

Act on Television and Radio Operations

(744/1998; amendments up to 1068/2007 included)

Chapter 1 **General provisions**

Section 1 *Objectives of the Act*

The objective of this Act is to promote television and radio broadcasting.

Section 2 *Definitions*

In this Act:

- 1) *television broadcasting* shall refer to the initial transmission or provision by wire or over the air, including that by satellite, in unencoded or encoded form, of television programmes intended for reception by the public;
- 2) *radio broadcasting* shall refer to the initial transmission or provision by wire or over the air, including that by satellite, in unencoded or encoded form, of sound radio programmes intended for reception by the public;
- 3) *television broadcaster* shall refer to a party who has editorial responsibility for the composition of the television programmes referred to in subparagraph 1 and who transmits television programmes or has them transmitted by a third party;
- 4) *radio broadcaster* shall refer to a party who has editorial responsibility for the composition of the radio programmes referred to in subparagraph 2 and who transmits sound-radio programmes or has them transmitted by a third party;
- 5) *programme* shall refer to pre-selected composition of television or radio programmes;
- 6) *public* shall refer to a freely composed group of receivers of programmes as well as to a pre-determined group of a considerable size of receivers of a message;
- 7) *an independent producer* shall refer to a producer of television programmes of the share capital of whom an individual television broadcaster controls at most 25 % or several television broadcasters at most 50 %, and who, during the past three years, has produced no more than 90 % of its programmes for the same television broadcaster;
- 8) *television and radio advertising* shall refer to any form of announcement in television and radio broadcasting in return for payment or for other consideration by a public or private undertaking in connection with a trade, business, craft or profession in order to

promote the supply of goods or services, including immovable property or rights and obligations, or in order to promote its own operations;

9) *sponsorship* shall refer to any contribution made by a public or private undertaking not engaged in television or radio broadcasting or in the production of audiovisual works, to the financing of television programmes transmitted in television or radio broadcasting with a view to promoting its name, its trade mark, its image, its activities or its products; and

10) *teleshopping* shall refer to direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment.

Section 3 *Scope of application*

This Act shall apply to television broadcasting carried out by a natural person or an organization or foundation established in Finland if the operations are carried out in one or more Member States of the European Economic Area or States party to the European Convention on Transfrontier Television (Finnish Treaty Series 1994/87), as well as in cases referred to in section 38 to the retransmission of television and radio programmes. (394/2003)

Chapters 1, 2 and 5-7 of the Act shall apply to television broadcasting carried out by a natural person, an organization or a foundation located elsewhere than Finland, if the operations are carried out by virtue of a licence granted under section 7(1) (1068/2007).

This Act shall apply to radio broadcasting if a radio frequency granted by Finland or a distribution network established in Finland is used in the operations.

This Act shall not apply to television or radio broadcasting in the Province of Åland.

Section 4 (1251/2006) *Restrictions in the scope of application*

With the exceptions of sections 19 and 38, this Act shall not apply to:

1) operations where the transmissions may be received only in an educational unit, a hospital, a hotel, a department store or corresponding activity forming part of the operations;

2) operations in telecommunications networks through which programmes can simultaneously be followed via no more than 2,000 subscriptions; or

3) temporary analogue operations by means of freely propagating radio waves for a maximum period of three months, if the used television transmitter's radiation power does not exceed 1 kilowatt or radio transmitter's radiation power 50 watt.

Sections 10, 11, 13(1-6), 14, 16 and 17 shall not apply to television and radio broadcasting referred to in section 7(2) and in section 7(3)(1-2) of this Act.

Sections 10, 11, 13 and 14 shall not apply to television and radio broadcasting referred to in section 7(3)(3) of this Act.

Section 5 *Establishment*

A television broadcaster shall be deemed to be established in Finland if the broadcaster has its head office in Finland and if the editorial decisions about programmes are taken in Finland.

A television broadcaster shall be deemed to be established in Finland also in the following cases:

- 1) if the broadcaster has its head office or if editorial decisions about programmes are taken in another State belonging to the European Economic Area or a State which is a party to the European Convention on Transfrontier Television, and if a significant part of the workforce is in Finland;
- 2) if a significant part of the workforce works in more than one State belonging to the European Economic Area or a State which is party to the European Convention on Transfrontier Television, and the television broadcaster has its head office in Finland;
- 3) if neither the part of the workforce working in a State belonging to the European Economic Area nor in a State which is party to the European Convention on Transfrontier Television is significant but the television broadcasting was first started in accordance with chapter 2 of this Act and the broadcaster has activities of economic significance in Finland;
or
- 4) if the television broadcaster has its head office in a State belonging to the European Economic Area or in a State which is party to the European Convention on Transfrontier Television but the decisions on the programmes are made in a third country, or vice-versa, if a significant part of the workforce works in Finland.

