



**Media Section
Directorate of Co-operation
Directorate General of Human Rights and Legal Affairs**

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COMMENTS

ON THE LAW OF THE REPUBLIC OF ARMENIA

**ON MAKING AMENDMENTS AND SUPPLEMENTS
TO THE LAW OF THE REPUBLIC OF ARMENIA
ON TELEVISION AND RADIO**

by

Ms Eve Salomon*

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* Legal and regulatory consultant, United Kingdom

Introduction

The present review has been prepared for the Council of Europe at the request of the authorities of the Republic of Armenia. This review follows on from an analysis dated August 2008 prepared by this author and Nico van Eijk of proposed amendments to the Law. Further to that analysis, this author undertook an expert mission to the Republic of Armenia in December 2008 to discuss the situation – including some new amendments – with representatives of the Parliamentary Standing Committee of the Media. During that mission, the parties discussed how the Law could be amended to make it compliant with relevant Council of Europe legal instruments (see “Introduction” below), and with best international practice. Thereafter a further analysis was written dated 23 March 2009 looking at the additional amendments then proposed.

Since then, the author has spoken with the Minister for Economic Development to discuss proposals to amend the law to enable the commencement of digital broadcasting. Initial proposals for amendments, as outlined in Part I of this analysis, were accepted and incorporated into a new version of the Law which went through second reading in June 2010.

It is now proposed that a more thorough review of the Law be undertaken, and a Working Group held with NGOs, stakeholders and international organisations prior to additional amendments being proposed. Part II of this analysis is written to help inform those Working Group sessions.

PART I

Part I of this analysis concentrates on the provisions relating to digital broadcasting.

1. Spectrum Use

These provisions seek to provide a solution for the introduction of digital terrestrial television in Armenia. The intention, as set out in the draft law, is to cease all analogue broadcasting by 20 July 2013. Meanwhile, as is common practice in other countries, there will be a few years (three in the case of Armenia) where a number of digital services will be broadcast to entice viewers to buy digital decoding equipment and prepare for switchover. Armenia faces a particular difficulty here as its broadcast spectrum is heavily utilised, leaving little opportunity to identify spare spectrum to enable digital broadcasting to commence while analogue continues. This problem is particularly acute in Yerevan. This difficulty has been expressed by the relevant Armenian Minister and backed up by an independent report from a Council of Europe expert, Alec Thomas, in 2009.

Although the problem of spectrum scarcity and therefore the limitations of awarding digital television licences while analogue television continues broadcasting is known and accepted by the Council of Europe, the Armenian authorities have done little to share information – and in particular the results of their spectrum audit – with broadcasters themselves and with civil society. This leaves the Armenian government open to accusations of conspiracy and cover-up; an unpleasant and unnecessary position to be in, and one which could be corrected by greater transparency on the part of the authorities.

It may be helpful to remind the Armenian authorities of **Recommendation Rec(2003)9 of the Committee of Ministers to member states on measures to promote the democratic and social contribution of digital broadcasting** and in particular sections 1 and 2 of the Appendix:

“1. Given that, from a technological point of view, the development of digital broadcasting is inevitable, it would be advantageous if, before proceeding with the transition to digital environment, member states, in consultation with the various industries involved and the public, were to draw up a well-defined strategy that would ensure a carefully thought-out transition, which would maximise its benefits and minimise its possible negative effects.

2. Such a strategy, which is particularly necessary for digital terrestrial television, should seek to promote co-operation between operators, complementarity between platforms, the interoperability of decoders, the availability of a wide variety of content, including free-to-air radio and television services, and the

widest exploitation of the unique opportunities which digital technology can offer following the necessary reallocation of frequencies.”

Recommendation: The Armenian authorities should share technical information regarding available spectrum with broadcasters and civil society.

2. Digital Standards

It is unclear which DTT standard Armenia will use, as one does not seem to have been formally adopted. Although countries already broadcasting digitally in Europe currently use DVB-T, Europe will ultimately use DVB-T2, which gives up to 30% more channel capacity for each multiplex. It would therefore be sensible for Armenia to adopt DVB-T2 from the outset. Furthermore, Armenia should use the latest MPEG 4 H.264 compression standard, which is about twice as efficient as the older MPEG2 code.

Recommendation: The Armenian authorities should adopt the most efficient DTT standard and compression from the outset. They should be discussing this with broadcasters now, not least so that companies that are considering tendering for digital licences know the technical standards for broadcast before they begin the tendering process.

3. Digital Network Infrastructure

As has been stated by the expert for the OSCE, Prof. Andre Richter, the draft law does not provide for the development of private multiplex operators, but seeks to retain the entire digital infrastructure in State control. The only possible justification for this would be if the State were building the digital transmission infrastructure and was going to provide free access and use for the first tranche of 18 stations. This would act as a reasonable incentive for broadcasters to invest in digital broadcasting, when – at least initially – potential audiences will be very low. However, Art.62.5 of the Transitional Provisions require the new digital licensees to “install the technology and broadcasting networks necessary for broadcasting” within six months of the licence awards. This sounds like the broadcasting companies will have to pay for the development of the digital infrastructure but will not benefit from being the owners of the multiplex(es) themselves. This is unfair. It is also a very short timetable to enable roll out of national coverage, especially as part of the 6 month period will fall during the colder months when bad weather will prevent the building of transmission towers.

Recommendation: if, at least initially, the State will retain ownership and control of the digital transmission network, the State should be responsible for building the necessary infrastructure and allow access to the network at either a low, or no charge. This will incentivise broadcasters to launch digital services at a time when there will be hardly any audience (or advertising). It will also enable new services to spend

money on television content, rather than on network costs. Better content will draw more audiences and speed the migration to digital television.

Nonetheless, the Armenian State should aim to privatise all multiplexing – and the transmission infrastructure – as soon as possible. This will improve competition.

4. Pace of Digital Licensing

The most difficult proposal in the draft law is the suggestion that the number of services broadcasting on DTT will be significantly less than those currently available on analogue. For the reasons set out in paragraph 1 above, it is recognised that there is insufficient spectrum to enable simulcasting of all existing services. However, the proposals do not provide any mechanism for enabling those existing services which do not get one of the first 18 digital licences to migrate to digital at all, or at least in the foreseeable future.

Art. 47.3 says that the National Commission will announce tenders for new digital television licences only once every ten years, starting in July 2010. That means the next tranche of licences will not be awarded until July 2020. Meanwhile, all existing analogue services will cease broadcasting in 2013 (or possibly some in 2015). That means that for *at least 5 years* (2015-2020) there will only be 18 television channels broadcasting in Armenia. That is compared to the 50 or so channels now. This is a completely unacceptable reduction in range and diversity. The introduction of digital television is an opportunity to increase diversity and plurality, yet this draft law reduces it substantially.

Recommendation: Amend the draft law to provide for additional tenders for licences in advance of digital switchover in 2013 so that by the time analogue services are terminated, the released spectrum has been licensed to enable at least as many services as are currently operating in Armenia to be operating in the digital television format.

5. Additional points:

- a. Article 48 does not set out the basis upon which the National Commission is to decide which four existing broadcasters shall be chosen to rebroadcast digitally (per Art.47.6.(6)).

Recommendation: Amend the law to clarify the basis upon which existing broadcasters will be chosen for re-broadcasting.

- b. Article 49 does not provide for full reasons to be given by the National Commission for choosing winners and losers of the tender process, in violation of the European Convention on Human Rights and ECHR Case Law (see “Meltex Ltd and Mesrop Movsesyan v. Armenia “).

Recommendation: Include a provision in the law requiring the National Commission to provide full reasons for its licensing decisions.

- c. Article 62.4 says that the National Commission will agree broadcast frequencies with successful applicants after the tender process. This should be decided before the tender is announced, and details – together with full technical details of the standards to be used – published with the tender advertisement.

Recommendation: The spectrum authority should determine which frequencies are to be used for digital broadcasting in advance of tenders being advertised so that this information can be published with the tender offer.

- d. Article 62.5 requires successful broadcasters to build the broadcast network within 6 months of the agreement for frequencies. This is an unrealistic timescale.

Recommendation: More time is needed to build the transmission infrastructure. If this is being built by the State, they must be able to guarantee that everything is in place before the commencement of digital broadcasting in January 2011.

- e. No current provision is made for digital radio broadcasting.

Recommendation: consider using spare capacity on the television multiplex(es) for radio services.

- f. The Substantiating Memo envisages all analogue services broadcasting digitally but the draft law makes no provision for new licences being tendered before July 2020. The Memo also refers to the fact that this law will need to be amended to take account of a number of issues which have not yet been thoroughly thought out, such as multiplexing and indeed, the digital spectrum plan. Ideally, this should all be thought out *before* introducing any new legislation, not after. However, there is no excuse for this law to start out by assuming that the number of digital television services will be substantially less than existing analogue ones.

Recommendation: include provisions in this law for a tender process to enable the digital migration of all existing analogue broadcasters (or their equivalent number) in time for digital switchover in 2013/2015.

PART II

The Law of the Republic of Armenia on making amendments and supplements to the law of the Republic of Armenia on television and radio went through second reading in June 2010. It has been proposed that a more thorough review of the Law be undertaken, and a Working Group held with NGOs, stakeholders and international organisations prior to additional amendments being proposed. Part II of this analysis is written to help inform those Working Group sessions.

General Comments

Much of the Law as it now stands is a consolidation of previous amendments from 2009. However, there remains room for improvement. In particular:

1. The Law must clarify that it does not intend to licence Information Society services such as mobile television, video on demand or internet-based delivery. Whilst this is an area that Armenia will need to consider in due course, it is highly recommended that this be done as part of the next big tranche of legislative review on Communication Services. When undertaking this exercise, due regard should be taken of the European Audiovisual Media Services Directive¹ as a model, and any amendments to the European Convention on Transfrontier Television 1989 (as amended) that might follow.
2. The regulatory position regarding satellite television requires clarification. As the Law now reads, it is unclear whether satellite services require licensing at all, and if so, how. It is recommended that either a simple notification system suffices or a very basic on-request permissive licence, as required for cable television services.
3. Breaches of Article 22 must not be subject to automatic revocation of licences, as this is disproportionate and likely to be in violation of Article 10 of the European Convention on Human Rights (Freedom of Expression).
4. The tender process for appointees to the National Commission and the Council should be put into the public domain and should reflect the provisions in the Law on the Regulations of the National Assembly.

¹ Directive 2010/13/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (codified version).

