużi dokumenti, prospetti, kontijiet u dikjarazzjonijiet) kif hija tkun teħtieġ għall-iskop ta’ eżerċitar tal-funzjonijiet assenjati lilha bi jew taħt dan l-Att;

(e) kundizzjonijiet li jitolbu lid-detentur tal-licenza jekk jinstab mill-Awtorità li jkun qed jikser xi kundizzjoni tal-licenza tiegħu, biex jirrifondi lill-Awtorità, f’dawk iċ-ċirkostanzi li jkunu speċifikati f’xi kundizzjonijiet, kull spiza raġonevolment magħmula minnha f’konnessjoni mal-ksur ta’ dik il-kundizzjoni;

(f) kundizzjonijiet li jipprovdu għal dawk il-materji incidentalijiet jew supplimentari li l-Awtorità hekk jidhrilha li jkunu xierqa; u

(g) kundizzjonijiet li jitolbu mid-detenturi ta' liċenzi, minbarra dawk li jipprovdu servizz tar-radju fil-komunità, li f'kull sena finanzjarja, jagħtu lil-Awtorità kopji tal-kontijiet tagħhom verifikati, tas-sena finanzjarja ta' qabel, dikjarazzjoni relattiva mill-31 ta' Diċembru ta' kull sena dwar l-attivitàjiet/struttura tal-korporazzjoni tad-detenturi tal-liċenzi, kif ukoll rapporti tal-qagħda tal-opinjoni pubblika dwar is-servizzi ta' programmi tagħhom.

2. Liċenza għandha tinkludi wkoll –

(a) kundizzjonijiet li jitolbu lid-detentur tal-liċenza –

(i) biex iħares kull direttiva mogħtija mill-Awtorità dwar dawk il-materji li jkunu speċifikati fil-liċenza jew li jkunu ta' deskrizzjoni hekk speċifikata;

(ii) (ħlief safejn l-Awtorità taqbel li jagħmilhom jew li ma jagħmilhomx) biex ma jagħmilx jew biex jagħmel dawk il-ħwejjeg li jkunu speċifikati fil-liċenza jew li jkunu ta' deskrizzjoni hekk speċifikata;

(iii) biex jimxi mas-servizz ta' programmi (“promise of performance”) kif approvat mill-Awtorità.

(b) kundizzjonijiet li jitolbu lid-detentur tal-liċenza biex jippermetti lil -

(i) kull impjegat tal-Awtorità jew kull persuna awtorizzata mill-Awtorità, jew

(ii) kull uffiċjal jew persuna awtorizzata mill-Awtorità ta' Malta dwar il-Komunikazzjoni,

li jidhol f'kull post li jkun użat f'konnessjoni max-xandir tas-servizz b'liċenza u li jispezzjona, jeżamina, jopera jew jittestja xi tagħmir fuq il-post li jintuża f'dik il-konnessjoni; u

(c) kundizzjonijiet li jitolbu lid-detentur tal-liċenza –

(i) biex iżomm, għal perjodu ta' 90 jum, recording ta' kull programm inkluz fis-servizz b'liċenza;

(ii) biex, fuq it-talba ta' l-Awtorità jew ta' qorti tal-ġustizzja jipproduci lilha kull *recording* bħal dak;

(iii) biex iżomm, għal perjodu ta' sena, traskrizzjoni ta' kull programm ta' aħbarijiet inkluż fis-servizz b'licenza;

(iv) biex fuq it-talba tal-Awtorità jew ta' qorti tal-ġustizzja jipproduci lilha kull traskrizzjoni ta' aħbarijiet bħal dik u kull script jew traskrizzjoni oħra ta' programm inkluż fis-servizz b'licenza li huwa jkun jista' jipproduci lilha;

(v) biex iżomm kopja għal perjodu ta' tmax-il xahar tax-xandiriet kollha tas-servizz b'licenza;

(vi) biex fuq it-talba tal-Awtorità jew ta' qorti tal-ġustizzja, jipproduci lilha dawk il-kopji;

(vii) biex jaddotta sistema biex jipproċessa ilmenti mingħand telespettaturi u semmiegħa.

