

➤ **Broadcasting Law - Portugal**

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ACT no. 31-A/98 of JULY 14 Approves the Television Act

CHAPTER I General dispositions

Article 1st Object

1. The object of this law is to framework the access and conditions to the television broadcast.
2. By television is understood the transmission, codified or not, of non permanent pictures and sounds through electromagnetic waves, or any other appropriate vehicle broadcasted through the space or by cable, and able to be received by the public in general, with exclusion of the telecommunication services made available only by individual requested.
3. It is excluded from what is referred in the previous paragraph:
 - a. The occasional transmission of events by means of technical devices installed in the vicinity of the corresponding location of the occurrence aiming at the public concentrated in that place;
 - b. The simple retransmission of third party transmissions.

Article 2nd Scope of application

1. Subject to the dispositions of this Act is the television broadcast transmitted by television operators under the jurisdiction of the Portuguese State.
2. The Television operators who meet the criteria defined in article 2nd of the Directive no. 89/552/EEC of the Council, dated October 3rd, as it was drafted by the Directive no. 97/36/EC of the Parliament and of the Council, dated June 30th, are considered to be under the jurisdiction of the Portuguese State.

Article 3rd Restrictions

1. The television activity can not be performed or financed by political parties or associations, municipal authorities or their associations, unions, employers or professional organizations, direct or indirectly, through entities where they hold some share capital or which they subsidize.
2. The general regulation for defence and promotion of competition, particularly in what refers to forbidden practices, in special the abuse of dominant position and to the concentration of enterprises, is applicable to the television operators.
3. The horizontal concentration operations of television operators subject to the intervention of the Competition Council are communicated by this Council to the High Authority for the Social Communication, which gives a binding preliminary opinion, that must only be of rejection when the free expression and confrontation of different currents of opinion is undoubtedly at stake.
4. The acquisitions by the television operators of any participation in other duly licensed entities or candidates to the television activity which do not represent one operation of concentration subject to preliminary notification under the terms of the competition legislation have to be notified to the High Authority for the Social Communication.
5. The cable distribution of television channels can not depend on any condition of the television operators of participation in the capital of the owners of the networks nor on the participation of these in the capital of the others.
6. No one can perform board functions in more than one television operator.

Article 4th Property transparency

1. The shares, which constitute the capital of the operators organized as share capital companies (SA), must be nominative.
2. The description of the four major shareholders of the television operators share capital and its composition, as well as the information about their participation in other similar entities must be publicized as part of the annual report and accounting and corresponding editorial statute each civil year in one of the largest national circulation periodical publication.

Article 5th Television public service

The State assures the existence and the operation of a television public service, under concession, according to the terms of chapter IV.

Article 6th Areas covered by television

1. The television channels may be, according to their coverage, national, regional or local.
2. National are the channels, which aim at covering the whole country, although in phases, as long as in the date they apply as candidates, guaranties are presented that they are able to fulfil such coverage.
3. The geographical area granted to each channel must be covered with the same contents and recommended signal, unless otherwise authorized, up to the limit of 60 minutes per day, to be granted by joint decision of the members of the Government responsible for the social communication and communications, preceded by the favourable opinion of the High Authority for the Social Communication.
4. The time frame referred to in the previous paragraph may be extended, in accordance with the terms foreseen therein, in exceptional situations duly fundamented.
5. Law will define the specific conditions, which regulate the television activity with regional or local coverage.

Article 7th Typology of channels

1. The television channels may be generic or thematic and with restricted or non-restricted access.
2. Generic is understood the channels which present diversified programme grid with generic contents.
3. Thematic channels are the ones with a model of programme that deals with specialized subjects.
4. Thematic channels of selfpromotion or telesales can not integrate other elements of conventional type programmes such as news services, sports transmissions, movies, series or documentaries.
5. Restrictive access channels are those, which transmit by using a code, and which require a specific retribution in return for being made available. The amount due for the access to the distribution network or for its use is not considered as part of this retribution.
6. Within the context of the present law, selfpromotion means the publicity transmitted by one television operator made to his own products, services, channels or programmes.
7. The classifications to which the present article refer to are the responsibility of the High Authority for the Social Communication and are issued when the licence or authorization are granted.