5. There must be clarity about the different regulatory responsibilities of the Council and the Commission over the Public Radio and Television Companies. The Council is responsible for ensuring public service television commitments are met, whereas the Commission is responsible for regulating other legal and content standards requirements.
6. The 55% quota for domestic production should be revised to cover 'European works' and be gradual.
7. Consideration should be given to permitting the transfer or sale of licences subject to prior consent by the Commission.
8. Analogue radio should not be considered at the same time as analogue television. There are no drivers to switch off analogue radio, and in fact there is no foreseeable digitalization of radio anywhere in the world. Digital radio is complementary to analogue radio, and will not be considered a replacement for many years to come, if at all. Therefore, provision for analogue radio licensing must continue.
9. Diversity and pluralism should be taken into consideration when awarding digital licences.
10. All decisions must be fully explained, and published.
11. Even with permissive licences (such as for cable and re-broadcasting), if the Commission has the power to refuse a licence, the criteria for refusal must be set out in the law to prevent any arbitrary exercise of power.
12. The process and power to sanctions as set out in the law should mirror the wording of the Regulations of the National Commission.

Going forward, the following key points will also need to be considered:

13. The law should make provision for community broadcasting, which might be a beneficiary of the 'digital dividend'
14. There will need to be detailed provisions for multiplex licensing and the introduction of private transmission networks.
15. There must be continued provision for analogue radio licensing at least until such time as all cars are routinely fitted with digital radios

16. The National Commission should draw up a Broadcasting Code setting out how it will interpret Article 22 and other content-related regulatory provisions.

Detailed comments on the draft law appear below and should form the basis for the Working Group discussions

DRAFT

**LAW
OF THE REPUBLIC OF ARMENIA**

**ON MAKING AMENDMENTS AND SUPPLEMENTS TO
THE LAW OF THE REPUBLIC OF ARMENIA
ON TELEVISION AND RADIO**

Article 1. Reword the Law of the Republic of Armenia on Television and Radio (LA-97, of 9 October 2000) as follows:

**LAW
OF THE REPUBLIC OF ARMENIA
ON TELEVISION AND RADIO**

CHAPTER 1. GENERAL PROVISIONS

Article 1. Subject-Matter of Regulation of this Law

This Law defines the status of television-radio companies (television companies and radio companies), regulates the procedure for their founding, licencing and management of television companies, grounds on which their rights and responsibilities arise, as well as relations that evolve at the time of founding and throughout the activities of television-radio companies.

Article 2. Legislation of the Republic of Armenia on Television and Radio

1. The legislation of the Republic of Armenia on television and radio encompasses the Constitution of the Republic of Armenia, this Law, the Law on Mass Communication, the Law on Electronic Communication, the Law on Copyright and Related Rights, the Law on Language, the Law on Advertising, as well as other legal acts and international treaties of the Republic of Armenia regulating the information sector.
2. If the international treaties of the Republic of Armenia define norms other than those prescribed by this Law, the norms of international treaties apply.

Article 3. Key Concepts Applied in the Law

[Comment: If Armenia has longer term intentions to move towards the EU, then seriously consider adopting the same definitions and terms as are used in the Audiovisual media services Directive (AVMSD)]

The key concepts applied in this Law have the following meaning:

television-radio broadcasting is the distribution via electromagnetic waves of images and (or) sounds or their signals by a transmission line (including the cable connection) or without it (including its broadcast by the radio, television or satellite connection) to make these images or

sounds available to the public; **[Comment: For the sake of clarity, this should specifically exclude new information society services, e.g. video on demand, IPTV, etc, which should not be subject to the same intrusive regulatory regime as more conventional broadcast services.]**

television-radio programme is the distribution of a live performance or a material of a fixed and limited duration containing images and (or) sounds and (or) other information, which is autonomous and complete from a substantive point of view and is the subject-matter of copyright and (or) related rights;

television-radio programming is the entirety of television-radio programmes, advertisements and other materials envisaged for broadcasting with a sequence previously regulated by the television-radio company;

television-radio broadcasting licence is a written permission, which authorizes the exercise of television-radio broadcasting (re-broadcasting);

licenced person is the person having been granted a television-radio broadcasting (re-broadcasting) licence in accordance with this Law;

domestically produced television-radio programme is a programme produced by companies producing television-radio programmes in the Republic of Armenia or produced or translated into Armenian upon the commission of a physical or legal person from the Republic of Armenia;

self-made television-radio programme is a programme, the right to dispose and use of which belongs to a given television-radio company;

subscription broadcasting is the broadcasting envisaged for and available to persons having contractual relations with the broadcaster;

re-broadcasting is the simultaneous broadcasting of a television-radio programme of another television-radio company or the subsequent broadcasting of a previously broadcast and fixed (audio and/or video-recorded) programme by a licenced person;

transmission area is the area over which television-radio companies, in conformity with the current technical standards, ensure the transmission of audio-, video- and video-audio communication series or data (supplementary information);

supplementary information is any other subtitled, graphic and sound information accompanying the main programme;

official communication (information) is the officially presented news on the activities of the Republic of Armenia President, National Assembly, Government, state and local self-government bodies, Central Electoral Commission and Central Bank, on the domestic and foreign policy of the country that is of relevance to public interests or relates to emergency situations;

gesture-translation is the simultaneous translation of a television programme through gesture-language;

related persons are the spouses, parents, children, sisters and brothers;

multiplex is the entirety of several television-radio programmes and supplementary information merged in a single digital information flow, which is transmitted by one cable channel of the digital broadcasting network;

multiplexer is the person who ensures the technical use of the infrastructure (infrastructures) for the transmission and (or) broadcasting of a multiplex (multiplexes);

digital broadcasting network is the entirety of the infrastructure (equipment, transmission stations and broadcasting channels) for the transmission and (or) broadcasting of multiplexes.

Article 4. Freedom of Television-Radio Programmes

1. The Republic of Armenia guarantees the right to free choice, production and distribution of television-radio programmes. Censoring television-radio programmes is prohibited.
2. Everyone has a right to receive freely television-radio programmes and supplementary information, including via satellite and cable networks, free of charge or paid, through decoding means, as well as open television-radio networks.
3. The State creates the necessary conditions and takes measures for the reception of the programmes of the Public Television and Radio Company of the Republic of Armenia (at least 1 television channel and 1 radio channel) in the entire territory of the Republic of Armenia.
4. Any company exercising on-air television and radio broadcasting must not limit the right of people to receive other television-radio programmes in places of overlap of the relevant transmission zones.

Article 5. The Language of Television-Radio Programmes

1. The language of the television-radio programmes broadcast in the territory of the Republic of Armenia is the literary Armenian, save for cases prescribed by this Law. The television-radio companies are obliged to ensure the correctness of the language of their programmes.
2. Television-radio courses organized with a view to teaching other languages, as well as songs and other pieces of the musical genre may be broadcast without the Armenian translation.
3. Using the names, announcements and other exit data by the licenced persons in a foreign language only is prohibited. The provisions of this article do not apply to television-radio programmes broadcast for foreign countries and in the languages of national minorities.

Article 6. Scope of Application of the Law

This Law applies to relations connected with the exercise of broadcasting of television-radio programmes.

CHAPTER 2.

ORGANIZING TELEVISION-RADIO PROGRAMMES

Article 7. Television-Radio Programmes and the Procedure for the Exercise of their Broadcasting

[Comment:

- **This requires licensing for satellite and cable programmer services, but not internet (not covered by definition of 'television-radio programmes')**
 - **procedure of satellite/cable licensing?]**
1. In the Republic of Armenia, the broadcasting of television-radio programmes is exercised on the basis of a licence. Only the Public Television and Radio Company and

- persons broadcasting on the basis of an intergovernmental treaty exercise broadcasting without a licence.
2. In case of transmission by mass media of information produced by other television-radio companies, they must cite the mass media in question.
 3. Non-self-made television-radio programmes may be broadcast only if there are documents certifying the right to such broadcasting.
Broadcasting complete information (titles, voice presentation) on the production and author of a television-radio programme is mandatory.

Article 8. Protection of the Producer of Domestic Television-Radio Programmes

The broadcast of domestically produced programmes by television-radio companies on one television (radio) channel may not be less than 55 per cent of the overall monthly airtime.

[Comment: It is strongly suggested that there is a gradual introduction to the requirement for 55% domestic production, which should be extended to cover 'European Works' (as per Art.10 ECTT):

"Each transmitting Party shall ensure, where practicable and by appropriate means, that a broadcaster within its jurisdiction reserves for European works a majority proportion of its transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and tele-shopping. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria."

1. The provisions of this article do not apply to the cases of subscription broadcast, or the individual cases of reception of cable television or satellite television.

Article 9. Broadcast of Programmes of Foreign Television-Radio Companies

1. The programmes of foreign television-radio companies may be re-broadcast in the territory of the Republic of Armenia in full on the basis of an inter-governmental treaty or the licence granted to the re-broadcaster by the National Television and Radio Commission (hereinafter: the National Commission). **[Comment: What is the basis for a re-broadcast licence? This should be set out, as well as any criteria for refusing a re-broadcast licence.]**
2. The television-radio companies licenced in the Republic of Armenia may re-broadcast the programmes of foreign television-radio companies on a contractual basis.

Article 10. Television Programmes in the Period of Pre-Election (Pre-Referendum) Campaigns

1. In the period prescribed by Law for campaigning for elections (referenda):
 - 1) television/radio programmes are broadcast in conformity with the legislation on elections (referenda);
 - 2) television/radio companies are under an obligation to ensure equal conditions for the candidates and parties, or party alliances participating in the elections to the National

- Assembly; to publicize the price of airtime for their paid programmes and other essential terms of the broadcasting contract;
- 3) in the news programmes broadcast by a television/radio company, to present impartial information on a pre-election (pre-referendum) campaign, which does not contain assessment of candidates, parties, party alliances (parties involved in a referendum campaign), thereby ensuring the observance of fair conditions;
 - 4) the transmission of pre-election television programmes provided to candidates, parties, party alliances at the expense of pre-election funds (in the case of the Public Television and Radio Company, also the unpaid airtime prescribed by law) must be accompanied by a mandatory uninterrupted title on the screen reading 'Pre-election (Pre-referendum) Campaign', while in case of a radio transmission, reminder thereof must be broadcast at least three times per programme.
2. Broadcasting campaign materials in the form of information, editorial, documentary, author's or other programmes or in any other form during the day of voting (referendum) and the day preceding it, is prohibited.

Article 11. Television-Radio Companies at the Time of Declaring Martial Law or a State of Emergency

1. Television/radio companies are obliged to allocate airtime to the President of the Republic of Armenia or the person authorized by him/her during martial law or state of emergency for the latter to make official communications. The allocated airtime may not exceed ten minutes per hour.

Article 12. Receiving Audio-, Video- and Video-Audio Information Series

1. Television and radio audience receive audio-, video- and video-audio information series, either unpaid or paid.
2. Television and radio audience may freely receive all television and radio programmes (including the television/radio programmes of foreign production through a satellite connection) without the right to re-broadcast.