3. (1) Licenza għal servizzi bir-radju fil-komunità għandha tinkludi kundizzjonijiet li jimpedixxu lid-detentur tal-licenza milli –

(a) juża xi frekwenza allokata lil Malta b'xi ftehim internazzjonali;

(b) itellef xi stazzjon tax-xandir nazzjonali li jintlaħaq minn Malta sew jekk dan ikun qed jixxandar minn Malta jew minn barra;

(ċ) itellef xi servizz tar-radju mal-pajjiż kollu;

(d) jkollu aktar qawwa ta' trasmissjoni milli huwa raġonevolment meħtieġ għall-fini ta' trasmissjoni. L-Awtorità għandha, flimkien mal-Awtorità ta' Malta dwar il-Komunikazzjoni, tistabilixxi dak l-ammont raġonevoli ta' qawwa ta' trasmissjoni u, sabiex tagħmel dan, għandha tiegħu in konsiderazzjoni il-varjazzjonijiet li jeżistu f'tali qawwa minn post għall-ieħor minhabba t-topografija tal-lokalità involuta;

(e) jinkludi xi haġa fil-programmi li toffendi s-sens ta' gosti tajba jew tad-deċenza jew li tista' tinkoraġġixxi jew tincita lil xi hadd biex jikkommetti xi reat jew li tista' twassal għad-disordni jew li tista' toffendi l-morali pubblika; u

(f) jittrasmetti programmi ta' aħbarijiet jew ta' avvenimenti kurrenti h'ief dawk li għandhom x'jaqsmu mal-komunità; u

(g) juża frekwenza allokata għal inqas minn 20 siegħa fil-gimgha.

(2) Licenza bħal din ta' servizzi tar-radju tal-komunità għandha tinkludi, fejn japplika:

(a) kundizzjonijiet li jawtorizzaw is-superviżjoni u l-infurzar ta' *standards* tekniċi mill-Awtorità wara konsultazzjoni mal-Awtorità ta' Malta dwar il-Komunikazzjoni għal dak li għandu x'jaqsam mal-provdiment tas-servizz li jkollu licenza (inkluż l-użu tal-frekwenzi allokat); u

(b) kundizzjonijiet approvati mill-Awtorità wara konsultazzjoni mal-Awtorità ta' Malta dwar il-Komunikazzjoni dwar tagħmir tax-xandir li jintuza mid-detentur tal-licenza.

4. Licenza tax-xandir tista' tinkludi wkoll kundizzjonijiet oħra skond kif l-Awtorità tara li jkunu neċessarji inklużi l-kundizzjonijiet dwar *standards* ta' programmi ta' kwalità u *standards* tekniċi minimi li jiżgura xandir ta' kwalità aċċettabbli.”.

15. It-Tieni Skeda li tinsab mal-Att prinċipali qiegħda b'dan tiġi mħassra.

Thassir tat-Tieni Skeda li tinsab mal-Att prinċipali.

16. Minflok il-paragrafu (a) tas-subartikolu (2) tal-artikolu 7 tal-Att dwar id-Drittijiet tal-Awtur, għandu jidhol dan li ġej:-

Emenda konsegwenzjali għall-Att dwar id-Drittijiet tal-Awtur.

“(a) jekk it-trasmissjoni mill-ġdid tkun taqbel ma' h'tieġa ta' *must carry* konformi mal-Att biex Jirregola Komunikazzjonijiet Elettroniċi; u”.

Kap. 415.

17. L-artikolu 16H tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 16H tal-Att prinċipali.

(a) fl-artikolu 16H(3)(b), fit-test Inġliż, minflok il-kliem “if a media service provider has its head office in one Member State” għandhom jidhlu l-kliem “if a media service provider has its head office in Malta”;

(b) Artikolu 16H(3)(c) għandu jiġi sostitwit b’dan li ġej:

“Jekk provditur ta’ servizzi ta’ mezzi jkollu l-uffiċċju tiegħu f’Malta, iżda d-deċiżjonijiet dwar is-servizzi tal-mezzi awdjovizivi jittieħdu f’pajjiż terz, jew bil-maqlub, huwa għandu jitqies li jkun stabbilit f’Malta, b’dan iżda li parti sinifikanti mill-forza tax-xogħol involuta fil-ġestjoni tal-attività tas-servizz tal-mezzi awdjovizivi tkun topera f’Malta.”;

(ċ) fl-artikolu 16H(4), minflok il-kliem “l-Istat Membru” għandha tidhol il-kelma “Malta” kull fejn dawn jinsabu; u

(d) fl-artikolu 16H(6), minflok il-kliem “fi Stat Membru wieħed jew aktar” għandha tidhol il-kelma “Malta”.