Section 6 (394/2003) *Establishment in certain exceptional cases*

A television broadcaster that is not established in a State belonging to the European Economic Area or a State party to the European Convention on Transfrontier Television, shall be deemed to be established in Finland, if it:

- 1) uses a radio frequency granted under the laws of Finland;
- 2) does not use a radio frequency granted under the laws of Finland but uses a satellite capacity appertaining to a Finnish undertaking; or
- 3) neither uses a radio frequency granted by Finland nor a satellite capacity appertaining to a Finnish undertaking but uses a satellite link-up situated in Finland.

Chapter 2 **Television and radio broadcasting**

Section 7 (1251/2006) *Right to television and radio broadcasting*

A licence for television or radio broadcasting in a terrestrial mass communications network referred to in section 2 of the Communications Market Act (393/2003) shall be applied for from the Government (*programme licence*) with the exceptions referred to in subsections 2 and 3.

A licence for radio broadcasting in analogue terrestrial mass communications network referred to in section 2 of the Communications Market Act that will last no longer than three months shall be applied for from the Finnish Communications Regulatory Authority. The Finnish Communications Regulatory Authority shall grant a licence, if adequate frequencies can be assigned for the operations and there is no justified reason to suspect the applicant of violating the provisions of this Act or some other Act on television and radio broadcasting.

A licence for television or radio broadcasting operations in a digital terrestrial mass communications network referred to in section 2 of the Communications Market Act shall be applied for from the Finnish Communications Regulatory Authority, if

- 1) the operations do not last more than three months;
- 2) weekly operations do not last more than eight hours; or
- 3) operations are carried out in a digital terrestrial mass communications network that has been allocated in the utilisation plan concerning frequencies referred to in section 6 of the Act on radio frequencies and telecommunications equipment (1015/2001) to television and radio broadcasting or to services provided using DVB-H or similar standard technology.

A television or radio broadcaster holding a licence from the Government for digital broadcasting may also transmit its programming in a network referred to in subsection 3(3) without a separate licence. The programming shall be sent simultaneously and unaltered in an area referred to in the licence or in another original transmission area. The Finnish Broadcasting Company YLE may transmit the television and radio programming it provides by virtue of law in a way referred to in this subsection.

The Finnish Communications Regulatory Authority shall grant a licence for the operations referred to in subsection 3, if there is no justified reason to suspect the applicant of violating the provisions of this Act or some other Act on television and radio broadcasting.

Section 7 a (394/2003)

Right of the Finnish Broadcasting Company Ltd to television and radio broadcasting

The Finnish Broadcasting Company Ltd shall have the right to carry out analogue public service television and radio broadcasting without a licence on the frequencies that have been reserved for its use in the utilisation plan referred to in section 6 of the Radio Act (1015/2001).

The Finnish Broadcasting Company Ltd shall have the right to carry out digital public service television and radio broadcasting without a licence. It is the Government's duty to oversee that the company will have adequate terrestrial television and radio network capacity necessary for the broadcasting and that the company is able to use it appropriately. Further provisions on a telecommunications operator's duty to reserve adequate capacity as mentioned above are issued in section 10(3) of the Communications Market Act.

Section 7 b (394/2003)
Notification to the Finnish Communications Regulatory Authority

A notification in accordance with section 15 (1) shall be submitted prior to the commencement of the operations to the Finnish Communications Regulatory Authority on television and radio broadcasting other than that referred to in sections 7 and 7a.

Section 8 (repealed by 2001/1016)

Section 9 (394/2003)
Licensing authority

A licence referred to in section 7(1) shall be declared open for applications and granted by the Government. A licence referred to in section 7(2-3) shall be granted by the Finnish Communications Regulatory Authority. The Finnish Communications Regulatory Authority shall not have to declare the licence open for applications.

Section 10
Conditions for granting a licence

When declaring licences open for application and granting them, the licensing authority shall, taking into consideration the television broadcasting and radio broadcasting of the area in question as a whole, aim at promoting freedom of speech as well as safeguarding the diversity of the provision of programmes as well as the needs of special groups of the public.