Article 13. Procedure for the Preservation of Television-Radio Programmes, Audio- and Video-Recordings, as well as Other Materials

1. Television-radio companies are obliged to preserve the video and audio recordings broadcast by them for a month from the date of the broadcast.
2. The programmes are registered in a log with a mandatory note on the month, date, starting and ending times of the broadcast, the summary of its content, the names of authors and broadcasters of the television-radio programme.
3. Television/radio companies submit the data of television/radio programmes log to the National Assembly. The procedure for registering television/radio programmes in the log is established by the National Assembly. **[Comment: Surely this should be to the National Commission, not the Assembly. The Assembly should have no role here.]**
4. On the basis of the data of the television-radio programmes registration, the National Commission oversees the compliance of the activities of television-radio companies with the terms of the legislation and the licence. The National Commission conducts direct oversight of programmes broadcast by television-radio companies on a selective basis at

least five days per month for each television-radio company. The results of oversight are then compared with the data in the logs submitted by television-radio companies.

Registration of television-radio programmes may also be done electronically.

[Comment: This level of detailed instruction regarding monitoring is highly unusual in a Law. Normally, detail and levels of monitoring are left to the Independent Regulatory Authority (IRA) to decide for themselves. As the number of radio and television services expands, this will involve a considerable amount of work, regardless of any likelihood of breach by specific stations (nor risk assessment!). This provision should be deleted and replaced with a provision for the NC to undertake monitoring as they see fit.]

5. In a month's time video and audio recordings of television-radio companies may be eliminated if no application or complaint has been submitted to the Public Television and Radio Council, National Commission or television-radio companies on refuting the information in a programme or other controversial questions or no case instituted in the court in the course of that time. The mentioned audio and video recordings may not be preserved following the resolution of the controversial questions.
6. **[Comment: Add a requirement for stations to hand over recordings to the Council, Commission or courts on demand, and make sure this is a licence obligation on licensed services.]**

Article 14. Sponsorship in the Implementation of Television-Radio Programmes

1. Sponsorship shall be the participation in direct or indirect financing of a TV or radio programme by a physical or legal person not implementing TV and radio broadcasting or not involved in audio-visual activities, with an aim to advertise the name, brand, reputation or activity of that person. **[Comment: Replace with ECTT definition: "Sponsorship" means the participation of a natural or legal person, who is not engaged in broadcasting activities or in the production of audiovisual works, in the direct or indirect financing of a programme with a view to promoting the name, trademark, images or activities of that person.]**
2. The provisions regulating advertising in the electronic information media of the Law of the Republic of Armenia on Advertising apply to the sponsorship of television-radio programmes.
3. The content and direction of sponsored programmes must not be interfered by the sponsor or bear any other influence, if this interferes with the responsibilities and independence of the beneficiary.
4. Sponsorship:
 1. by political parties, pre-election foundations and religious organizations or from their resources;
 2. for news programmes, official communications and political programmes;
 3. with mentioning of prescription drugs, as well as by physical and legal persons producing and selling, as well as engaged in activities proscribed by law;shall be prohibited.
5. In case of sponsorship by physical or legal persons engaged in the production of alcoholic beverages and tobacco, the limitations envisaged by the Law of the Republic of Armenia on Advertising apply. **[Comment: Tobacco sponsorship is prohibited under the ECTT.]**

7. In sponsored television-radio programmes, information about the sponsor may be mentioned or symbols, annotation and short announcements presented only at the beginning and at the end of the programme but no more than one minute each.

CHAPTER 3.

TELEVISION-RADIO COMPANIES

Article 15. Types of Television-Radio Companies

1. There may be Public and private television-radio companies in the Republic of Armenia.
2. There is at least one Public Television-Radio (television and radio) Company in the Republic of Armenia, established (founded) by this Law.
3. Private are those television-radio companies, the founders (participants) of which are physical and (or) legal persons.
4. In the Republic of Armenia private television-radio companies benefit from equal rights and are equally answerable before the law irrespective of their form of organization.

[Comment: Also consider adding Community Media]

Article 16. Founders of Television-Radio Companies

1. Television-radio companies may be founded by legal and physical persons, save for cases prescribed by this Law.
2. While founding (creating) television-radio companies or after they are founded, the share of foreign capital in them may not be equal to or exceed fifty per cent of the shares necessary for the adoption of decisions by the broadcasting organization. A larger share may be established by an intergovernmental treaty.
3. Founders (participants) of private television-radio companies may not be:
 - 1) **[Comment: The President of the Republic of Armenia and the related to him persons];**
 - 2) State or local-government bodies;
 - 3) Members of the Republic of Armenia Government and related to them persons;
 - 4) Members of the National Assembly of the Republic of Armenia and related to them persons;
 - 5) Heads of Self-Government Bodies and related to them persons;
 - 6) members of the Public Television and Radio Council and related to them persons;
 - 7) members of the National Commission on Television and Radio and related to them persons
 - 8) judges and related to them persons;
 - 9) political parties;
 - 10) persons declared incapacitated by court judgment, persons sentenced to imprisonment by a judgment that has lawfully entered into force, and serving the sentence, as well as persons convicted by a judgment that has lawfully entered into force and whose criminal record has not been eliminated or expired;
 - 11) persons below the age of 18.

Article 17. Guarantee of Independence of Television-Radio Companies

1. Interference with the activities of television-radio companies by public authorities, public officials, political parties, non-governmental organizations and other legal and physical persons is prohibited.
Public authorities may interfere with the activities of television-radio companies only in cases prescribed by the legislation of the Republic of Armenia.
2. The State guarantees the existence and functioning of an independent public television and radio offering a variety of informational, educational, cultural and entertainment programmes.

Article 18. Anti-Trust Guarantee

1. Legal persons, **[Comment: or persons connected to them (e.g. subsidiaries and holding companies)]** may have a licence for no more than one television company and one radio company exercising broadcasting.
2. Physical persons and persons related to them may act as a founder and (or) participant of no more than one licenced TV company and one radio company person implementing on-air broadcasting.

Article 19. Advertisements Broadcast by Television-Radio Companies

1. Broadcasting of advertisements by television-radio companies is exercised in conformity with the requirements of the Law of the Republic of Armenia on Advertising.

Article 20. Sources of Income of Television-Radio Companies

1. The sources of income of television-radio companies may be the funds acquired from advertising, paid airtime, sponsorship, sale of video series, audio-series and video-audio-series of domestic production, subscription fees, founders' investments and other sources not prohibited by law.
The income of the Public Television and Radio Company is also regulated by Article 33 of this Law.
2. Television-radio companies are obliged to ensure the transparency of their sources of funding, publicize by 1 May of the year succeeding the reporting year their financial statements and information about their annual income, according to the sources of income mentioned in paragraph one of this article.

Article 21. Exit Data

1. Television-radio companies are obliged on a daily basis to air their names, present their symbols, including the voice announcements, headbands, other exit data, as well as the daily programme. **[Text deleted because it is repeated below: Television companies are obliged to continuously broadcast their symbols during the broadcast of their programmes, save when broadcasting advertisements.]**
2. Television companies are obliged to:
 - 1) during the broadcast of their programmes continuously broadcast their symbols, save when broadcasting advertisements;

- 2) at the end of each broadcast programme state (announce) information about the producer of the programme.

Article 22. Impermissibility of Abuse of Television-Radio Programmes

[Comment: Breaches of any of these provisions should be subject to fines, and not automatic revocation of a licence.]

1. It is prohibited to use television-radio programmes for:
 - 1) propagating violent seizure of power, or violent change and overturn of the constitutional order of the Republic of Armenia;
 - 2) inciting ethnic, racial and religious hatred or conflict;
 - 3) propagating war;
 - 4) spreading calls for criminally punishable acts or acts prohibited by legislation;
 - 5) disseminating pornography;
 - 6) broadcasting programmes containing or propagating worship of violence and cruelty;
 - 7) with a view to defaming or violating the rights of others and the presumption of innocence. **[Comment: Defamation and contempt of court are presumably covered in other laws and should not be the subject of specific restrictions or sanctions in this law (and it should not be the job of the National Commission to determine whether those laws have been breached).]**
Of exception may be the use or screening of historic or factual documentary materials.

[Comment: The Commission should be obliged to draw up a Code of guidance setting out how these rules will be interpreted and applied. On their own, they are too vague and uncertain. As an example of such a Code and Guidelines, see Ofcom's Broadcasting Code

<http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/>
and Guidance

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/programme-guidance/bguidance/>

2. Television-radio programmes of erotic nature, films containing horror and explicit violence, as well as programmes with a potentially harmful effect on the health, intellectual and physical development of minors, save for subscription broadcasting, may be aired from 24.00 to 6.00. The standards for determining such programmes are defined by law. **[Comment: Which law? This could also be set out in a Code, as suggested above.]**
3. On the days of mourning announced by the State, broadcasting advertisements and entertainment programmes by television-radio companies is prohibited.

Article 23. Satellite Television-Radio Broadcasting and Telecommunication

1. Television-radio companies may implement satellite broadcasting on the basis of a contract with the relevant satellite agency. The television company notifies the National Commission of satellite broadcasting in writing five days prior to the planned broadcast.

[Comment: This Article is unnecessary and should be deleted. If a licensee has contracted with a company outside of Armenia, it is of no regulatory concern. If the licensee is broadcasting by satellite in Armenia, then this additional means of broadcast adds no regulatory issue. If a company has no licence and wants to broadcast by satellite in Armenia, then it should be treated in the same way as rebroadcasting (see Comments to Article 9)]

Article 24. Human Rights Related to Access to Information

1. If a television-radio company broadcasts or re-broadcasts its programmes in the manner prescribed by law to indefinite number of people and on the condition of unpaid provision of information, then everyone has the right to benefit from this service free of charge and without informing the given television-radio company of that.
In other cases, the price and terms for services delivered by a television-radio company are determined on a contractual basis.

Article 25. Subscription Broadcasting

1. No thematic, substantive and linguistic restrictions are defined in respect of subscription broadcasting, save for cases envisaged by Article 22 of this Law.
2. When switching to subscription broadcasting in the course of their activities, licenced television-radio companies are obliged to obtain the permission of the National Commission.

CHAPTER 4.