Article 8th Purpose of the generic channels

1. The purpose of the generic channels is:
 - a. To contribute to the information, formation and entertainment of the public

- b. To promote the right to inform and be informed with rigour and independence, without obstruction or discrimination;
 - c. To favour the habits of good civic relationship appropriate to a democratic State and to contribute for the political, social and cultural pluralism;
 - d. To promote the portuguese language and the values which express the national identity.
2. Besides these, the purposes of generic channels with regional or local coverage are:
- a. To include in their programme grid topics of regional or local nature
 - b. To preserve and promote the values which characterize the regional or local cultures
 - c. To transmit information with particular interest for the audience in that particular area.

Article 9th Technical Regulations

The definition of the technical conditions to carry out the television activity as well as the determination of the amounts to be paid for the licences or authorizations which are necessary and for the authorization of the technical means required for the transmission, are dealt with in a regulation.

Article 10th Autonomous Regions

- 1. The television channels of national coverage will be committed to cover the autonomous regions.
- 2. The television public service which is ensured by the State includes regional centers in the Autonomous Regions of Azores and Madeira, with a local Board and opinion council, capacity for regional production, mainly in the information area, autonomy in the programme grid, subject to the control of reserved broadcast time, reply and political contest according to the regional regulation.

CHAPTER II Access to the activity

Article 11th Operator requisites (Pre requisites of access)

- 1. Television operators must have this activity as their main object and they must be constituted as a society.
- 2. Television operators who own channels of national coverage have to be organized as share capital companies (SA) or cooperatives with a minimum capital of 250.000 thousand Escudos or 1.000.000 thousand Escudos, depending whether they are thematic or generic channels.
- 3. Exception to the aforesaid are non profitable channels meant to scientific and cultural information. Associations or foundations can hold these.
- 4. The share capital of the television operators must be fully paid up within 8 days after being notified about the decisions referred in the following articles.

Article 12th Forms of access

- 1. The access to the television activity is subject to a licencing process, throughout a public tender, or an authorization, depending whether the transmissions are using or not terrestrial spectrum
- 2. Without prejudice to the dispositions in the previous number, the establishment, management and exploration of the network to carry and broadcast the television signal have to comply with the dispositions of Law no. 381-A/97 of December 30th.
- 3. The licences or authorizations are individualized in accordance to the number of channels to be used by each applying candidate.
- 4. Exception to the aforesaid in no. 1 is the television public service, in the terms stated in Chapter IV.

Article 13th Licencing and authorization of channels

It is up to the High Authority for the Social Communication to grant licences and authorizations for the television activity.

Article 14th Application Request

1. The request for an application for licence or authorizations are instructed by Alta Autoridade para a Comunicação Social which will obtain for this purpose the opinion of the Instituto das Comunicações de Portugal in what concerns the technical conditions of the application.
2. After concluding the instruction, the Instituto das Comunicações de Portugal will submit the files to the by Alta Autoridade para a Comunicação Social for approval and attribution of the licences or authorizations.

Article 15th Grant of licences or authorizations

1. The attribution of licences or authorizations is conditioned by the verification of the technical quality and of the economic feasibility of the project.
2. Should there be a selection among the projects applying for licences and presented in the same tender, the following criteria will be considered, in this order, for the purpose of ranking the applications:
 - a. The contents of the programmes grid, such as the number of hours dedicated to information
 - b. The duration and timetable of the emission ;
 - c. The coverage area
 - d. The number of hours intended for emission of recent pieces of own production or independent works originally created in portuguese language;
 - e. The inclusion of programmes accessible to the deaf, for instance by using translation in portuguese sign language.
3. Neither the granting of new licences or authorizations, nor the modification of the existing legislation represent fundament for the television operators to claim alteration of the conditions of this activity in what concerns economic or financial balance and no rights to indemnities are due.
4. In what refers to the concession of licences for digital land transmissions with national coverage, transmission capacity will be reserved for the channels in the hands of operators already licenced at the date the present Acts set into force.
5. For the concession of codified channels it will be given special attention to the costs of access as well as to the conditions and guarantees of rendering the service to the consumers.

Article 16th Observance of the approved project

1. The television operator is obliged to comply with the conditions and terms of the licensed or authorized project. Any modification, which will only be possible two years after the date the licence is granted, is subject to the approval by the High Authority for the Social Communication.
2. Should the High Authority for the Social Communication give no opinion during the period of 90 days, the modification will be tacitly approved.
3. For evaluation of the request referred in no. 1 it will be taken in consideration among other aspects, the evolution of the television market and the implications to the potential audience of the channel.