Emenda tal-artikolu
16P tal-Att prinċipali.

18. Minflok il-kliem “Il-konformità ma’ xi awtorizzazzjoni mogħtija” għandhom jidhlu l-kliem “Il-konformità ma’ xi notifikazzjoni mogħtija”.

Emenda tat-Tielet
Skeda.

19. It-Tielet Skeda tal-Att Dwar ix-Xandir għandha tiġi emendata kif ġej:

(a) Minflok il-paragrafu 4 tagħha għandu jidhol dan li ġej:

“4. Reklamar u telexiri għandhom jingħarfu u jkunu distingwibbli minn kontenut editorjali. *Sponsorship* ta’ aħbarijiet u programmi ta’ ġrajjet kurrenti huwa projbit.”; u

(b) Minflok il-paragrafu 17 għandu jidhol dan li ġej:

“17. L-ammont ta’ ħin mogħti lil reklamar fuq servizzi tar-radju m’għandux jaqbez il-25% tul perjodu ta’ siegħa waħda, iżda dik il-parti ta’ dan il-ħin ta’

reklamar tista' tkun aggregata ma' perjodu kontinwu li ma jaqbiżx sagħtejn f'kull perjodu ta' tnax-il siegħa. Għall-finijiet ta' din l-iskeda, perjodu ta' tnax-il siegħa jfisser bejn 6.00 u 17.59 hrs u bejn 18.00 u 5.59 hrs.”.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 358 tat-2 ta' Ġunju, 2011.

MICHAEL FRENDU
Speaker

PAULINE ABELA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE ABELA
President

6th June, 2011

ACT No. VIII of 2011

AN ACT to amend the Broadcasting Act to extend further pluralism in broadcasting and to permit the licensing of a general interest objective network operator and general interest broadcasting content licensees.

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:-

1. The title of this Act is the Broadcasting (Amendment) Act, 2011 and it shall be read and construed as one with the Broadcasting Act, hereinafter referred to as “the principal Act”.

Short title and commencement.

Cap. 350.

2. Article 10 of the principal Act shall be amended as follows:

(a) in subarticle (2) thereof, immediately after the words “of the Authority”, there shall be added the words “, nor may any person retransmit sound or television broadcasting services from Malta to any foreign state without the licence in writing of the Authority”;

Amendment of article 10 of the principal Act.

(b) for subarticle (4) thereof, there shall be substituted the following:-

“(4) Licences may be of particular classes or description and shall in particular include licenses for:

- (a) nationwide television services;
- (b) nationwide radio services;
- (c) community radio services;
- (d) satellite radio services;
- (e) satellite television services;

(f) such other services which may be broadcast or provided on or by an electronic communications network as defined in article 2 of the Electronic Communications (Regulation) Act as the Authority may by regulations prescribe.”;

(c) immediately after subarticle (4) thereof, there shall be inserted the following new subarticles:-

“(4A) In so far as nationwide television services are concerned, the Authority may issue the following categories of television broadcasting licences:

- (a) a general interest broadcast content licence issued to any broadcaster other than the company referred to in subarticle (4C);
- (b) a commercial broadcast content licence issued to any broadcaster.

(4B) The Authority may make regulations to give better effect to the provisions of subarticles (4) and (4A) and may, without prejudice to the generality of the foregoing, make regulations in respect of the application process for all services and applications for licences, including establishing the applicable application and licence fees therefor and to establish evaluation criteria therefor.

(4C) Stations owned or controlled by the Government company referred to in subarticle (4D) or for which the said company is editorially responsible

shall be licensed by the Minister. For the purposes of enabling the Authority to carry out its regulatory duties in terms of law, the Minister shall, as soon as possible from the date of issue of any licence to the aforesaid Government company, notify in writing to the Authority a copy of such licence. The provisions of article 119 of the Constitution of Malta, this Act and all subsidiary legislation made thereunder shall continue to apply to such licensee.