A licence may be granted to a natural person, an organization or a foundation that is solid and evidently has the capability to maintain regular operations in accordance with the licence.

Section 10 a (394/2003)
Application fee

An applicant shall be obliged to pay the State an application fee of 1,000 euros in connection with an application referred to in section 7(1).

An applicant shall be obliged to pay the Finnish Communications Regulatory Authority an application fee of 100 euros in connection with an application referred to in section 7(2-3).

Section 11
Licence regulations

The licensing authority shall have the right to attach to the licences regulations relating to the programme service that are necessary to safeguard the diversity of programmes and the needs of special groups of the public.

The licensing authority shall also have the right to issue regulations relating to:

- 1) the regional service area of broadcasts;
- 2) the broadcast time of the day; and

3) transmission technology and transfer capacity. (394/2003)

(Subsection 3 repealed by 490/2002)

(Subsection 4 repealed by 1190/2005).

Section 11 a (1190/2005)
Amendments to the licence regulations

The licence may be amended during its period of validity on the licensee's application or by the licensee's consent. If necessary, it may also be amended due to technological development or for special reasons arising from major changes in the operating environment for licensed operations.

Section 12 (1190/2005)
Validity of a licence

A licence for television or radio broadcasting may be granted for a maximum period of ten years.

Regardless of the provisions laid down in subsection 1 a licence may be granted for broadcasting referred to above in sections 7(2) and 3(1) for a maximum period of three months. Under the provisions of this subsection no broadcaster may be granted a licence for successive three-month periods.

Regardless of the provisions laid down in subsection 1 the licence authority may grant a licence for broadcasting referred to in section 7(3)(2) for a maximum period of one year.

Section 13 (1190/2005)
Assignment of a licence to another party and changes in effective control

A licence granted for television or radio broadcasting may not be assigned to another party. If the licence holder assigns the licence to another party, the licence becomes void. The licensing authority must make a formal decision confirming that the licence has become void.

If the effective control with regard to a licence holder changes, the licensing authority may approve the changes in accordance with provisions of subsection 4, or cancel the licence as provided in subsection 5. The same applies to the powers of the licensing authority, if the effective control of the licence holder with regard to the operations referred to in the licence changes in that the licence holder can no longer be regarded as a broadcaster referred to in subsection 2 as regards operations referred to in the licence.

Any transfer or change referred to in subsection 1 or 2 shall be notified immediately to the licensing authority. The licence holder may request a preliminary ruling on the matter. The licensing authority shall decide the matter within two months of reception of notification or application.

The licensing authority may approve a change in effective control, if it is evident that

1) the conditions for granting a licence referred to in section 10 are met; and

2) the operations will continue in accordance with the licence terms.

In cases other than the one referred to in subsection 4 the licensing authority must cancel the licence if any changes in effective control are found.

An internal transfer of a licence within a group between the parent company and a wholly owned subsidiary is not considered to be a licence transfer that would require avoidance. Such a transfer shall be notified immediately to the licensing authority.

If the licence holder is declared bankrupt, the licence shall become invalid immediately.

Section 14 (1190/2005)

Lapse of the licence

A licence granted for television or radio broadcasting ceases to be valid if no regular activity in accordance with the licence has been started within six months from the first date of the licence period or if regular broadcasting has been interrupted for a period exceeding 30 days. Broadcasting can be considered to meet the licence requirements only if operations are carried out in all the frequencies or regions to which the licence entitles. The Finnish Communications Regulatory Authority must confirm the lapse of the licence on the basis of its report.

If there is a particularly weighty reason related to the operating requirements, the licensing authority may grant a permission to deviate from the provisions laid down in subsection 1. The licence holder shall apply for an exceptional permit from the licensing authority before the time limit for the expiration has been exceeded.

Section 15 (394/2003)

Notification relating to the operations

The notification referred to in section 7b(2) above shall contain the following information:

- 1) name, business name and contact information of the broadcaster or its representative as well as the domicile of the broadcaster;
- 2) the area in which the operations are carried out;
- 3) a general outline of the programmes to be offered or planned; and
- 4) the premises where the recordings required by the Radio Broadcasting Responsibility Act (1971/219) shall be available to the public.

At request of a television or radio broadcaster the Finnish Communications Regulatory Authority shall confirm within a week that it has received a notification on the television or radio broadcasting.