Article 17th Validity of the licences and authorizations

The licences and authorizations for the national television activity are granted for the period of 15 years, renewable for identical periods of time.

Article 18th Extinction and suspension of licences and authorizations

1. Licences and authorizations extinguish due to their time frame being reached or by revocation. They can also be suspended.
2. The revocation and suspension of the licences and authorizations are the responsibility of the entity which granted them and will occur in the terms of article 65th.

Article 19th Regulations

1. The Government will approve by law the normative development applicable to the licencing and authorization of television channels.
2. In the law foreseen in no. 1 the following items must be mentioned, among others:
 - a. The necessary documentation and the dead line for presentation of applications
 - b. The amount to be deposited
 - c. The phases of coverage and specification of the guarantees for its effectuation as well as the time frame for execution;
 - d. The time limit to initiate the emissions;
 - e. The dead lines for instruction of files, their remittance to the High Authority for the Social Communication and reception of the corresponding deliberation.

CHAPTER III Programme grid and information

SECTION I Liberty of programming and information

Article 20th Operators autonomy

1. The liberty of expression through television includes the fundamental right of the citizens to one information free and pluralist, essential to the democracy, peace and economic and social progress of the country.
2. With exception of the cases foreseen in the present law, the practice of television activity is based in the liberty to programming, and neither the Public Administration nor any sovereignty body, with the exception of the court, can interfere, withhold, condition or impose the broadcasting of any programmes whatsoever.

Article 21st Limits to the liberty of programming

1. It is not permitted to broadcast anything that violates the rights, fundamental liberties and guaranties, is against the dignity of the human person or incites to the practice of crimes.
2. The transmissions which can somehow influence negatively the formation of children or adolescents personality or which can affect other more vulnerable audiences, such as the exhibition of particularly violent or shocking scenes, must be preceded by an express warning and hold along its transmission an appropriate identification sign. They may only appear after 10,00 p.m.
3. The scenes referred in the previous number can be shown, however, in any news services provided they are of journalistic importance and presented with respect for the ethical rules of the profession and preceded of a warning about their nature.
4. The transmission of pieces which have been classified for a certain age level, and for the purpose of their distribution in movie or video, must be preceded by a reference to the classification given by the relevant authority and they will have to comply with other requirements as referred in no. 2 whenever this classification does not recommend that they are watched by people with less than 16 years.
5. The concept of transmission, in the context of the present law, includes any part of programme grid, including publicity or extracts envisaging the promotion of programmes.

Article 22nd Announcement of programmes

The announcement of the programmes planned for television channels has to attach a warning about the classification referred in nrs. 2 and 4 of article 21st.

Article 23rd Compulsory information

1. The transmission of messages by request of the President of the Republic, President of the Parliament and Prime Minister are to be given the due relevancy and top priority.
2. In case of declaration of state of war or state of emergency, the obligation referred in the previous number belongs also to the private television operators.

Article 24th Political propaganda

The cession of periods of time for political propaganda is denied to the television operators, without prejudice to the dispositions in chapter V.

Article 25th Acquisition of exclusive rights

1. The acquisition of exclusive rights by any television operator to transmit events of political nature is null and void.
2. In case a television operator, who is licenced to broadcast with conditioned access or without national coverage, acquires exclusive rights to the unabridged or partial transmission, simultaneous or non simultaneous, of other events with general interest to the public, this operator is obliged to facilitate in non discriminatory terms and in accordance with the normal market conditions, the access of other interested terrestrial broadcast operators with national coverage and non conditioned access.
3. In case an agreement between the operator and the other interested parts is not reached, any of the parts may ask the High Authority for the Social Communication to intervene as referee, his decision being mandatory.
4. The events to which the previous number refer to, as well as the conditions for the transmission are listed in Diário da República (Government Official Bulletin) - II Series until October 31st each year, by the member of the government responsible for the sector, after hearing the High Authority for the Social Communication, without prejudice of the publication of exceptional addends determined by the subsequent and unpredictable occurrence of facts of the same nature.
5. The owner of exclusive rights for the transmission of any events are compelled to cede to the operators who carry out international transmissions, the necessary signal, should it be requested, simultaneous or non simultaneous, to restricted used by these, in conditions to be defined in a regulatory diploma, which will establish the criteria for compensations. In case an agreement between the interested parts is not reached, the High Authority for the Social Communication will decide, his decision being mandatory.
6. It is denied the use of exclusive rights acquired after July 30, 1997 in terms that will impede a substantial part of the public of another member State of the European Community to watch in the non conditioned access television events as referred in no. 8 and in the conditions therein.
7. The non observance of the dispositions in no. 2 or 6 will not be liable to the corresponding penalties whenever the owner of the exclusive rights proves the impossibility to fulfil the referred obligations.
8. To the effect of the dispositions in no. 6, the final list of the measures taken by the member States the way it is proclaimed in Jornal Oficial das Comunidades Europeias (Official Bulletin of the European Communities) will be published in the Diário da República (Government