(4D) The Government may, through a company designated by the Minister by an order in the Gazette, as a company providing public broadcasting services, own, control or be editorially responsible for nationwide television and radio services mentioned in subarticle (4C):

Provided that the Government may not own any broadcasting services or participate in their ownership, control or be editorially responsible for any such services other than through such company, and that no other company in which the Government has a controlling interest may own voting shares in a company providing any broadcasting services.

(4E) The following terms are defined as follows:

“general interest objective service” means a television broadcasting service which takes on the obligation of broadcasting a specified quantum of programmes which are of general interest and which are considered by the National Broadcasting Policy as in force from time to time to be part of the remit of a public service broadcasting service. A general interest objective service may be either a generalist service or a niche service;

“niche service” means a television broadcasting service which predominantly transmits programmes of a limited number of genres of a specialist subject matter;

“generalist service” means a television broadcasting service which transmits a wide range of programme genre; and

“commercial television broadcasting service” means a television broadcasting service that is either a generalist service or a niche service and that is not subject to the obligations of a general interest objective service.”;

(d) for subarticle (5) thereof, there shall be substituted the following:

“(5) A licence for any broadcasting service may only be awarded to a company regularly incorporated in Malta in accordance with the Companies Act, provided that licences for community radio services may also be awarded to individuals who are ordinarily resident in Malta.”; Cap. 386.

(e) for subarticle (6) thereof, there shall be substituted the following:-

“(6) Subject to the provisions of subarticle (2) hereof and without prejudice to the provisions of subarticle (4D) hereof, the same organisation, person or company may concurrently own, control or be editorially responsible for more than one nationwide radio service and one nationwide television service, provided that:

(a) only one nationwide radio service may be licensed on the FM frequency to the same organization, person or company;

(b) not more than two generalist nationwide television services may be licensed to the same organization, person or company;

(c) the same organisation, person or company may not own, control or be editorially responsible for more than one nationwide radio or television service predominantly transmitting news and current affairs.”; and

(f) immediately after subarticle (6) thereof, there shall be added the following subarticles:

“(6A) The same organisation, person or company may not own, control or be editorially responsible

for more than one community radio service and any organisation which owns, controls or is editorially responsible for a nationwide radio service or a nationwide television service or such other service as mentioned in paragraph (d) of subarticle (4) may not own, control or be editorially responsible for a community radio service.

(6B) Where an electronic communications network operator does not broadcast any programme content on a particular station for such period of time as the Authority shall determine, then, notwithstanding the provisions of this Act, no amount of transmission time may be devoted to teleshopping spots, advertising spots and other forms of advertising on that station. It shall be the duty of the said network operator to provide the Authority with programme schedules at reasonable intervals that the Authority may determine to enable it beforehand to exercise its powers under this subarticle.

(6C) In no case, whether on a community and a nationwide radio broadcasting service or a television broadcasting service shall it be allowed to broadcast an interactive gaming content or interactive gambling content and this according to criteria to be established by the Broadcasting Authority from time to time.

Cap. 363.

(6D) Local councils established under the Local Councils Act may not, in terms of article 77 of the Local Councils Act, own, control or be editorially responsible for any broadcasting service, including any community radio service.

(6E) For the purpose of this article the simultaneous transmission of the same broadcasting service on different media shall be considered as one broadcasting service.”.

Amendment of article 11 of the principal Act.

3. Subarticle (1) of article 11 of the principal Act shall be amended as follows:

(a) for paragraph (c) thereof, there shall be substituted the following:

“(c) that private broadcasting services shall

be allowed to operate in such a way so as to ensure a distribution of programming that appeals to general as well as specific and various interests. The Minister shall prepare and publish Government's broadcasting policy and update it from time to time;"; and

(b) for paragraph (e) thereof, there shall be substituted the following:-

“(e) that in granting licences to different persons, it shall also take into account the possibility of broadcasting by satellite, cable, digital terrestrial television, digital radio or through such other electronic communications networks as may be possible from time to time.”.

4. Article 13 of the principal Act shall be amended as follows:

Amendment of article
13 of the principal
Act.