Should any changes take place in the information referred to in subsection 1, they shall be notified to the Finnish Communications Regulatory Authority without delay.

Section 15 a (394/2003)

Obligations to prepare for exceptional circumstances and transmit information from the authorities

A television and radio broadcaster with a licence referred to in section 7(1) shall ensure that its activities will continue with the minimum disruption even in the exceptional circumstances referred to in the Emergency Powers Act (1080/1991) and in disruptive situations under normal circumstances. A television and radio broadcaster as referred to in this section is also obliged to transmit information from authorities to the public free of charge, if it is necessary to save human life or protect property or safeguard the functioning of the society.

Further provisions on the television and radio broadcaster's obligation referred to in subsection 1 may be given by Government decree. The provisions may concern the television or radio broadcasting necessary to save human life or ensure the functioning of the nation's leadership or national security of the economy.

Ministry of Transport and Communications may issue instructions on the television and radio broadcaster's obligation referred to in subsection 1.

A television and radio broadcaster has the right to receive a compensation for costs incurred in fulfilling the obligation provided in this section from the national emergency supply fund referred to in the Security of Supply Act (1390/1992) only if the costs are significant with regard to the nature and extent of the activities of the television or radio broadcaster and if the costs are incurred from technical items ordered at the request of the Ministry of Transport and Communications. The compensation for costs is decided by the Ministry of Transport and Communications.

Chapter 3 Programmes

Section 16 *European works*

A television broadcaster shall reserve for European works a majority proportion of his annual transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping.

Further provisions in accordance with Council Directive (89/552/EEC) on the Coordination of Certain Provisions Laid Down by Law, Regulation or Administrative Action in Member States and article 6 of the Directive (97/36/EC) of the European Parliament and of the Council amending the said Directive as to what programmes shall be deemed European works referred to in subsection 1 shall be issued by Government Decree. (394/2003)

Section 17 *Programmes by independent producers*

A television broadcaster shall reserve for programmes produced by independent producers 15% of his transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping, or alternatively 15% of his programming budget. Half of the programmes included in the said share of the independent producers referred to above have to have been produced within the past five years.

Section 18 *Local broadcasting*

The provisions of sections 16 and 17 shall not apply to broadcasting in local television networks or to transmissions which cannot be received in any Member State of the European Economic Area or in any State outside Finland which is party to the European Convention on Transfrontier Television.

Section 19 (78/2000)

Programmes which may cause detriment to the development of children

A television broadcaster shall ensure that television programmes that are likely to cause detriment to the development of children due to their violent nature or sexual content or by provoking horror or in another comparable way are transmitted at times when children do not usually watch television programmes.

If a television broadcaster transmits a programme referred to in subsection 1, it shall be preceded by an announcement regarding its detrimental effect to the development of children. An announcement shall not be required if the broadcast is identified by the presence of a visual symbol throughout its duration indicating the detrimental effect of the programme to the development of children.

The provisions of subsections 1 and 2 shall not apply to television programmes for the receipt of which a decoder shall be necessary.

Section 20

Use of exclusive rights

If a television broadcaster has purchased an exclusive right to broadcast an event which one of the Member States of the European Economic Area has included in the list referred to in Article 3 a (1) of Directive (97/36/EC) of the European Parliament and of the Council amending Council Directive (89/552/EEC) on the Coordination of Certain Provisions Laid Down by Law, Regulation or Administrative Action in Member States Concerning the Pursuit of Television Broadcasting Activities and confirmed by the Commission of the European Communities, it may not exercise its exclusive right in such a way as to deprive a substantial proportion of the public in that Member State of the possibility of following the coverage of the event on free television as provided for by the State in question.

Provisions of subsection 1 on the use of exclusive rights shall be correspondingly applied to events referred to in the list referred to in Article 9 (a) (2) of the Protocol of Amendment CM (98)93 to the European Convention on Transfrontier Television.