Official Bulletin) - II Series by initiative of the member of the Government responsible for the area of social communication.

Article 26th Right to informative extracts

1. The persons responsible for performances or other public events as well the owners of exclusive rights to these events can not oppose to the transmission of short extracts of the same, of informative nature, by any other television operator, national or otherwise.
2. To use the right to information foreseen in the previous number, the operators may use the signal transmitted by the owners of the exclusive rights, bearing the costs that may eventually result from it being made available. As an alternative they may prefer to use their own adequate technical means, in the legal terms which ensure the access of communication representatives to public places.
3. The extracts referred in no. 1 have to:
 - a. Restrain their duration to the strictly indispensable for the perception of the essential contents of the event in question, provided it does not exceed ninety seconds, unless a larger period has been agreed between the involved operators, considering the nature of the events;
 - b. Be transmitted exclusively in regular programmes of general information nature and after the event has finished, unless otherwise agreed between the parts;
 - c. Identify the source of the scenes, in case they are broadcasted making use of the signal transmitted by the owner of the exclusive rights.

Section II Obligations of the operators

Article 27th Director

1. Each television channel must have a director responsible for the orientation and supervision of the contents of the emissions.
2. Each television channel, which included informative programmes, must appoint one person responsible for the information.

Article 28th Editorial Statutes

1. Each television channel must adopt an editorial statutes to be published in accordance with the terms on no. 2 of article 4th, which clearly defines its orientation and objectives and which includes its commitment to respect the rights of spectators, as well as the deontological principles and professional ethics of the journalists.
2. The editorial statutes are drafted by the director referred in number 1 of the previous article, after consulting the editorial council and subject to ratification by the proprietor. This document must be sent to the High Authority for the Social Communication within the 60 days subsequent to the beginning of the emissions.
3. The alterations introduced in the editorial statutes follow the conditions indicated in the previous number.
4. In the case of television channels, which have already initiated their emissions, the period referred in no. 2 is counted, as from the date the present law is set into force.

Article 29th News services

The entities which carry out the television activity with generic contents must give during the emissions, regular news services, assured by journalists.

Article 30th Editorial council and rights of the journalists to participate

In channels with more than 5 journalists there must be an editorial council to be elected in the way and with the competencies defined by law.

Article 31st Number of emission hours

1. Television channels with national coverage must transmit programmes during at least 6 hours a day.
2. To the effect of the present article, are not considered television programmes neither the emissions of publicity and telesales, without prejudice of the dispositions in no. 4 of article 7th, nor those which reproduce fixed images or merely repetitive.

Article 32nd Time reserved for publicity

1. In the channels with national coverage and non conditioned access the time reserved to publicity messages can not exceed 15% of the daily emission unless other forms of publicity or telesales messages are included. In this case this limit can be increased to 20%.
2. In the channels with national coverage and conditioned access, the time reserved to publicity messages and telesales can not exceed 10% of the daily emission.
3. In the thematic channels of telesales or self-promotion, the time reserved to publicity messages can not exceed 10% of the daily emission.
4. The emission time destined to publicity and telesales messages in each period comprised between two units of one hour can not exceed 10% or 20%, respectively in conditioned access channels and non-conditioned access channels.
5. The informative messages transmitted by the television operators related to their own programmes and to products originating from themselves and the telesales blocks referred in the next article are excluded from the time frames given in the present article.