(a) in subarticle (2) thereof, for the words from “It shall be the duty of the Authority to satisfy itself that,” to the words “the following requirements, that is to say-” there shall be substituted the words “In so far as general interest broadcasting services are concerned and where the Authority allows news and current affairs programmes to be broadcast by such services, it shall be the duty of the Authority to satisfy itself that, so far as possible, the programmes broadcast by any general interest broadcasting service complies with all or any of the following requirements as the Authority may impose in the broadcasting licence, that is to say –”; and

(b) immediately after the proviso thereto, there shall be added the following new proviso:

“Provided further that the Authority may, when granting a broadcasting licence for a commercial station, impose any of the requirements mentioned in paragraphs (a) to (f) of this subarticle in the said licence.”.

5. Article 16 of the principal Act shall be amended as follows:

Amendment of article
16 of the principal
Act.

(a) for the proviso to subarticle (1) thereof, there shall be substituted the following:

“Provided that the provisions of this subarticle shall not apply to a general interest broadcast content licence and it shall not be permissible for the Authority to authorise any of the measures mentioned in paragraphs (i) to (vi) of this subarticle.”; and

(b) subarticle (3) thereof shall be amended as follows:

(i) the words “(including provisions for the purposes set out in the First Schedule to this Act)” shall be deleted; and

(ii) immediately after the words “the provisions of this Act.” there shall be added the words “The First Schedule to this Act shall apply to such licence and contract aforesaid.”.

Deletion of article 16A of the principal Act.

6. Article 16A of the principal Act shall be deleted.

Amendment of article 16M of the principal Act.

7. Subarticle (4) of article 16M of the principal Act shall be amended as follows:

(a) in paragraph (b) thereof, for the words “provider falls.” there shall be substituted the words “provider falls; or”; and

(b) immediately after paragraph (b) thereof, there shall be added the following new paragraph:

“(c) alcoholic drinks of more than 1.2% alcohol during programming which is broadcast between 6.00 a.m. and 9.00 p.m.; gambling products during programming which is broadcast between 6.00 a.m. and 7.00 p.m.; infant formula; and weapons and munitions.”.

Amendment of article 17 of the principal Act.

8. In article 17 of the principal Act, for the definition “Minister” there shall be substituted the following:

“ “the Minister” means the Minister responsible for communications; and”.

Amendment of article 18 of the principal Act.

9. Immediately after subarticle (5) of article 18 of the principal Act there shall be added the following subarticle:-

“(6) Notwithstanding the provisions of subarticles (1) to (5) hereof, the following provisions shall apply to nationwide television services:-

(a) in the case of an applicant for a nationwide commercial broadcast television service, he shall inform the Authority on which electronic communications network the service will be carried. In doing so, the said applicant shall inform the Authority of the details of the network operator and the specific frequency on which the said service shall be transmitted;

(b) in the case of the public service broadcaster and of general interest objective television broadcasting services, transmission capacity shall, subject to such conditions as may be applicable to the use of such transmission capacity, be allotted by the Authority on the general interest objective network referred to in article 40(1) hereof.”.

10. Immediately after subarticle (3) of article 21 of the principal Act, there shall be added the following new subarticle:

Amendment of article 21 of the principal Act.

“(4) For the purposes of this article, the term “teletext transmissions” shall include electronic programme guides and radio data systems.”.

11. In the first proviso to subarticle (1) of article 23 of the principal Act, for the words “all classes of radio services”, there shall be substituted the words “all classes of radio and television broadcasting services” .

Amendment of article 23 of the principal Act.

12. For article 35 of the principal Act there shall be substituted the following:

Substitution of article 35 of the principal Act.

“Power to make regulations.

35. (1) The Prime Minister, in conjunction with the Authority, may make regulations to give better effect to the provisions of this Act.

(2) Such regulations may repeal the provisions of the Fourth Schedule to this Act:

Provided that until such regulations are made in terms of subarticle (1), the Fourth Schedule to this Act shall continue to apply.”.

Substitution of article 40 of the principal Act.

13. For article 40 of the principal Act there shall be substituted the following:

“General interest objective network operator and general interest broadcasting content licensees.

40. (1) The Authority shall appoint and license a network operator (hereinafter referred to as “the network operator”) to run the general interest objective network licensed by the Malta Communications Authority in terms of the Electronic Communications (Regulation) Act.