Where necessary, it shall be designated by a Government Decree which events are considered to be of such importance to society in Finland that their coverage shall be broadcast in the area of Finland so that a substantial proportion of the public can follow the coverage of the events free via live coverage or deferred coverage. A television broadcast of an event that is of importance to society as referred to in this subsection is deemed to have reached to a substantial proportion of the public, if 90 per cent of the population are able to receive the broadcast without a separate charge. (394/2003)

If a television broadcaster that has purchased an exclusive right does not implement the broadcast referred to in subsection 1 itself, it shall be liable to grant to another television broadcaster the right to broadcast the event if the latter requests it at least six months prior to the commencement of the event. The television broadcaster who conveys the right to broadcast shall have the right to a full compensation for the conveyance. (394/2003)

Section 20 a (394/2003)
Procedure concerning the use of exclusive rights

If no agreement can be reached on the granting of broadcasting right referred to in section 20(4), a television broadcaster that has purchased an exclusive right or a television broadcaster that has requested the granting of the right in accordance with section 20(4) may bring the matter to the Finnish Communications Regulatory Authority for consideration no later than three months before the event starts. The Finnish Communications Regulatory Authority can decide what shall be deemed as full compensation as referred to in section 20(4). The compensation shall be based on prices that are paid for corresponding rights in the competitive markets. The Finnish Communications Regulatory Authority may impose some technical terms concerning the granting.

To enforce the decision referred to in this section a conditional fine may be imposed as provided in the Act on Conditional Fine (1113/1990).

Chapter 4
Advertising, teleshopping and sponsorship

Section 21
General principles

Television and radio advertising shall be readily recognizable as advertising and teleshopping as teleshopping. They shall be kept separate from other parts of the programme service by optical or acoustic means.

The images or voices of persons appearing regularly in news or current affairs programmes may not be used in advertising.

Isolated advertising and teleshopping spots shall remain an exception.

Advertising and teleshopping shall not use subliminal techniques.

Surreptitious advertising and teleshopping shall be prohibited.

Section 22
Insertion of advertising and teleshopping spots

Advertising and teleshopping spots shall be inserted between programmes in television programme service. Provided the conditions set out in subsections 2 to 5 are fulfilled, advertising and teleshopping spots 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, in sports programmes and similarly structured programmes containing intervals, advertising and teleshopping spots shall only be inserted between the parts or in the intervals.

The transmission of feature films and films made for television as well as of other audiovisual works, provided their scheduled duration is more than 45 minutes, may be interrupted once for each period of 45 minutes. A further interruption shall be allowed if their scheduled duration is at least 20 minutes longer than two or more complete periods of 45 minutes.

Where television programmes, other than those covered by subsection 2, are interrupted by advertising or teleshopping spots, a period of at least 20 minutes shall elapse between each successive advertising break with the programme.

Advertising and teleshopping shall not be inserted in any television broadcast of a religious service. News and current affairs programmes, documentaries, religious programmes and children's programmes, when their scheduled duration is less than 30 minutes, shall not be interrupted by advertising or by teleshopping. If their scheduled duration is 30 minutes or longer, the provisions of subsections 1 to 4 shall apply.

Section 23

Ethical principles of advertising and teleshopping spots

Television and radio advertising or teleshopping spots shall not prejudice respect for human dignity nor be offensive to religious or political beliefs. They shall not encourage behaviour prejudicial to health, public safety or the environment and nor shall they include any discrimination on grounds of race, sex or nationality.

Section 24

Tobacco products and alcoholic beverages

The provisions of the Act on the Measures to Decrease Smoking (1976/693) shall be applied to the advertising and teleshopping spots for tobacco products. The provisions of the Alcohol Act (1994/1143) shall be applied to the advertising and teleshopping spots for alcoholic beverages.

Section 25

Protection of minors

Television and radio advertising shall not cause moral or physical detriment to minors. Television and radio advertising shall not:

- 1) exhort minors to buy a product or service by exploiting their inexperience or credulity;
- 2) directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;
- 3) exploit the special trust minors place in parents, teachers or other persons; nor
- 4) unreasonably show minors in dangerous situations.

Teleshopping spots shall correspondingly comply with the provisions of subsection 1. In addition, they shall not exhort minors to contract for the sale or rental of goods and services.

Section 26

Requirements set for sponsored programmes

A sponsor may not influence the content and scheduling of sponsored television or radio programmes in such a way as to affect the responsibility and editorial independence of the broadcaster in respect of programmes.

Sponsored television and radio programmes must be clearly identified by the name or logo of the sponsor at the beginning or end of the programmes.

Sponsored television or radio programmes must not encourage the purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services.

Section 27

Forbidden sponsorship

A programme sponsored by an undertaking whose principal activity is the manufacture of tobacco products may not be transmitted on television or in the radio.

If the sponsor of a programme is an undertaking whose activities include the manufacture or sale of medicinal products and medical treatment, the name or logo of the undertaking may be shown in connection with the programme taking into consideration the provisions of section 26. However, a medicinal product or medical treatment available only on prescription in Finland may not be promoted in this connection.