Article 33rd Blocks of telesales

1. The channels with national coverage and non conditioned access can transmit up to eight blocks of telesales per day, provided the total duration does not exceed 3 hours, without prejudice of the dispositions in the previous article.
2. The blocks of telesales must have duration of at least 15 minutes without interruption.
3. In the channels of self-promotion it is forbidden the transmission of telesales blocks.

Article 34th Programmes identification

Programmes must be identified and contain the relevant elements of the artistic and technical cast.

Article 35th Record of the emissions

Independently from what is indicated in article 71st, the emissions must be recorded and these records kept for at least 90 days, should a longer period of time not be determined by law or court decision.

Section III Broadcasting of audio-visual pieces

Article 36th Protection of the portuguese language

1. The emissions must be spoken or have legends in portuguese, without prejudice of the eventual use of any other language in the case of programmes which fulfil occasional needs of informative nature or that are meant to teach foreign languages.
2. The channels with national coverage must dedicate at least 50% of their emission time, excluding the time reserved for publicity, telesales and teletext, to the broadcasting of programmes originally in portuguese language.

3. Without prejudice of the dispositions in the previous number, television operators must dedicate at least 15% of their emissions time to the transmission of creative programmes produced originally in portuguese language.
4. The percentages foreseen in no. 2 and 3 may be fulfilled up to 25% with programmes originating from portuguese speaking countries, besides Portugal.
5. Television operators must ensure that the compliance with the percentages referred in nrs. 2 and 3 does not occur in periods with a low audience.

Article 37th European production

1. Television operators who explore channels with national coverage must incorporate in their emissions a majority percentage of works with european origin, after deducting the emission time dedicated to news, sport events, contest, publicity, telesales and teletext.
2. The percentage referred in the previous number must be progressively achieved having in mind the criteria referred in no. 1 and 3 of article 4th of the Directive no. 89/552/EEC of the Council, dated October 3rd, altered by the Directive no. 97/36/EC of the Parliament and of the Council, dated June 30th.
3. The qualification foreseen in no. 1 is calculated according to the instruments of international right to which the Portuguese State is subject.

Article 38th Independent production

1. Television operators who explore channels with national coverage must make sure that at least 10% of their programme grid, excluding the time dedicated to news, sport events, contest, publicity, telesales and teletext are filled with the transmission of european works, originating from producers independent from the television organizations, produced within the last five years.

Article 39th Implementation criteria

1. The accomplishment of the percentages referred in articles 36th and 38th is annually evaluated, having in mind the specific nature of the thematic channels, the responsibilities of the television operator in what refers to information, education, culture and entertainment or the results presented of the previous year activity.
2. The fulfilment of the obligation foreseen in no. 3 of article 36th will be due after the third year subsequent to the application of the financial support referred in the following article.

Article 40th Support to production

The State must ensure the existence of measures to incentive fiction audio-visual productions, documentaries and animation originally created in portuguese, envisaging the creation of conditions to satisfy the dispositions in articles 36th and 38th, by adopting appropriate juridic, financial, fiscal or credit mechanisms.

Article 41st Duty to Information

Television operators have the obligation to present every 1st quarter of the year to the "Instituto da Comunicação Social" (Institute of the Social Communication), in accordance with his own model of presentation, all the elements necessary to verify the accomplishment of the obligations foreseen in articles 36th and 38th referring to the previous year.

CHAPTER IV Television public service

Article 42nd Scope of concession

1. The concession of the television public service is made through access channels non conditioned and includes emissions with national and international coverage destined to the

Autonomous Regions of Azores and Madeira, as well as the regionalization of the information, by the extension of the national emissions through the activity of the regional delegations.

2. The contract of concession between the State and the concessionaire establishes the obligations of the programme grid, specific services to be rendered, original production, coverage of the national territory, innovation and technological development, cooperation with portuguese speaking countries and the obligations concerning international transmissions, as well as the conditions to verify its fulfilment and foreseen sanctions in case of non fulfilment.

3. The contract referred in the previous number requires an opinion of the High Authority for the Social Communication and of the Opinion Council foreseen in article 48th within the context of their attributions.

Article 43rd Public service concessionaire

1. The television public service is performed by an operator with capital exclusively or in majority public, whose statutes are approved by law.

2. By this Act the concession of the television public service is granted to Radio Televisão Portuguesa, S.A. for the period of 15 years, renewable for identical periods of time.

3. The concession rights are not transmissible

4. The transmission of publicity in the public service channels is object of the limitations specified in the corresponding concession contract.