PUBLIC TELEVISION AND RADIO COMPANY

Article 26. Status and Principles of Functioning of the Public Television and Radio Company

1. The Public Television and Radio Company is a state institution with a special status, the peculiarities of the legal status of which are defined by this Law. In order to ensure the constitutional right of everyone, the State creates an independent public television-radio company whose activities ensure a variety of programmes of informational, political, economic, educational, cultural, children and youth, scientific, Armenian language and history, entertainment nature as well as other information important to the public.
The Public Television and Radio Company functions in conformity with this Law, its Rules of Procedure and other legal acts of the Republic of Armenia.
2. The activities in the area of production and broadcasting of television programmes of the Public Television and Radio Company are implemented by the Public Television Company, while in the area of radio programmes – the Public Radio Company. The management body of the Public Television Company and the Public Radio Company is the Public Television and Radio Council.
3. Official communication (information) broadcast by the Public Television and Radio Company is produced by the staff (subdivision) of the body submitting this

- communication (information) or the Public Television and Radio Company or other television-radio companies, upon the consent of that body.
4. The Public Television and Radio Company manages on the basis of the principles of objectivity, democracy, impartiality, diversity, pluralism and ensures freedom of speech and creation.
 5. The Public Television and Radio Company is obliged to:
 - 1) allocate at least two thirds of the daily airtime to programmes of domestic production;
 - 2) ensure **[Comment: add “the thematic and content”]** diversity of broadcast programmes by means of possible programme series and types;
 - 3) develop and implement a programme policy:
 - a. use the most convenient airtime for broadcasting information of prevailing public concern by presenting the official communication (information) and diversity of opinions on the problem or matter in question;
 - b. offer the tele-radio audience such programme series and types that take account of **[Comment: use “present” instead of “take account of”]** the interests of various regions of Armenia, national minorities, diverse segments and social groups of the society;
 - c. ensure in its programmes possible access to information for the deaf-and-dumb community, broadcast at least one children’s and news television programme per day with gesture-translation or with Armenian subtitles;
 - d. allocate airtime for broadcasting special programmes in the languages of the national minorities of the Republic of Armenia. The overall number of hours of these programmes must not exceed 2 hours per week on television, and 1 hour per day on the radio. The special television programmes in the languages of the national minorities of the Republic of Armenia must be accompanied by Armenian subtitles.
 6. In the Public Television and Radio Company:
 - 1) commercial advertising must not exceed seven per cent of the overall programmes;
 - 2) the prevalence of political positions in broadcast programmes and the broadcast of pre-election (pre-referendum) campaign programmes outside the period of time envisaged for the pre-election (pre-referendum) campaign is prohibited.
 - 3) The daily duration of official communication (information) of the Republic of Armenia President, the National Assembly, the Government may not exceed 3 minutes per each.
 7. During the strike of the employees of the Public Television and Radio Company, they are obliged to ensure at least 2 transmissions of news programmes per day – in the morning and in the evening.
 8. The statutes of the Public Television Company and the Public Radio Company are approved by the Public Television and Radio Council.

[Deleted: The Public Television and Radio Council drafts the Rules of Procedure of the Public Television and Radio Company and submits it to the Government of the Republic of Armenia. The Government of the Republic of Armenia submits the Rules of Procedure of the Public Television and Radio Company by means of a legislative initiative to the National Assembly of the Republic of Armenia, with its conclusion enclosed, following which the National Assembly of the Republic of Armenia adopts the Law of the Republic of Armenia on the Rules of Procedure of the Public Television and Radio Company.]

Article 27. Public Television and Radio Council

1. The management body of the Public Television and Radio Company is the Public Television and Radio Council (hereinafter: the Council).
The Council comprises five members (at least one of the members is a woman) who are appointed by the President of the Republic of Armenia in conformity with the tendering procedure established by him.

[Comment: We have previously discussed the tender process, which is intended to be the same as for the members of the Commission. However, this needs to be put into the public domain and we will need to discuss how this should be done.]

2. The members of the Council are appointed for a period of six years. The Council elects a Chairperson and a Deputy from among its members.
3. The Chairperson and members of the Council work on a paid basis at the expense of the resources of the Public Television and Radio Company.
4. The members of the Council must be prominent figures in the area of journalism, legal science, television and radio broadcasting management, science, culture and art and quality specialists **[Comment: what about academics?]**, have higher education and be fluent in Armenian.
5. The following may not become members of the Council:
 - 1) members of the managing bodies of political parties; **[Comment: add “members of Parliament and of local Councils, Mayors and Heads of political communities or anyone who has held any of these positions in the last [3] years”]**.
 - 2) foreign citizens and non-citizens;
 - 3) managers of the Public and private television-radio companies;
 - 4) persons having contractual service relations and (or) labour agreements with television-radio companies;
 - 5) **[Comment: add “persons who have any financial interest in any television-radio company or are connected to any persons with such an interest (i.e. close relatives”]**
 - 6) persons convicted by a judgment that has lawfully entered into force or whose criminal record has not been eliminated or expired.

The Council functions on the basis of this Law, its Rules of Procedure, other normative legal acts and is autonomous within the scope of its competence.

6. When taking the office, each member of the Council takes the following oath:
'Assuming the responsibilities of a member of the Public Television and Radio Council, I swear to protect human rights and fundamental freedoms and support the development of civil society in compliance with the Constitution and laws of the Republic of Armenia and through ensuring the human right to expression, freedom of information and pluralism. I swear that I will discharge my responsibilities in an impartial, maximally conscientious and honest manner in keeping with the principles of transparency, impartiality and fairness irrespective of any political or economic interest.'

Article 28. Procedure of Functioning of the Council

1. The Council functions through its everyday activities and regular and extraordinary sessions.

- The regular sessions are convened by the Chairperson of the Council as necessary but not less than once a month.
2. In the case of absence by the Council Chairman, as well in case of non-possibility of implementing his/her activities by him/her, the session shall be chaired by the eldest in age member of the Council [**Comment: Replace underlined text with “the Deputy Council Chairman”**]
 3. An extraordinary session of the Council is convened by the Chairperson of the Council:
 - 1) At his own initiative;
 - 2) Upon the request of at least two members of the Council.
 4. The Council session is competent if it is chaired by the Chairperson of the Council or, upon his assignment, by his deputy and more than half of its members are present.
 5. The decisions in the Council are adopted by the majority of votes of the Council members who are present at the session.
 6. The Council sessions are public. The Council ensures the public nature of its activities.

Article 29. Chairperson and Members of the Council

1. The Chairperson of the Council:
 - 1) Organizes the work of the Council and its staff;
 - 2) Convenes and chairs the Council sessions, signs the decisions adopted by the Council and the minutes of its sessions;
 - 3) Oversees the implementation of the Council decisions;
 - 4) Co-ordinates and ensures the uninterrupted work of the Public Television and Radio Company and its Council.
2. While discharging their responsibilities, the Chairperson and members of the Council may not engage in other paid work except for academic, creative and scientific activities.
3. [**Comment: add “The Deputy Council Chairman shall replace the Chairman in case of the Chairman’s absence or non-possibility of implementation of his activities.”**]
4. The members of the Council may not be recalled from their positions prior to the expiry of their term of office, except for cases when the Council member:
 - 1) resigns;
 - 2) is elected or appointed to another position;
 - 3) has not taken part in the work of the Council for more than 3 months without any valid reason;
 - 4) is convicted by a court decision;
 - 5) loses the citizenship of the Republic of Armenia;
 - 6) dies;
 - 7) is declared incapacitated by a lawfully entered into force court judgment.In these cases the powers of a Council member are terminated ahead of time by the Decree of the President of the Republic of Armenia.
5. In case of a vacancy in the Council, its Chairperson notifies in writing the President of the Republic of Armenia, who in a week’s time announces a tender by mass media for filling the vacancy. Anyone may be nominated for the vacancy of a Council member in conformity with the requirements of this Law. At least a 10-day period is set up for the nomination of the candidates. The data on the candidates are publicized by mass media.

6. The President of the Republic of Armenia, in conformity with the tendering procedure approved by himself/herself, appoints one of the winners in the tender as a member of the Council. Information about this, along with the necessary substantiation, is publicized in the mass media. One and the same person may not be a member of the Council for more than 2 consecutive terms.

Article 30. Powers of the Council

1. The Council:
 - 1) Sets the overall volume of the broadcasting of programmes by the Public Television and Radio Company and the number of its television-radio programmes (television channels). This number may not be less than four (two television programmes and two radio programmes), moreover, at least one of the set television programmes (television channels) must be of general direction, while the other – of intellectual-cultural.
 - 2) Drafts and submits to the Government the Rules of Procedure of the Public Television and Radio Company; **[Comment: delete indent 2]**
 - 3) Establishes the procedure and directions for using the funds of the Public Television and Radio Company;
 - 4) Approves the status and positions of the staff members of the Public Television and Radio Company, the forms of contracts signed with them, their terms and remuneration;
 - 5) Sets the list of positions, the holders of which have no right to work in other television and radio companies and mass media;
 - 6) Defines the procedure for tenders for the vacancies of the executive directors of the Public Television Company and (or) Public Radio Company;
 - 7) Appoints the executive directors of the Public Television Company and Public Radio Company that have won the tender, and in case they discharge their responsibilities in an unsatisfactory manner, dismisses the executive directors of the Public Television Company and Public Radio Company.
 - 8) The executive directors of the Public Television Company and Public Radio Company are appointed to and dismissed from their positions by a simple majority of votes of the Council members;
 - 9) Upon the submission of the executive directors of the Public Television Company and Public Radio Company, approves the deputies of the executive directors;
 - 10) At least once a year listens to the reports of the executive directors of the Public Television Company and the Public Radio Company.
 - 11) Is responsible for ensuring the Public Radio and Television Companies deliver their obligations under Art. 26.4 **[Comment: add this indent]**
2. The decisions of the Council are implemented by the executive directors of the Public Television Company and Public Radio Company.
3. The activities of the Council are public. The Council regularly informs the mass media about its decisions and projects. The Council submits an annual communication about its activities to the President and National Assembly of the Republic of Armenia.

Article 31. Powers of the Executive Management of the Public Television Company and Public Radio Company

1. The Council appoints the executive directors of the Public Television Company and Public Radio Company by a tendering procedure. **[Comment: delete indent 1]**
2. The executive directors of the Public Television Company and Public Radio Company and their deputies:
 - 1) Manage the everyday work of the Public Television Company and Public Radio Company;
 - 2) Approve the structure of programmes, the proportions of their individual segments and the programme network;
 - 3) Approve the organizational structure, issue orders, sign contracts and oversee their implementation;
 - 4) Set up the order of remuneration of the staffs of the Public Television Company and Public Radio Company;
 - 5) Participate in the activities of the Council with a right to advisory vote;
 - 6) Represent the Public Television Company and Public Radio Company in the Republic of Armenia, foreign countries and international organizations.

Article 32. Staff of the Council

1. The Council organizes its work through its staff whose structure and number of members are approved by the Council upon the submission of the Chairperson of the Council.

Article 33. Public Funding of the Public Television and Radio Company

1. Each year in the section of expenditures of the state budget of the Republic of Armenia and in case of an increase in the section of revenues compared with the previous year, allocations not less than the allocations in the state budget for the previous year are granted to the Public Television and Radio Company. These allocations must ensure the exercise of the powers of the Council prescribed by law.
2. Each year the Council makes an estimate (budget) of costs of the Public Television and Radio Company for the next year by indicating in separate lines the amounts to be allocated to the Council, the Public Television Company and the Public Radio Company and submits it to the Government of the Republic of Armenia. The latter then submits it to the National Assembly of the Republic of Armenia for approval.