Section 28

Ban on sponsorship of news and current affairs programmes

News and current affairs programmes broadcast on television or in the radio may not be sponsored.

Section 29

Time limits for teleshopping spots and television advertising

With the exception of teleshopping windows within the meaning of section 31, the proportion of transmission time devoted to teleshopping spots and television advertising shall not exceed 20 % of the daily transmission time. The transmission time for television advertising spots shall not exceed 15 % of the daily transmission time.

The proportion of advertising spots and teleshopping spots with a given clock hour shall not exceed 20 % with the exception of channels exclusively devoted to teleshopping spots.

Advertising referred to in subsections 1 and 2 above and included in the time limits shall not include announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes nor public service announcements and charity appeals broadcast free of charge.

Section 30

Time limits for radio advertising

The transmission time devoted to radio advertising shall not exceed ten percent of the daily transmission time. The duration of advertising spots inserted in radio broadcasts may, however, not exceed a total of 24 minutes within two consecutive hours.

Section 31
Time limits for teleshopping

Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be of a minimum uninterrupted duration of 15 minutes. The maximum number of windows per day shall be eight. Their overall duration shall not exceed three hours per day. They must be clearly identified as teleshopping windows by optical and acoustic means distinguishing them clearly from other programme service.

Section 32
Channels exclusively devoted to teleshopping

Sections 16, 17 and 22 as well as section 29, subsection 2 of this Act shall not be applied to television channels exclusively devoted to teleshopping. Advertising on such channels shall, however, be governed by the time limits provided for in section 29.

Section 33
Channels exclusively devoted to self-promotion

Sections 16, 17 and 22 of this Act shall not be applied to television channels exclusively devoted to transmitting programmes relating to the self-promotion of the television broadcaster. Advertising on such channels shall, however, be allowed in accordance with the provisions of section 29, subsections 1 and 2.

Chapter 5
Guidance and supervision

Section 34 (394/2003)
General guidance, development and supervision

The general guidance and development of television and radio broadcasting shall be the responsibility of the Ministry of Transport and Communications.

Section 35 (539/2001)
Supervisory authorities

It shall be the duty of the Finnish Communications Regulatory Authority to supervise compliance with this Act and the provisions and regulations issued thereunder with the exception of provisions the supervision of whose compliance has been entrusted to the Consumer Ombudsman.

The Consumer Ombudsman shall supervise compliance with sections 23 and 25 of this Act. Under the Consumer Protection Act (1978/38), the Consumer Ombudsman may also address broadcasts violating the provisions of chapter 4 of this Act if their contents constitute unsuitable or misleading marketing from the point of view of consumers. The Consumer Ombudsman may bring the matter to the Market Court as is provided in the Act on Dealing with Certain Matters of Marketing Law (1528/2001).

Section 35 a (1068/2007)
Supervision fee

A supervision fee for television and radio operations is payable to the Finnish Communications Regulatory Authority to cover the costs incurred from supervising television and radio operations.

Section 35 b (1068/2007)
Obligation to pay

The Finnish Broadcasting Company Ltd and a television or radio broadcaster having a licence referred to in section 7(1) are obliged to pay the supervision fee.

The obligation to pay commences in the calendar year during which the licence granted to a television or radio broadcaster enters into force. The supervision fee for television and radio operations shall not be refunded even if the television or radio broadcaster discontinues its operations during the course of the calendar year.

Section 35 c (1068/2007)
Amount of the fee

The annual supervision fees for television and radio operations are as follows:

- 1) fee payable by the Finnish Broadcasting Company Ltd is EUR 165,000;
- 2) fee payable by a licence holder carrying out other than regional television broadcasting is EUR 16,000 for each television programme set complying with the licence;
- 3) fee payable by a licence holder carrying out regional television broadcasting is EUR 800 for each television programme set complying with the licence;
- 4) fee payable by a licence holder carrying out radio broadcasting on frequencies of national or similar licensed use is EUR 8,000 for each radio programme set complying with the licence;
- 5) fee payable by a licence holder carrying out radio broadcasting on frequencies of regional or local licensed use is EUR 800 for each radio programme set complying with the licence;
- 6) fee payable by a licence holder carrying out radio broadcasting solely in the television network is EUR 8,000 for each radio programme set complying with the licence.