Article 44th General programming obligations

The concessionaire must ensure a programme grid with quality and of reference, which satisfies the cultural, educational, formative, informative, and entertainment needs of the various specific audiences, being committed, among others, to the following obligations:

a. To ensure the pluralism, the rigour and objectivity of information, as well as its independence from the Government, Public Administration and all the other public powers;

b. To transmit an innovative and diversified plan of programmes which stimulates the formation and the cultural valorization having in mind particularly the young public;

c. To give preference to the production of original works in portuguese language, namely in the domains of fiction, documentary and animation;

d. To transmit programmes which express the cultural and regional diversity of the country and which considers the specific interests of the minorities.

e. To guaranty the coverage of the main national and international events;

f. To transmit regularly programs aiming specially at the portuguese residents out of Portugal and to people original from countries where portuguese is the official language, including programmes obtained from private operators.

Article 45th Specific programming obligations

The specific programming obligations of the television public service concessionaire are, among others:

1. To transmit the reserved broadcast time of the political parties, Government, union and professional organizations, representative of the economic activities and associations in defence of the environment and of the consumer according to the terms of article 49th and following of the present law;

2. To allow the necessary space of time in the emission for the right of political replica, in accordance with the terms of article 58th ;

3. To ensure some time in the emission to be used by religious confessions in their own activities, considering their representativity;

4. To transmit messages referred in article 23rd;
5. To ensure progressively that the emissions can be followed by deaf people or with audition problems, by using legends and sign language and also, for the same purpose, transmitting specific programmes aiming at this segment of the public;
6. To allow to the Public Administration emission time for the transmission of information with general interest to the public, such as public health and security.

Article 46th Other obligations of the concessionaire

The following obligations are also to be fulfilled by the public television concessionaire:

- a. To enhance the co-operation with the portuguese speaking countries, specially in what concerns information and production of programs, formation and technical development;
- b. To maintain and update the audio-visual archives and facilitate its access in effective conditions and accessible costs specially to the private television operators, cinema, audio-visual and multimedia producers and to the persons interested who are developing scientific research investigation, in accordance to the terms to be legislated by the responsible person in the Government for the social communication area.
- c. To promote the efficiency and quality of the services by using means which are updated with technological innovation and development.

Article 47th Finance

1. The finance of the television public service is guaranteed by an amount to be included every year in the National Budget.
2. The assessment and audit of the correspondence between the public service operation and the payment of the corresponding cost are done every year by an external audit, to be carried out by a specialised entity to be appointed by the High Authority for the Social Communication.
3. The profit which may eventually occur in result of the activity of the public television concessionaire in the exploration or participation in other channels, after observing the legal rules applicable to the distribution of profits and reserves of the societies, revert to the finance of public service initiatives, such as technological reconversion.

Article 48th Opinion Council

1. The Opinion Council of the television public service consists in majority of members appointed by associations and other entities representative of the different sectors of the public opinion, in accordance with the terms foreseen in the statutes of the public service concessionaire.
2. These are the responsibilities of the Opinion Council:
 - a. To give provisional obligatory opinion, within 10 days, about the composition of the board of the concessionaire, to elect or remove in the corresponding general assembly.
 - b. To give opinion about the concession contract and general plans and bases of the activity of the society and its programmes grid.
 - c. To give opinion about any other questions that might be submitted to their appreciation, in accordance with the statutes.

CHAPTER V Right to reserved broadcast time and to political contest

SECTION I Reserved broadcast time

Article 49th Access to reserved broadcast time

1. Political parties, the Government, unions, professional organizations representative of the economic activities and the associations for the defence of the environment and of the consumer have the right to reserved broadcast time in the public television service.
2. The above mentioned entities are entitled, without any costs, to the following reserved broadcast time per year:
 - a. Ten minutes for each party represented in the Parliament, increased by thirty seconds per each elected member;
 - b. Five minutes for each party not represented in the Parliament which has participated in the most recent legislative elections, increased by thirty seconds per each 15.000 votes obtained in these elections;
 - c. Sixty minutes for the Government and sixty minutes to be shared among the parties represented in the Parliament, which is not part of the Government, in proportion to their representativity.
 - d. Ninety minutes for the union organizations, ninety minutes for professional organizations representative of the economic activities and thirty minutes for the associations for the defence of the environment and of the consumer, to be shared in proportion to their representativity.
 - e. Fifteen minutes for other entities who are entitled to reserved broadcast time conferred by law.
3. Reserved broadcast time means the space programmed by the holder of this right, for which he is responsible. This fact must be clearly referred before and after the programme.
4. Each holder can not use his right more than once every 15 days nor use it in emissions more than ten minutes or less than three minutes long, unless his reserved broadcast time, globally, is inferior.
5. The persons responsible for the programme grid must organize, with the collaboration of the persons entitled to reserved broadcast time, general timetable to use this right.
6. If it is completely impossible to reach an agreement how to schedule the plans referred in the previous article, it is up to the High Authority for the Social Communication to decide.