Article 34. Annual Communication of the Council

1. By 1 April of each year the Council submits to the National Assembly a communication **[Comment: replace "communication" with "annual report"]** on the activities (including the projects and funds) **[Comment: replace "funds" with "accounts"]** of the Public Television and Radio Company for the previous year, as well as on the implementation of the provisions of Paragraph 1 of Article 26 of this Law. The communication is presented in a National Assembly sitting by the Chairperson of the Council. The communication is discussed in a sitting of the National Assembly in the manner prescribed by the Rules of Procedure of the National Assembly of the Republic of Armenia and is taken for information.

2. The Council publicizes the communication in the press, as well as posts it on the websites of the Public Television Company and Public Radio Company.

CHAPTER 5.

NATIONAL TELEVISION AND RADIO COMMISSION

Article 35. National Television and Radio Commission

1. The National Commission is an independent body, whose aim is to ensure the freedom, independence and diversity of broadcast mass media, their licencing in the manner prescribed by law, as well as the oversight of television and radio companies.
2. In exercising its powers the National Commission may acquire and exercise property and personal non-property rights, services, bear responsibilities and act as a plaintiff or defendant in the court.
3. The National Commission has a seal, a stamp, a form and other means of individualization with the Republic of Armenia coat of arms and its name on them.
4. The National Commission, in the scope of competence conferred on it by the legislation of the Republic of Armenia or when granted special powers, represent the Republic of Armenia in other countries and international organizations.
The National Commission may co-operate with the relevant structures of other countries and interested international organizations.
5. The residence of the National Commission is the city of Yerevan of the Republic of Armenia. The National Commission may adopt a decision on convening field sessions in other residential areas of the Republic of Armenia.

Article 36. Functions of the National Commission

1. In line with its objectives defines by law, the National Commission:
 - 1) Conducts the broadcast licencing of television broadcasters by means of a tender and ensures publicizing of complete information about the tender results;
 - 2) Conducts licencing for broadcasting of television and radio programmes via cable network; **[Comment: What about satellite broadcasting/re-broadcasting?]**
 - 3) Establishes the procedure for conducting tenders of television companies for broadcasting via digital broadcasting network;
 - 4) **[Comment: Add analogue radio licencing, if this is in fact done.]**
 - 5) Approves the forms of licences;
 - 6) Grants licences;
 - 7) Once a year publishes the full list of air frequencies having as a basis the compiled and provided on regular basis by an authorized by the Republic of Armenia Government body frequency list for broadcasting TV/Radio programmes in the territory of the Republic of Armenia;
 - 8) Compiles and publicizes the list of licenced persons and oversees their compliance with the terms of the licence;
 - 9) Allows subscription broadcasting by television-radio companies;
 - 10) Through the use of video and audio recordings of television-radio programmes, decides on their compliance with the current legislation;

- 11) Audits the compliance of technical standards of preparation of television-radio programmes and the technologies with the current standards and the issued certificate;
 - 12) In case of non-compliance with this Law or the terms of the licence and (or) its decisions, imposes the administrative sanctions prescribed by law;
 - 13) Oversees the compliance of a television-radio company (television company or radio company) with the procedure for pre-election campaigns as defined by the Electoral Code of the Republic of Armenia and in case of detecting violations of the established procedure for pre-election campaigns, is competent to apply to the court with a claim to subject a particular television-radio company (television company or radio company) to liability in the manner prescribed by law;
 - 14) Receives, records, examines and provides substantiated responses or conclusions on the complaints, recommendations and inquiries relating to the activities of television-radio companies;
 - 15) Exercises a monitoring of the activities of television-radio companies;
 - 16) May be involved in the elaboration of intergovernmental treaties and legislative drafts related to television and radio;
 - 17) With a view to performing its oversight functions, conducts inspections and inspections of television-radio companies in the manner and cases prescribed by the Law of the Republic of Armenia on the Organization and Conduct of Inspections in the Republic of Armenia.
 - 18) Adopts legal acts with a view to efficient organization of its work.
 - 19) **[Comment: add an indent "Writes and applies a Broadcasting Code pursuant to Article 22"]**
2. The National Commission requires and obtains information necessary for the exercise of its powers from the competent bodies, organizations and officials.
 3. While exercising its powers, the National Commission may involve specialists and experts on a pro bono or contractual basis.
 4. The National Commission exercises other powers conferred on it by the legislation of the Republic of Armenia.

Article 37. Legal Bases and Principles of the Activities of the National Commission

1. The activities of the National Commission are regulated by the Constitution of the Republic of Armenia, this Law, the legal acts adopted by the Commission, as well as other legal acts of the Republic of Armenia.
2. The principles underlying the activities of the National Commission are lawfulness, democracy, equality, impartiality, autonomy, collegiality and transparency.

Article 38. Procedure of Formation of the National Commission

[Comment: Previously, the Law on the National Assembly Regulations set out the procedure for appointing half of the members of the National Commission. It had been agreed that the President would follow the same procedure for 'his' appointments, although this could not be binding in law without changing the Constitution.

There are two stages to the selection process.

First, a tender committee (or “competition commission”) will be formed which will be responsible for short-listing candidates. The opposition faction(s) may nominate two of the six candidates on the tender committee. Nominees may not be politicians or civil servants, but must have relevant expertise and experience from a list of specialities.

Vacancies for the National Commission will be advertised nationally at least a month before the competition. Candidates must be supported by three established NGOs working in the area of media and telecommunications.

Candidates will be tested on their knowledge of a range of legal instruments, including the European Convention on Human Rights. Shortlisted candidates will be interviewed on a number of relevant topics, including freedom of expression.

The tender committee will select favoured candidates by vote for approval by the National Assembly.

Confirmation is required that this remains the agreed procedure, for both Presidential and Assembly appointments.]

1. The National Commission consists of eight members. Half of the members of the National Commission are elected for a six-year term through a tendering procedure by the National Assembly of the Republic of Armenia, while the other half is appointed for a six-year term by the President of the Republic of Armenia.
2. In case of a vacancy for the position of a member of the National Commission, his/her appointment or election is done in conformity with Article 83.2 of the Constitution of the Republic of Armenia by ensuring the election of half of the members of the National Commission by the National Assembly of the Republic of Armenia and the appointment of the other half by the President of the Republic.
3. In case of a vacancy for the position of a member of the National Commission, the Chairperson of the National Commission notifies thereof the Chairperson of the National Assembly of the Republic of Armenia and the President of the Republic, respectively.
4. The National Assembly elects the member of the National Commission by a resolution of the National Assembly in the manner prescribed by the Law of the Republic of Armenia on the Rules of Procedure of the National Assembly. **[Comment: We have previously discussed the importance of the President following the same procedure as that set out for the National Assembly, both for his appointment of members of the Commission and of the Council.]**
5. The President of the Republic, in conformity with the tendering procedure approved by himself/herself, **[Comment: This should be published]** appoints the candidate that has won the tender as member of the National Commission. Information thereof is publicized in the press and other mass media along with the necessary substantiation.
6. Non-appointment (election) of a regular member of the National Commission by the person appointing (electing) the member of the National Commission is not grounds for non-appointment (election) of a member for the next vacancy subject to his/her appointment (election) by the person appointing (electing) the next member of the National Commission.

7. The National Commission elects a Chairperson and a deputy from among its members.
8. One and the same person may not be appointed as a member of the National Commission for more than two consecutive times.

Article 39. Requirements Put Forward to the Members of the National Commission and the Procedure for their Remuneration

1. Any citizen of the Republic of Armenia that has professional experience and higher education in the area of journalism, television and radio, economics, management, technologies, culture, art, science and law, religion **[Comment: What about education?]**, is held in high esteem in and trust by the public and is fluent in Armenian, may become a member of the National Commission.
2. The following may not become members of the National Commission:
 - 1) Members of the management bodies of political parties and persons related to them;
 - 2) **[Comment: add an indent as follows:** Members of Parliament and of local Councils, Mayors and Heads of political communities or anyone who has held any of these positions in the last [3] years.]
 - 3) Managers of the Public and private television and radio companies and persons related to them.
 - 4) Persons having contractual relations with television-radio companies, including the staffs of the Public and private television and radio companies;
 - 5) **[Comment: add an indent as follows:** Persons with a financial interest in any television-radio company or persons related to them;]
 - 6) Anyone who has been sentenced based on a lawfully entered into force court judgment and whose criminal record has not been eliminated or expired.
 - 7) Members of the National Assembly of the Republic of Armenia, the Government of the Republic of Armenia, staff members of the President of the Republic's Office and state servants.
3. Members of the National Commission may not be members of the management body of a political party, as well as use their status for the benefit of political parties and non-governmental organizations.
4. The Chairperson, the deputy and members of the National Commission may not be engaged in any other paid work, except for academic, scientific and creative activities. The Chairperson, the deputy and members of the National Commission may not be founders and (or) shareholders (stakeholders, participants) of any television-radio company and (or) persons related to them.
5. While assuming his/her office, each member of the National Commission gives the following oath:

'Assuming the responsibilities of the member of the National Commission, I swear to protect human rights and fundamental freedoms and support the development of civil society in compliance with the Constitution and laws of the Republic of Armenia and through ensuring the human right to expression, freedom of information and pluralism. I swear that I will discharge my responsibilities in an impartial, maximally conscientious and honest manner in keeping with the principles of transparency, impartiality and fairness, irrespective of any political or economic interest.'
6. The members of the National Commission perform their work on a paid basis.

The basic salary rate of a member of the National Commission is set in the amount of fifteen times the basic salary rate of civil servants as approved by the annual Law on the State Budget of the Republic of Armenia, the deputy Chairperson – sixteen times and the Chairperson – seventeen times.

Article 40. Chairperson and Deputy Chairperson of the National Commission

1. The Chairperson of the National Commission, within the powers conferred on him/her:
 - 1) Ensures the administration of the daily work of the National Commission;
 - 2) Represents the National Commission in relations with other bodies;
 - 3) Makes the agenda of sessions, convenes and chairs the sessions of the National Commission, furthermore, members of the National Commission take part in the making of the agenda of the National Commission's sessions by submitting recommendations to the Chairperson of the National Commission.
 - 4) Signs and publicizes the decisions of the National Commission, issues orders;
 - 5) Oversees the implementation of the decisions of the National Commission;
 - 6) Presents a communication on the activities of the National Commission for the previous year to the National Assembly;
 - 7) Exercises overall management of the staff;
 - 8) Submits to the National Commission the draft statute of the staff, its structure and staffing list;
 - 9) In the manner prescribed by law, appoints and dismisses the staff members of the National Commission;
 - 10) Exercises other powers conferred on him/her by law.
2. The Deputy Chairperson of the National Commission:
 - 1) Replaces the Chairperson of the National Commission in his/her absence;
 - 2) Upon the assignment of the Chairperson of the National Commission, chairs the sessions of the National Commission;
 - 3) Upon the assignment of the Chairperson of the National Commission, co-ordinates the work of the National Commission and its staff structural subdivisions;
 - 4) Exercises other powers delegated by the Chairperson of the National Commission.