Section 35 d (1068/2007)
Stipulation and collection of the fee

The supervision fee for television and radio operations is collected annually in two instalments. An obligation to pay the fee is stipulated by the Finnish Communications Regulatory Authority. Provisions on an appeal against a decision of the Finnish

Communications Regulatory Authority concerning the stipulation of the fee are laid down in section 40.

The fee may be collected without a judgment or decision under the Act on the Recovery of Taxes and Fees by Recovery Proceedings (367/1961). If the fee is not settled by due date, annual penalty interest on delayed payments shall be charged for the unpaid amount according to the interest rate referred to in section 4 of the Interest Act (633/1982). Instead of the penalty interest the authority may collect a default payment of five euros if the amount of the penalty interest would be less than that.

Chapter 6 **Enforcement, sanctions and appeal**

Section 36 (394/2003) *Enforcement*

Should a television or radio broadcaster or some other telecommunications operator referred to in the Communications Market Act violate this Act or the provisions or regulations issued thereunder, the supervisory authority may issue a reminder to it and obligate it to correct its error or neglect. The decision may be enforced by a conditional fine as provided for in the Act on Conditional Fine.

The provisions of the Act on the Market Court (1527/2001) and of chapter 2, sections 7, 8, 9 and 10 of the Consumer Protection Act shall be complied with the provisions referred to in section 35 and supervised by the Consumer Ombudsman.

Section 36 a (394/2003) *Penalty payment*

A television or radio broadcaster that acts in violation of the provisions of chapters 3 and 4, despite being requested to do so, fails to rectify its actions within a period set by an authority referred to in section 35 may be ordered to pay a penalty. A penalty shall not be ordered if the action has no significant effect on the attainment of the objectives of this Act or if the ordering of the penalty is otherwise manifestly unjustified with regard to the safeguarding of competition.

In determining a penalty, regard shall be had to the nature and extent of the action as well as its duration.

The minimum amount of the penalty is 1,000 euros and the maximum is one million euros. If the act or omission has especially significant effects on the attainment of the objectives of this Act, the stated amount may be exceeded. The penalty may, however, be no more than five per cent of the television or radio broadcaster's turnover for the operations subject to a licence during the previous year.

The penalty is determined by the Market Court on the proposal of the authority referred to in section 35. The provisions of the Act on the Market Court are applied to the handling of a case in the Market Court. The Administrative Judicial Procedure Act (586/1996) otherwise applies to the handling and investigation of a case. Any penalty is ordered to be paid to the State.

Penalties are enforced without a judgement or decision complying with the provisions of the Act on the Recovery of Taxes and Fees by Recovery Proceedings (367/1961). Enforcement of penalties is attended to by the Legal Registers Centre. Further provisions on the enforcement of penalties may be given by Government decree. A Government decree may lay down provisions on the duty of authorities to notify, when this is significant for the enforcement of the penalty, on the refund of a penalty payment and on factors that are of importance to penalty enforcement.

Section 37 (394/2003)

Revocation of a licence and suspension of operations

The licence authority may revoke a licence granted for television or radio broadcasting or order that operations referred to in section 7 b be suspended, if

1) the broadcaster, notwithstanding the measures provided in accordance with sections 36 or 36 a, severely and repeatedly acts in violation of this Act or the provisions or regulations issued thereunder; or

2) if it is no longer possible to assign a radio frequency required by the operations in question.

The revocation of a licence under subsection 1 shall not as a measure establish liability of the State for compensation.

Section 38

Suspension of retransmission

The Government may order that the retransmission of television broadcasts from outside Finland be suspended if the said broadcast has repeatedly, clearly, gravely and severely constituted an act punishable under chapter 11, section 8 of the Penal Code (1889/39) or violated the provisions of section 19, subsections 1 and 2 of this Act. The retransmission of a broadcast may be ordered suspended for a maximum period of one month.

If the television broadcaster in charge of a television broadcast referred to in subsection 1 is established in a Member State of the European Economic Area, the procedure provided for in article 2a (2) of Directive 97/36/EC of the European Parliament and the Council shall be applied in ordering the retransmission of the television broadcast suspended. If the television broadcaster in charge of the television broadcast referred to in subsection 1 is established in a State outside the European Economic Area but is a party to the European Convention on Transfrontier Television, the procedure provided for in article 24 (1) and (2) of the said Convention shall be applied in ordering the retransmission of a television broadcast suspended.