Article 50th Limitation to the right to reserved broadcast time

1. The use of reserved broadcast time is not allowed on Saturdays, Sundays and national holidays and it should be suspended one month before the date established for the beginning of the campaign for elections or referendum, in accordance with the existing legislation.
2. The reserved broadcast time is not transmissible.

Article 51st Transmission and reserve of broadcast time

1. The reserved broadcast time is transmitted in the highest audience channel with national coverage between 7,00 p.m. and 10,00 p.m.
2. The persons entitled to reserved broadcast time must ask for the reserve of the time they are entitled to until 15 days prior to the transmission. The corresponding recording must be made or the pre-recorded pieces must be handed over until seventy-two hours before the transmission of the programme.
3. In the case of programmes ready to be transmitted, they must be handed over until 48 hours before the transmission.

4. The indispensable technical means to produce the corresponding programmes in conditions of absolute equality are made available to the holders of this right.

Article 52nd Reserved broadcast time in elections period

During the elections period, the use of reserved broadcast time is regulated by the Electoral Law including all generic channels with non conditioned access.

SECTION II Right to reply and to refute

Article 53rd Conditions of the right to reply and refute

1. Every singular person or society, organization, service or public entity which in a television transmission, has been object of references, direct or indirectly, which might affect his reputation and good name, has the right to reply in television.
2. The entities referred in the previous article have the right to refute in television and put the situation straight whenever untrue or erroneous references, which concern them, have been made.
3. The right to reply and to refute is hindered if the television operator, with the agreement of the envisaged person, corrects or straightens out the text or image in question or facilitates another means to clarify effectively its position.
4. The right to reply and to refute does not interfere with criminal proceedings due to the transmission, including the entitlement to indemnity for caused damage.

Article 54th Right to watch the broadcasted piece

1. The offended person or his legal representative under the terms of number 1 of the previous article, may request to watch the broadcasted piece, in order to be able to make use of his right. This must be authorized within 24 hours.
2. The time to reply and refute will be put on hold the moment the request to watch the broadcasted piece is made, until 24 hours after the requested is fulfilled by the broadcasting entity.
3. The right to watch the broadcasted piece involves as well the necessity to obtain a recording of the emission in question, on payment of the used support costs.

Article 55th Use of the right to reply and refute

1. The right to reply and refute is to be used by the envisaged person, by his legal representative or by his heirs within 20 days after the transmission
2. The time referred in the previous number will be suspended whenever, by major force, the envisaged persons are incapable of using their right.
3. The text with the reply or refutation must be handed over to the television operator, signed by the author and duly identified, in such form that its reception may be proved. It must refer clearly the right to reply and refute or the relevant legal dispositions.
4. The direct relation with the references they stem from conditions the contents of the reply or refutation and they can not exceed the number of words in the text, which caused them.
5. The reply or refutation can not contain disrespectful expressions out of proportion, which might involve criminal or civil responsibility. Should it occur, the author of the reply and refutation is the only one who can be prosecuted for these actions.

Article 56th Decision about the transmission of the reply or refutation

1. The television operator can refuse the transmission of the reply or refutation when they are intemperate, have origin in illegitimate persons, have no fundament or are against the disposition in no. 4 and 5 of the previous article. He has to inform in writing the interested

part about his refuse and on what grounds, within the next 24 hours after reception of the reply or refutation.

2. In case the reply or refutation violates the dispositions in nrs. 4 or 5 of the previous article the television operator will invite the interested part, within the period foreseen in the previous number, to eliminate in the next forty-eight hours the passages or expressions in question. If he can not cope with this, the television operator will be entitled to refuse the transmission of the whole text.