Article 41. Termination of Powers of the Member of the National Commission

1. The member of the National Commission may not be recalled prior to the expiry of his/her term of office. The powers of the member of the National Commission may be terminated in the following cases when s/he:
 - 1) resigns;
 - 2) is elected or appointed to another position;
 - 3) has not participated in the activities of the National Commission **[Comment: add "for 3 months"]** without any valid reasons;
 - 4) is sentenced by a court judgment that has lawfully entered into force;
 - 5) is declared incapacitated by a court decisions;
 - 6) loses the citizenship of the Republic of Armenia;
 - 7) dies.
2. The powers of a member of the National Commission appointed by the President of the Republic of Armenia are terminated ahead of time by the Decree of the President of the Republic of Armenia in cases prescribed by this Law.

3. The powers of a member of the National Commission appointed by the National Assembly of the Republic of Armenia are terminated ahead of time by the decision of the Chairperson of the National Assembly of the Republic of Armenia in cases prescribed by this Law.

Article 42. Funding of the Costs of the National Commission

1. The activities of the National Commission are funded from the state budget. The budget contains a separate line to that effect.
2. Each year the section on expenditures of the state budget of the Republic of Armenia grants allocations to the National Commission in the amount not less than that approved by the state budget for the previous year. These allocations must ensure the exercise of the powers of the National Commission as prescribed by law.
3. Each year the National Commission produces an estimate (budget) of its costs for the next year and submits it to the Government of the Republic of Armenia, which then submits it as incorporated in the state budget for a given year for the approval of the National Assembly of the Republic of Armenia.

Article 43. Communication of the National Commission

1. By 1 April of each year the National Commission submits to the National Assembly of the Republic of Armenia a communication on the activities of the National Commission for the previous year. **[Comment: add the following text "This should also include audited accounts."]**
2. The communication includes complete information and statistical data (including on the announced tenders, granted licences, submitted and rejected applications for broadcasting licences via the cable network of television-radio programmes and the reasons thereof, detected violations and the sanctions imposed, amount of fees collected from administrative sanctions and other powers) on all the components implemented in conformity with the activities and powers of the National Commission.
3. The communication is presented to the National Assembly of the Republic of Armenia by the Chairperson of the National Commission or his/her deputy if s/he is absent. The communication is discussed in conformity with the Law of the Republic of Armenia on the Rules of Procedure of the National Assembly and taken for information.
4. The National Commission publicizes its communication in the press, as well as posts it on the website of the National Commission. The normative decisions of the National Commission are publicized in the press.

Article 44. Procedure of Functioning of the National Commission

1. The work of the National Commission is organized and managed by the Chairperson of the National Commission or his/her deputy in his/her absence.
2. The National Commission organizes its work by means of sessions and working discussions.
3. The sessions of the National Commission are convened at the initiative of the Chairperson of the Commission as necessary but not less than once per month. The sessions of the National Commission are public. Closed-door sessions are held in cases prescribed by the legislation of the Republic of Armenia. Upon the request of a person

- invited to the session, the discussion may proceed behind closed doors if it is likely that commercial secrets will be disclosed during the discussion.
4. Extraordinary sessions of the National Commission are convened by the Chairperson of the Commission at his/her own initiative or upon the request of at least 4 members.
 5. The National Commission publicizes information about the venue, time and agenda in at least one mass media outlet and invites the stakeholders to take part in the session.
 6. The chief of staff of the National Commission may take part in the session of the National Commission with a right to advisory vote.
 7. The session of the National Commission is competent if it is chaired by the Chairperson of the National Commission or his/her deputy as assigned by him/her and more than half of the members of the National Commission are present.
 8. In case of absence of the Chairperson and the Deputy Chairperson of the National Commission or if it is impossible for them to discharge their responsibilities, the session is chaired by the eldest member of the National Commission.
The decisions of the National Commission are adopted openly, save for cases prescribed by law, by the majority of votes of the members present at the session of the National Commission. In case of equal distribution of votes, the vote of the Chairperson of the National Commission is decisive.
Any special opinion of a member of the Commission on the decision of the National Commission is attached to the minutes of the session.
 9. The National Commission adopts all decisions regarding the winners in a tender for a licence, invalidating the granted licence, imposing sanctions for the violation of this Law, as well as on the activities of broadcasters by the two thirds of the overall number of votes of the Commission members.
 10. Minutes of the sessions of the National Commission are taken. The minutes of the sessions are signed by the Chairperson of the session. The National Commission holds a log of its decisions.

Article 45. Staff of the National Commission

The National Commission organizes its works through its staff. The structure of the staff, the number of staff members and its statute are approved by the National Commission upon the submission of its Chairperson. Persons listed in clauses 2 and 5 of paragraph 2 of Article 39 may not be recruited as staff of the National Commission.

CHAPTER 6.

LICENCING OF TELEVISION-RADIO COMPANIES

Article 46. Licencing

1. The licence is the sole lawful grounds, which allows broadcasting of television-radio programmes in the territory of the Republic of Armenia, save for cases prescribed by the legislation of the Republic of Armenia.
2. The licence of on-air broadcasting of television-radio programmes is granted by a tendering procedure as a result of a tender announced for television-radio companies to broadcast via digital broadcasting network. **[Comment: This removes any possibility of**

- more analogue licensing.]** The procedure for holding a tender is set by the National Commission. **[Comment: This may be too restrictive. Although there is no intention of awarding any additional analogue television licences, this may not be the case for radio. There is no international consensus to move from analogue radio broadcasting for the foreseeable future.]**
3. The licence for on-air broadcasting of television-radio programmes via cable network is granted without a tender as a result of the discussion of the application submitted for obtaining the licence. **[Comment: Satellite?]**
 4. The licence for broadcasting television-radio programmes may not be transferred or sold (alienated) to another person **[Comment: add the following text: “without the prior consent of the national Commission. Before granting such consent, the Commission will need to be satisfied that the new owner will comply with all the licence obligations.”]**

Article 47. Digital Broadcasting Network

1. As of 2015 **[Comment: text added]** in the Republic of Armenia, on-air broadcasting of television programmes will be **[Comment: text added]** implemented via digital broadcasting network.
2. Until the creation of private networks for digital broadcasting by legal persons in the timeframes defined in para 13 of Article 62 of this law, the digital broadcasting network shall be the property of the Republic of Armenia,
3. The creation, maintenance and use of the digital broadcasting network being the property of the Republic of Armenia are defined by the decision of the Government of the Republic of Armenia.
4. The National Commission, once in ten years starting from 20 July 2010, announces a tender for on-air broadcasting via digital broadcasting network for transmission in the republican, capital and territorial coverage **[Comment: text modified]** for television companies of the thematic direction and in the number indicated in this article. The peculiarities of the first broadcasters' tender for on-air broadcasting via digital broadcasting network to be announced on 20 July 2010 are defined by Article 62 of this Law.
[Comment: text deleted: “State transmission encompasses the entire territory of the Republic of Armenia, while the capital city transmission – the territory of the capital Yerevan only.”]
5. Television companies with the following thematic direction of state transmission exercise broadcasting via digital broadcasting network:
 - 1) In conformity with paragraph one of Article 30 of the Law, two television programmes (television channels) of the Public Television and Radio Company, one of which is of general direction, and the other – of intellectual-cultural;
 - 2) Five private television companies of general direction;
[Comment: text deleted: “One private television company of general direction and satisfying the interests of the population of a given territory (a particular marz of the Republic of Armenia or the city of Yerevan);”]
6. Television companies with the following thematic direction of the capital transmission exercise broadcasting via digital broadcasting network:
 - 1) One private television company of an entertainment direction;
 - 2) One private television of youth direction;
 - 3) One private company of musical direction;

- 4) One private company of children-youth, scientific-academic, educational and informative direction;
- 5) One private company of international and local news analytical direction;
- 6) Four re-broadcasting television companies.
- 7) **[Comment: text added]** Through digital transmission network in each region of Armenia and in Yerevan city, one private TV company of general direction and satisfying the interests of the population of a given area and of general direction shall broadcast.

Article 48. Bid for Participation in the Tender for Licencing

1. The bid for participation in a tender for broadcasters' licencing contains:
 - 1) the name and location of the bidder;
 - 2) the thematic direction of programmes;
 - 3) the transmission area;
 - 4) information about the bidder being a founder and licenced person of other television-radio companies or a founder of other mass media, as well as about their production and dissemination;
 - 5) the volume of self-made and domestic programmes;
 - 6) the date, month and year of submitting the bid.
2. Copies of the founding documents and certifying the legal status of the company, the business plan of the television company, information about the to-be-used technologies and equipment, documents certifying the sources of funding, information about the number of staff, their education and professional qualifications, as well as the receipt of the paid state fee in the amount prescribed by the Law of the Republic of Armenia on State Fees, are attached to the bid.

Article 49. Selection of the Licenced Person

1. When selecting the licenced person, the National Commission takes account of:
 - 1) the prevalence of self-made programmes;
 - 2) the prevalence of domestically produced programmes;
 - 3) the extent to which the television company's business programme is grounded;
 - 4) ability to promote pluralism;
 - 5) the technical and financial capacity of the bidder;
 - 6) the professional qualifications of the staff.
 - 7) **[Comment: text added]** If a general service, the variety of the proposed programmes
 - 8) **[Comment: text added]** the ability of the applicant to promote pluralism
 - 9) **[Comment: text added]** and the extent to which the proposal contributes to the diversity of the overall broadcasting framework
2. In case of other equal conditions in the tender for licencing, the preference is given:
 - 1) to those existing television companies, which have not violated the law in the course of their functioning;
 - 2) to those existing television companies, which have at least three years' experience in producing television programmes and broadcasting;
3. The National Commission adopts the decision on declaring a winner in the tender on the basis of voting for credits. **[Comment: This is unclear. What is 'voting for credits'? Art.**

44.9 says that the award of tenders must be on a 2/3 majority vote.] [Comment: text modified: "The National Commission shall ensure publicity of proper and full justification and reasoning of its decisions on selecting the licensee, refusing to grant a license, or revoking a license."] The procedure for holding a credit voting is defined in the tendering procedure established by the National Commission.