(2) The Authority shall decide, following a call for applications, which licensees of general content objective services approved by it shall be carried by the network operator. The first call for applications to be issued by the Authority shall be open to those broadcasting services existing on the 1st December 2010 as free-to-air analogue broadcasters. Following the first call for applications, the Authority may issue a second or subsequent call to assign available channels on the general interest objective network:

Provided that any public service television service which was broadcasting on the 1st December 2010 shall be automatically considered to qualify for the purposes of this provision as a general interest broadcasting service without the need of applying as aforesaid.

(3) When making regulations to establish criteria for evaluating an application for a general interest nationwide television broadcasting service, the Prime Minister, after consultation with the Authority, shall consider the following criteria:

(a) general criteria concerning quality programming across the full range of public tastes and interests;

(b) programming of an educational and cultural nature;

(c) news and current affairs programming;

(d) a comprehensive and accurate

information service in the interests of a democratic and pluralistic society.

(4) The Authority shall determine the channel line up on the general interest objective network from amongst the general interest broadcasting content licensees and the network operator shall comply with such determination. The Authority's decision shall be final.

(5) Notwithstanding the provisions of any other law, general interest objective service licensees broadcasting on the general interest objective network shall offer free of charge their broadcasting content to such electronic communications networks as the Authority may from time to time direct or approve.

(6) The Authority may make regulations to give better effect to the provisions of this article and may, without prejudice to the generality of the foregoing, make regulations in respect of the determination of disputes between the network operator and the general interest objective service, the regulation of the general interest objective network in order to ensure that the network operator abides by the provisions of this article and any regulations made thereunder and, generally to ensure that an uninterrupted service is provided by the network operator:

Provided that in the case of a dispute between the network operator and a general interest objective service licensee, such disputes shall be referred to a standing arbitral tribunal to be composed of one person appointed by the Broadcasting Authority who shall preside, one person appointed by the Malta Communications Authority and one person appointed in agreement between the Broadcasting Authority and the Malta Communications Authority. The said tribunal shall decide the complaint as expeditiously as possible and its decision shall be final.”.

(7) The Authority shall approve the conditions and fees imposed on the contract entered into between the network operator and the general interest objective service.

Substitution of the
First Schedule to the
principal Act.

14. For the First Schedule to the principal Act there shall be substituted the following:

“FIRST SCHEDULE

Article 16 (3)

**PURPOSES FOR WHICH PROVISION IS TO BE MADE IN
LICENCES AND CONTRACTS FOR THE PROVISION OF
BROADCASTING SERVICES**

1. A licence shall include –

(a) such conditions as appear to the Authority to be appropriate having regard to any duties which are or may be imposed on the Authority itself, or on the licensee, by or under this Act;

(b) conditions enabling the supervision and enforcement of technical standards in connection with the provision of the licensed service (including the use of the allocated frequency);

(c) conditions requiring the payment by the licensee (whether on the grant of the licence or at such times thereafter as may be determined by or under the licence, or both) of a fee or fees of an amount or amounts so determined;

(d) conditions requiring the licensee to furnish the Authority, in such manner and at such times as it may reasonably require, with such information (including documents, returns, accounts and declarations) as it may require for the purpose of exercising the functions assigned to it by or under this Act;

(e) conditions requiring the licensee, if found by the Authority to be in breach of any condition of his licence, to reimburse to the Authority, in such circumstances as are specified in any conditions, any costs reasonably incurred by it in connection with the breach of that condition;

(f) conditions providing for such incidental and supplemental matters as appear to the Authority to be appropriate; and

(g) conditions requiring licensees, other than those

providing community radio services, within each financial year, to present to the Authority copies of their audited accounts for the previous financial year, a declaration as of the 31st December of each year as to the licensees' affairs/ corporate structures as well as reports on the state of public opinion concerning their programme services.