Section 39

Unauthorized television and radio broadcasting

Anyone who carries out television or radio broadcasting without a licence in accordance with this Act or without submitting a notification in accordance with this Act or in violation of a prohibition issued under section 36 or 37, shall be sentenced for unauthorized television or radio broadcasting to a fine or to imprisonment not exceeding six months.

Section 40

Appeal

An appeal may be filed against a decision of the Government, the Ministry of Transport and Communications and the Finnish Communications Regulatory Authority as laid down in the Administrative Judicial Procedure Act (586/1996). The Government, the Ministry of Transport and Communications, the Finnish Communications Regulatory Authority and the Consumer Ombudsman may order that the decision be complied with despite any appeal. (1068/2007)

A decision of the Finnish Communications Regulatory Authority referred to above in section 20 a may be enforced notwithstanding an appeal, unless otherwise provided by the appeal authority. (394/2003)

Chapter 7 **Miscellaneous provisions**

Section 41 (394/2003) *Right to obtain information*

Notwithstanding the provisions on confidentiality provided for elsewhere in the law, the Ministry of Transport and Communications and the Finnish Communications Regulatory Authority shall have the right to obtain information necessary for attendance to the duties prescribed in this Act from television and radio broadcasters and telecommunications operators referred to in the Communications Market Act.

Section 42 has been repealed by the Act 394/2003

Section 43 *Further provisions*

Further provisions on the implementation of this Act shall be issued by Decree.

Chapter 8 **Provisions on entry into force and transition**

Section 44 *Entry into force*

This Act enters into force on 1 January 1999.

This Act repeals the following Acts with later amendments:

- 1) the Cable Transmission Act of 13 March 1987 (1987/307); and
- 2) the Radio Equipment Act of 17 January 1927 (1927/8).

Section 45 *Transitory provision regarding licences in force*

A television or radio broadcaster that has a valid licence for cable transmission and that wants to continue its operations subject to a notification under this Act shall submit the

notification referred to in section 7, subsection 2 at the latest within six months from the entry into force of this Act.

A television or radio broadcaster that has a valid licence for transmission over the air may continue its operations under that licence during its period of validity. If the terms of the licence are in conflict with this Act or the Act on the State Television and Radio Fund, the provisions of this Act and the Act on the State Television and Radio Fund shall, however, be complied with.

Implementing provisions of the Act 778/2000 shall read as follows:

This Act enters into force on 1 January 2001.

Implementing provisions of the Act 1016/2001 shall read as follows:

This Act enters into force on 1 January 2002.

Implementing provisions of the Act 1539/2001 shall read as follows:

This Act enters into force on 1 March 2002.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

Implementing provisions of the Act 490/2002 shall read as follows:

This Act enters into force on 1 July 2002.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

A licence holder that has a valid licence for television and radio broadcasting as this Act enters into force and that wants to continue its operations shall not be under obligation to reapply for a licence referred to in section 7 (*programme licence*) and shall be able to continue television and radio broadcasting under the valid licence.

Provisions on a licence that entitles to television and radio broadcasting operations over the air and with the remaining transfer capacity to telecommunications operations (*network licence*) are provided in the Communication Market Act.

Implementing provisions of the Act 394/2003 shall read as follows:

This Act enters into force on 25 July 2003.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

An operating licence in force at the time of the entry into force of this Act will continue to apply for the granted period. However, provisions of section 37 of this Act on the revocation of an operating licence may be applied to a programme licence in force at the time of the entry into force of this Act.

An administrative matter pending at the time of the entry into force of this Act will be considered according to provisions in force at the time of the entry into force of this Act.

Provisions on penalty payment will be applied to an act or neglect that has taken place after the entry into force of this Act.

Implementing provisions of the Act 1190/2005 shall read as follows:

This Act enters into force on 1 January 2006.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

An administrative matter pending at the time of the entry into force of this Act will be considered according to provisions in force at the time of the entry into force of this Act.

Provisions of section 13 of this Act shall apply to transfers and changes in effective control taken place after the Act's entry into force.

Provisions of section 14 on the expiration of the licence shall apply to an operating licence in force at the time of the entry into force of this Act. The time limit for the expiration shall in such a case begin no earlier than from the entry into force of this Act.

Implementing provisions of the Act 1251/2006 shall read as follows:

This Act enters into force on 1 January 2007.

Implementing provisions of the Act 1068/2007 shall read as follows:

This Act enters into force on 1 January 2008.