Article 50. Tender for the Cable Broadcasting Licence

1. In order to obtain a cable broadcasting licence, the bidder submits an application by recorded mail with a notification on delivery or with the use of other means of communication ensuring the passing of the communication or by hand with a receipt. The application contains:
 - 1) the name and location of the applicant;
 - 2) the thematic direction of programmes;
 - 3) the transmission area;
 - 4) information about the bidder being a founder and licenced person of other television-radio companies or a founder of other mass media, as well as about their production and dissemination;
 - 5) the number of re-broadcast television-radio programmes (in case the applicant envisages to have re-broadcasting)
 - 6) information about the delivery of other telecommunication services by the cable network which the applicant uses;
 - 7) the date of submission of the application.
2. Copies of the founding documents and certifying the legal status of the applicant, the business plan, information about the to-be-used technologies and equipment, documents certifying the sources of funding, information about the number of staff, their education and professional qualifications, as well as the number of flats in the transmission area mentioned in the application.
3. If the National Commission identifies mistakes, crossings, scrapings or typos, it will properly notify the applicant thereof in a ten-day period with a view to their correction. The applicant is entitled to submit the documents to the National Commission within a ten-day period without the shortcomings indicated in this paragraph.
4. The procedure for licencing the cable broadcasting of television-radio programmes is established by the National Commission.

Article 51. Deliberations on the Application and Decision-Making

1. In order to grant a licence for cable broadcasting of television-radio programmes, the National Commission deliberates on the application in its session and adopts a decision within 60 days following the registration of the submission thereof.
2. By its decision on granting a licence, the National Commission also indicates the television-radio programmes (except for re-broadcast television programmes) of those television companies envisaged in Article 47 of this Law that are subject to mandatory broadcasting by the person granted a licence for cable broadcasting of television-radio programmes.
3. The licence is not granted if:
 - 1) the submitted documents are faulty, explicitly fraudulent or distorted or do not comply with the requirements of this Law and other legal acts and if in

conformity with paragraph 3 of Article 50, the applicant has not eliminated the shortcomings indicated by the National Commission.

- 2) In conformity with the law, the applicant does not have a right to engage in broadcasting of television-radio programmes;
- 3) The technical capacity for the broadcasting of television-radio programmes is not available.
4. The applicant is notified in writing about the grounds for the refusal of the licence within ten days after the decision is adopted. The refusal of the licence may be appealed to the court.

Article 52. Activities of the Person Granted a Licence for Cable Broadcasting of Television-Radio Programmes

1. The television-radio programmes of companies implementing television-radio broadcasting in the territory of the Republic of Armenia and outside its borders in the manner prescribed by law may be re-broadcast by the person granted a licence for cable broadcasting of television-radio programmes only on the basis of the permission of the National Commission. [Comment: The law needs to set out the basis upon which the National Commission could refuse permission.] The permission is granted or the application is rejected within a 15-day period of the application to the National Commission for re-broadcasting.
2. Any person granted a licence for cable broadcasting of television-radio programmes may produce self-made television-radio programmes and broadcast them by the permission of the National Commission.
3. The licenced person submits to the National Commission an application and the documents prescribed by Article 48 of this Law to obtain a permission for broadcasting a new self-made television-radio programme.
4. As a result of deliberations and within a 20-day period following the submission of the application and documents indicated in paragraph 3 of this article, the National Commission grants permission for broadcasting self-made television-radio programmes or adopts a decision on rejecting it. [Comment: The law needs to set out the basis upon which the National Commission could refuse permission.]

Article 53. Contents of the Licence

1. The licence for on-air broadcasting of television-radio programmes and for broadcasting television-radio programmes via cable network contains the following information:
 - 1) the name of the licencing body;
 - 2) the licence number;
 - 3) the date of issuing the licence;
 - 4) the type of activity for which the licence is granted;
 - 5) name and location of the legal person;
 - 6) area of transmission;
 - 7) term of the licence.
 - 8) [Comment: for licences which are awarded on a tender basis at least on part as a result of promises made regarding programming, these promises should also be included as licence conditions. Failure to do so makes a mockery of the**

licensing process, as applicants can promise whatever they like if they are not bound by the licence to deliver it.]

2. The terms and conditions of the licence are enclosed with it as its constituent part.

Article 54. Granting of the Licence

1. The television companies that have won in the tender for licencing, as well as granted the right to a licence on the basis of their applications, within a 20-day period following the receipt of the decisions of the National Commission on winning the licencing tender and on granting a licence on the basis of the application, pay the state fee in the amount indicated in the Law of the Republic of Armenia on the State Fee to engage in broadcasting.
2. Within a 10-day period following the payment of the state fee prescribed by this article, the National Commission grants licences to the indicated persons.
3. Non-payment of the state fee prescribed by this article is grounds for the National Commission to invalidate its decision on declaring the winner in the tender and granted a licence on the basis of the application.
4. If the decision on declaring the winner in the tender is invalidated on the grounds prescribed by this article, the National Commission announces an extraordinary tender for on-air broadcasting television companies of the relevant transmission and direction via digital network and grants a licence in the manner and terms for the licencing tender prescribed by this Law.

Article 55. Licence Terms

Licences for broadcasting television-radio programmes are granted for a period of ten years.

CHAPTER 7

TERMS OF ORGANIZING UNLICENCED TELEVISION-RADIO PROGRAMMES

Article 56. Terms for Organizing Unlicensed Television-Radio Programmes

1. No licence for broadcasting via cable network is required if the area of transmission and service is limited to the buildings and space belonging to the legal person, except for hotels, hotel complexes, resorts and other such rented buildings.
2. Organization of unlicensed television-radio programmes must not affect the quality of television-radio programmes in that particular area, as well as obstruct the functioning of the communication technology receiving and broadcasting television-radio programmes.
3. Unlicensed television-radio programmes are broadcast by the written permission of the National Commission.
4. In case of breaching the requirements of this Law and other laws and legal acts in the area of television and radio, the National Commission terminates the functioning of unlicensed television and radio companies.

Article 57. Application for Permission for Unlicensed Television-Radio Programmes

1. The broadcaster of unlicensed television-radio programmes is obliged to submit a written application to the National Commission forty days prior to organizing the television-radio programmes.
2. The application must contain information on:
 - 1) the implementer of television-radio programmes;
 - 2) area of transmission;
 - 3) the maximum number of television-radio audience;
 - 4) the topics, specialization and air time of programmes.

CHAPTER 8.

LIABILITY FOR VIOLATING THE REQUIREMENTS OF THE LEGISLATION ON TELEVISION AND RADIO

[Comment: Under a previous version of this law, there were in addition Regulations of the National Commission which set out its procedures on sanctions. The regulations set out a graduated set of sanctions, starting with warnings and working up to eventual revocation. Are these Regulations still in place? They should be viewed with this Law.]

Article 58. Liability for Violating the Requirements of the Legislation on Television and Radio

1. If the National Commission detects violations of the requirements of the legislation regulating the area of television and radio and the licencing terms and conditions, as well as if it is notified in writing of repetitive violations of the legislation regulating the area of television and radio detected by other state bodies within the scope of their competences, the National Commission applies the following administrative sanctions:

- 1) written notice;
 - 2) fine.
2. The National Commission is competent to apply to the court with a claim to terminate the license in case if the grounds defined under paras 1,2,3,4,5,6,7,,9,10,11 of the first part of Article 61 are in place, as well as to subject the television-radio company (television company or radio company) having committed the violation to other liability prescribed by the legislation of the Republic of Armenia.
 3. Television-radio companies (television companies or radio companies) have a right to apply to the court with a claim to invalidate or change the decisions of the National Commission. The action brought does not, however, suspend the implementation of the decision on the application of the administrative sanction.

Article 59. Written Notice

In case of violations detected in the manner prescribed by Article 58 of the Law and if the Law does not prescribe otherwise, the National Commission issues a written notice to the television-radio company having committed the violation no later than within two months from the date the National Commission has detected the violation and (or) was notified of the repetitive cases of violations detected by other state bodies within the scope of their competences, requiring that the violation is eliminated and setting a reasonable period of time for the elimination of the violation.

Article 60. Fine

1. A fine may be imposed on the person having committed violations indicated in this article not later than within two months from the date the violation was committed while in the case of a continuing or lasting violation, not later than within two months from the date of its detection.
2. Non performance of the requirement in the period indicated in the notice by the person that has been issued a written notice in the manner prescribed by Article 59 of this Law or committing the same violation again within one year from the date of application of an administrative sanction prescribed by Article 59 of this Law leads to the imposition of a fine in the amount of two hundred times the established minimum salary.
3. Restricting by a television-radio company the exercise of television-radio broadcasting of the television-radio audience in the overlapping transmission zones from receiving other television-radio programmes leads to an imposition of a fine in the amount of five hundred times the established minimum salary.
4. Using the name, announcement and other exit data of a television-radio company in a foreign language only (without the Armenian equivalent) leads to imposition of a fine in the amount of two hundred times the established minimum salary.
5. Broadcasting domestically produced programmes by a television-radio company for less than 55 per cent of the overall airtime, save for cases prescribed by law, leads to imposition of a fine in the amount between three hundred and one thousand times the established minimum salary.

[Comment: It is strongly suggested that there is a gradual introduction to the requirement for 55% domestic production, which should be extended to cover 'European Works' (as per Art.10 ECTT:

"Each transmitting Party shall ensure, where practicable and by appropriate means, that a broadcaster within its jurisdiction reserves for European works a majority proportion of its transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and tele-shopping. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria."]

6. Implementing re-broadcasting without notifying the National Commission leads to imposition of a fine in the amount of five hundred times the established minimum salary.
7. Broadcasting a campaign programme in the period of time when campaigning is prohibited by the legislation of the Republic of Armenia leads to imposition of a fine in the amount of one thousand times the established minimum salary.
8. Transmitting political or other campaign programmes without the mandatory and uninterrupted title reading 'pre-election (pre-referendum) campaign' in the period envisaged for pre-election (pre-referendum) campaign prescribed by law, and in case of the radio transmission, not reminding thereof for at least 3 times leads to imposition of a fine in the amount of one thousand times the established minimum salary.
9. Not preserving its video and audio-recordings by a television-radio company for one month from the date of broadcast leads to imposition of a fine in the amount of five hundred times the established minimum salary.
10. Broadcasting advertisements for more than once every twenty minutes during a radio-television programme or for more than fourteen minutes per one air hour leads to imposition of a fine in the amount of one thousand times the established minimum salary. **[Comment: I assume the advertising restrictions are set out in the separate Advertising Law. This should be referenced here.]**
11. Broadcasting heavy alcoholic beverages (containing 20 and more per cent of spirits) (save cognac), tobacco and tobacco production, as well as direct or indirect use or showing of tobacco or tobacco brands during children and youth television programmes leads to imposition of a fine in the amount of five hundred times the established minimum salary. **[Comment: I assume the advertising restrictions are set out in the separate Advertising Law. This should be referenced here. Note that tobacco advertising is banned under the ECTT.]**
12. Interrupting official communications, new programmes for advertising purposes leads to imposition of a fine in the amount of five hundred times the established minimum salary. **[Comment: I assume the advertising restrictions are set out in the separate Advertising Law. This should be referenced here.]**
13. Failure to announce its name by a radio company for at least three times per day leads to imposition of a fine in the amount of three hundred times the established minimum salary.
14. Failure to broadcast without an interruption of its symbol by a television-radio company in broadcasting its programmes, save when broadcasting advertisements leads to imposition of a fine in the amount of three hundred times the established minimum salary.