2. A licence shall also include –

(a) conditions requiring the licensee –

(i) to comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified;

(ii) (except to the extent that the Authority consent to his doing or not doing them) not to do or to do such things as are specified in the licence or are of a description so specified;

(iii) to comply with the programme service (“promise of performance”) as approved by the Authority;

(b) conditions requiring the licensee to permit –

(i) any employee of, or person authorised by, the Authority, or

(ii) any officer of, or person authorised by, the Malta Communications Authority,

to enter any premises which are used in connection with the broadcasting of the licensed service and to inspect, examine, operate or test any equipment on the premises which is used in that connection; and

(c) conditions requiring the licensee –

(i) to retain, for a period of 90 days, a recording of every programme included in the licensed service;

(ii) at the request of the Authority or of a court of law, to produce to it any such recording;

(iii) to retain, for a period of one year, a transcript of every news programme included in the licensed service;

(iv) at the request of the Authority or of a court of law, to produce to it any such news transcript and any other script or transcript of a programme included in the licensed service which he is able to produce to it;

(v) to keep full logs for a twelve month period of all transmissions of the licensed service;

(vi) at the request of the Authority, or of a court of law, to produce to it such logs;

(vii) to adopt procedures to handle complaints from viewers and listeners.

3. (1) A licence for community radio services shall include conditions preventing the licensee from –

(a) utilising any of the frequencies allocated to Malta in terms of international agreements;

(b) interfering with any national broadcasting station received in Malta whether originating from Malta or from abroad;

(c) interfering with any of the nationwide radio services;

(d) having more power than is reasonably required for the purpose of transmission. The Authority shall, in conjunction with the Malta Communications Authority, establish such amount of reasonable power and, in doing so, shall take into account the variations which occur from place to place due to the topography of the locality involved;

(e) including anything in programmes which offends against good taste or decency or is likely to encourage or

incite to crime or to lead to disorder or to be offensive to public feeling;

(f) transmitting news or current affairs programmes except of a community nature; and

(g) utilising an allocated frequency for less than 20 hours per week.

(2) Such a licence for community radio services shall also contain, where applicable:

(a) conditions enabling the supervision and enforcement of technical standards by the Authority following consultation with the Malta Communications Authority in connection with the provision of the licensed service (including the use of the allocated frequency); and

(b) conditions approved by the Authority following consultation with the Malta Communications Authority relating to the broadcasting equipment to be used by the licensee.

4. A broadcasting licence may also include such other conditions as the Authority deems necessary including conditions relating to programme quality standards and minimum technical standards to ensure acceptable quality broadcasting.”.

15. The Second Schedule to the principal Act shall be deleted.

Deletion of the Second Schedule of the principal Act.

16. For paragraph (a) in subarticle (2) of article 7 of the Copyright Act, there shall be substituted the following:

Consequential amendment to the Copyright Act.

“(a) if the retransmission is in pursuance of a ‘must carry’ requirement in conformity with the Electronic Communications (Regulation) Act; and”.

Cap. 415.

17. Article 16H of the principal Act shall be amended as follows:

Amendment of article 16H of the principal Act.

(a) in article 16H(3)(b), in the English text, for the words “if a media service provider has its head office in one Member State” there shall be substituted the words “if a media service provider has its head office in Malta”;

(b) Article 16H(3)(c) shall be substituted by the following:

“(c) if a media service provider has its head office in Malta but decisions on the audiovisual media service are taken in a third country, or vice-versa, it shall be deemed to be established in Malta, provided that a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in Malta.”;

(c) in article 16H(4) for the words “that Member State” there shall be substituted the word “Malta” wherever they occur; and

(d) in article 16H(6) for the words “in one or more Member States” there shall be substituted the word “Malta”.

Amendment of article 16P of the principal Act.

18. For the words “Compliance with any authorization granted” of the principal Act there shall be substituted the words “Compliance with any notification made”.

Amendment of the Third Schedule.

19. The Third Schedule to the Broadcasting Act shall be amended as follows:

(a) For paragraph 4 thereof, there shall be substituted the following:

“4. Advertising and teleshopping shall be readily recognisable and distinguishable from editorial content. Sponsorship of news and current affairs programmes on radio shall be prohibited.”; and

(b) For paragraph 17 thereof, there shall be substituted the following:

“17. The amount of time given to advertising on radio services shall not exceed twenty-five per centum

within one hour period, provided that part of such advertising time may be aggregated to a continuous period not exceeding two hours in each twelve hour period. For the purposes of this Schedule, a twelve hour period shall be understood to mean between 06.00 and 17.59 hours and between 18.00 and 05.59 hours.”.

Passed by the House of Representatives at Sitting No. 358 of 2nd June, 2011.

MICHAEL FRENDU
Speaker

PAULINE ABELA
Clerk to the House of Representatives