15. Broadcasting television-radio programmes of erotic nature and films containing horror and explicit violence, as well as programmes with a potentially negative impact on the health, intellectual and physical development of minors at times outside the period between 24.00 and 6.00, save for subscription broadcasting leads to imposition of a fine in the amount of five hundred times the established minimum salary.
16. Failure to notify the National Commission of satellite broadcasting in the period prescribed by this Law leads to imposition of a fine in the amount of six hundred times the established minimum salary.
17. Implementing subscription broadcasting by a licenced television-radio company without the permission of the National Commission leads to imposition of a fine in the amount of eight hundred times the established minimum salary.
18. Breaching the established procedure for maintenance of the registration log of television-radio programmes leads to imposition of a fine in the amount of five hundred times the established minimum salary.
19. Each special advertisement exceeding five minutes per one air hour leads to imposition of a fine in the amount of five hundred times the established minimum salary.
20. Broadcasting advertisements by television-radio companies of such goods and services, the advertising of which is prohibited by the Law of the Republic of Armenia on Advertising leads to imposition of a fine in the amount of five hundred times the established minimum salary.
21. Repeating a violation by a television-radio company that has been subjected to administrative sanction on the grounds prescribed in paragraphs 3-20 of this article leads to imposition of a fine in the amount of one thousand times the established minimum salary.

Article 61. Termination of the Term of Licence

1. The term of licence is terminated if:
 - 1) fraudulent or distorted information in the papers submitted for obtaining the licence having an essential significance for granting the licence has been detected;
 - 2) the licenced person has been subjected to an administrative sanction three times in a year on the grounds indicated in paragraph 21 of Article 60 of this Law (except for clause three of paragraph two of this article), following which it has committed in the same year an act constituting grounds for applying an administrative sanction prescribed by paragraph one of Article 58 of this Law;
 - 3) the licenced person has been subjected to an administrative sanction in conformity with paragraphs 7 and 8 of Article 60 of this Law upon the grounds prescribed by paragraph 21 of Article 60 of this Law, following which it has committed in the same year an act constituting grounds for applying an administrative sanction prescribed by paragraph 1 of Article 58 of this Law;
 - 4) the technologies of a television-radio company do not comply with the standards, endangering the people's health, there are obstacles for the activities of other television-radio companies, the quality of television-radio programmes is not ensured;
 - 5) a ceding of the licence to other physical or legal persons has taken place **[Comment: text added]** without prior consent;
 - 6) the licenced person has failed for 24 hours to ensure broadcasting of television programmes without any valid reason;

- 7) within six months following the granting of the licence, the licenced person has not broadcast television-radio programmes;
 - 8) there is an application of the licenced person to that effect;
 - 9) the requirements of Article 22 of the Law have been breached; **[Comment: No. this should be the subject of a fine, as with other content breaches. This is disproportionate and in danger of violating freedom of expression. Furthermore, this would not apply to the National TV and Radio Companies. This indent needs to be deleted.]**
 - 10) no airtime has been allocated to the President of the Republic of Armenia or his/her authorized person for making an official communication during martial law or state of emergency;
 - 11) the requirement of paragraph 5 of Article 62 of this Law has been breached; **[Comment: this doesn't make any sense]**
 - 12) the licensed person has been liquidated.
2. The license terms shall be terminated by considering the license invalid.
 3. Licenses shall be terminated as per a court procedure in cases stipulated by 1,2,3,4,5,6,7,10, and **[Comment: 9 and 11 deleted]** of part 1 of this Article, based on the application from NCTR. The application can be submitted no later than within one year from the day of violation and in case of continuing and long-term violations within one year from the day of its disclosure, and in cases defined under para1 of part 1 of this Article, within 15 days from the disclosure of false or distorted information.
 4. In the cases defined under paras 8 and 12 of part one this Article licenses shall be terminated on the decision of the National Commission.
 5. The licenced person is exempt from liability for breaching the technical rules or shortcomings during the broadcast of television-radio programmes or for failure to ensure the broadcasting of programmes if s/he substantiates that they have been caused:
 - 1) by the change of technical rules or standards by the state authorized bodies;
 - 2) due to technical re-equipment, of which the National Commission was notified in writing at least 30 days prior to their implementation and granted its permission;
 - 3) as a result of an accident or disaster.
 6. In cases defined under part 5 of the present Article, the TV and radio companies shall restore broadcasting in reasonable timeframes, maintaining and ensuring license conditions.
 7. After three months from the moment of invalidating an on-air broadcasting licence on the grounds indicated in this Article, the National Commission announces an extraordinary tender for a television-radio company engaged in on-air broadcasting of the relevant transmission and direction via digital broadcasting network and conducts licencing in the manner and terms for the conduct of licencing through a tender prescribed by this Law. Moreover, the licence term of the newly licenced television-radio company is the date indicated in the invalidated licence.

CHAPTER 9.

TRANSITIONAL PROVISIONS

Article 62. Transitional Provisions

1. No tenders for television/radio broadcasting are announced until 20 July 2010.
2. The radio companies, the licence terms of which expire by 20 January 2011, may submit a request to the National Commission for the extension of their licences. The licence term is then extended for the requested period but not later than 20 July 2013. **[Comment: This indent to be deleted. There is no reason whatsoever to look to terminate analogue radio broadcasting. Digital switchover will not affect radio, even though some radio stations may be able to broadcast using DTT. However, radio is – and must be treated – very differently from television. DTT cannot – and is not meant to- replace analogue radio. Currently there are no proven digital radio technologies which can replicate the mobility and ease of transmission of analogue radio. For example, there are no digital radios in cars.]**
3. The terms of analogue licenses of regional TV companies (this shall not include licensed TV companies functioning in Yerevan city) shall be extended until 01 January 2015, with the exception of cases defined under part 4 of the present Article.
4. Towards regional TV companies (does not include licensed TV companies in Yerevan city) licensed as a result of broadcast licensing competition set forth under part 5 of this Article, the provisions set forth by this law for all TV companies licensed in such competition shall apply.
5. On 20 July 2010 the National Commission announces a tender for the licencing of eighteen television broadcasters and grants licences in the manner prescribed by this Law.
6. Within ten days following the summing-up of the results of the tender, the National Commission agrees on the frequencies for broadcasting television programmes during the first five **[Comment: “three” replaced with “five”]** years of the licence with each broadcaster winning the first tender for the licencing of television broadcasters announced in the period mentioned in paragraph 5 **[Comment: “3” replaced with “5”]** of this article. **[Comment: text added]** The Republic of Armenia shall ensure free air frequencies until 01 January 2015 for analogue broadcasting to the TV broadcasters that have won the tender.
7. Within a six-month period following the agreement of the frequencies for television progarmme broadcasting, the licenced television broadcasters are obliged to install the technology and broadcasting networks necessary for broadcasting television programmes on the basis of the technical expert examination of television broadcasting networks made by a public administration body authorized by the Government of the Republic of Armenia.
8. Failure by a licenced television broadcaster to comply with this obligation within the period prescribed by paragraph 5 of this article constitutes grounds for invalidating his licence in the manner prescribed by this Law.
9. The start of the licence term granted to television broadcasters announced as winners of the tender for licences is 20 January 2011.
10. The period between 20 July 2010 and 20 July 2013 is a period of transition from analog into digital broadcasting in the course of which gradual (by distinct marzes of the

Republic of Armenia) transition to digital broadcasting is effected, with the State ensuring the necessary infrastructures.

11. On 20 July 2013 analog television **[Comment: "television" added]** broadcasting is to be terminated in the entire territory of the Republic of Armenia and from that moment on only digital broadcasting will be effected in the territory of the Republic of Armenia.
12. In order to ensure radio digital broadcasting, the procedure and terms for licencing radio broadcasters will be defined by law starting from 20 July 2013, including the thematic direction and quantity of radio companies that are bring licensed in a license competition. Until the tender for digital radio broadcasting licences is conducted and the relevant licences are granted, the existing radio companies continue their activities in conformity with the terms of their licences. **[Comment: It is highly unlikely that digital broadcasting will ever replace analogue radio broadcasting, although it may supplement it. In any event, there should be no consideration of analogue switch-off for radio until and unless every car has a digital radio receiver. So far, in Europe, no car manufacturer is even considering fitting digital radios as standard.]**
13. In order to create a private network of digital broadcasting by legal persons starting from 1 January 2015, the procedure and terms for multiplexer licencing will be established by law.
14. The second clause of the first paragraph of Article 27 of this Law enters into force from the moment of expiry of the term of office of a member of the Public Television and Radio Council established in the manner prescribed by the law.
15. Paragraph 2 of Article 51 of this Law enters into force from 01 January 2015. .

Article 2. Entry into Force of the Law

1. This Law enters into force on the tenth day following its official publication.
2. From the moment of entry into force of this Law, declare the Law of the Republic of Armenia on the Rules of Procedure of the National Television and Radio Commission (LA-293 dated 28 December 2001) invalid.

SUBSTANTIATING MEMO

In conformity with the Order of the RA President dated 6 May 2009 on Approving the List of Actions Ensuring the Implementation of the Republic of Armenia-European Union Action Plan within the European Neighbourhood Policy and the Decision of the RA Government dated 24 July 2008 on Approving the 2008-2012 Action Plan of the Government of the Republic of Armenia, the Concept on the Digital Switchover of Television and Radio Broadcasting was elaborated by the RA Ministry of Economy and approved by the RA Government Protocol Decision No 47 dated 12 November 2009.

Considering the fact that in the RA it is no longer possible to further expand television and radio broadcasting services and raise their quality by means of the existing analog technology and that the development of the sector requires use of new technologies, the Concept on the Digital Switchover of Television and Radio Broadcasting aims to ensure wide access to and availability of diverse television-radio broadcasting, efficient use of frequency domains, combinability of television-radio broadcasting and other high informational technology services, consistency of use of broadcasting platforms and combinability of technologies used in the information sector, which will at the same time contribute to the development of the information market and free competition.

It is envisaged to copy all analog broadcast television-radio programmes into a digital format by 20 July 2013. However, until the complete termination of analog broadcasting, digital broadcasting of television-radio programmes (at least social multiplex) will be ensured in the entire territory of the RA.

The switchover from analog to digital broadcasting creates a need to define new concepts (in particular, multiplex, multiplexer, digital broadcasting network), new relations arising in the course of emergence and functioning of television and radio companies, tender for television-radio broadcasters for broadcasting via digital broadcasting network, the number and content of television-radio programmes (channels) broadcast by television-radio companies in state, regional and capital city multiplex transmissions, as well as the timeframes for the switchover from the analog to digital broadcasting, which is, certainly, subject to legal regulation.

Taking the aforementioned into consideration, there is a need to draft the RA Law on Making Amendments and Supplements to the Law of the Republic of Armenia on Television and Radio.