3. In case the right to reply or refute is not satisfied or has been rejected with no fundament, the interested part can appeal to the court in the jurisdiction of his residence in the next 10 days after the refusal or to the High Authority for the Social Communication. after the legal time he is entitled to use this right has expired, in accordance with the specific legislation which applies.

4. After requesting the judicial notification of the operator which did not comply with the right to reply or refute, he is immediately notified by mail and has to contest in two working days. The decision will be pronounced in an identical period of time and in case of appeal it has a simply devolution effect.

5. Only documentary proof is acceptable. All documents must be attached to the original request and to the reply.

6. In case of precedence of the request, the operator replies or refutes within the period fixed in no. 1 of the next article. Mention must be made to the fact that it is made by decision of the court or of the High Authority for the Social Communication.

Article 57th Transmission of the reply or refutation

1. The television operator, without prejudice of the disposition in no. 1 and 2 of the previous article, makes the transmission of the reply or refutation within 24 hours after the reception of the text.

2. The reply or refutation is transmitted at no cost in the same programme or, in case this is not possible, in equivalent emission hour.

3. The reply or refutation must be transmitted as many times as the reference transmissions which caused them.

4. The reply or refutation will be read by a presenter of the broadcasting station in such form that it can be easily understood. It may include audio-visual components in case identical effects have been used in the reference transmissions that caused them.

5. The transmission of the reply or refutation can not be preceded nor followed by any commentaries, except those which are necessary to point out any inaccuracy or error which may give origin to a new reply or refutation, in accordance with the terms of no. 1 and 2 of article 53rd.

SECTION III Right to contest

Article 58th Right to political contest by the parties in the opposition

1. Parties represented in the Parliament which are not in the Government have the right to contest in the television public service, political declarations which concern them directly made in the same television operator by the Government.

2. The duration and the emphasis given to the use of this right will be identical to those given to the declarations which gave origin to it.

3. When more than one party requests, through its representative, the use of this right, the time is shared in equal parts among the applicants, never inferior to one minute for each

4. The proceedings foreseen in the present Act, with the necessary adaptations are applicable to the right to political contest

5. To the effect of the present article are considered only political declarations, of general or sector nature, made by the Government or on its behalf, which can be identified as such. Declarations by members of the Government about subjects concerning the management of the corresponding departments are not relevant.

CHAPTER VI Rules for sanctions

SECTION I Responsibility aspects

Article 59th Civil responsibility

1. The following general principles are observed for the determination of the forms to produce civil responsibility stemming from facts committed through television.
2. Television operator answer in solidarity with the persons responsible for the transmission of programmes pre-recorded, except those which are transmitted in reserved broadcast time

Article 60th Criminal responsibility

1. Actions or behaviours, which affect interests protected by law, when they take place through television broadcast, they are punished in accordance with the terms of the law and the rules in the present Act.
2. The directors referred in article 27 are criminally liable when, having the possibility to oppose to the crimes referred in no. 1 by means of appropriate actions to avoid them, they do not. In this case the penalties corresponding to the legal nature are applicable, reduced in one third of their limits.
3. In the case of transmissions not authorized, the liability falls on who determined its transmission.
4. The engineers who work for the television operator are not responsible for the emissions for which they contribute professionally, if their conscience of the criminal act is not demanded.

Article 61st Illegal television activity

1. Anyone who performs the television activity without legal authorization is punished with prison until 3 years or with a fine up to 320 days.
2. The assets used to perform legally the television activity are declared lost in favour of the State, without prejudice of the rights of third parties in good faith.

Article 62nd Qualified disobedience

The persons responsible for the programmes grid, or anyone who replaces them, incur the crime of qualified disobedience whenever:

- a. They do not obey the court decision, which commands the transmission of reply or refutation messages, according to the terms of no. 6 of article 56.
- b. They refuse to broadcast court decisions, according to the terms of article 70.
- c. They do not fulfil the deliberations of the High Authority for the Social Communication concerning the right to reserved broadcast time, to reply and to refute and to political contest.

Article 63rd Crime against the liberty of programming and information

1. Anyone who prevents or disturbs television transmissions or detains or damages assets necessary to the performance of the television activity, excluding the cases foreseen in the law and with the intention to obstruct the liberty of programming and information, is punished with prison until 2 years or with a fine up to 240 days, should there not be a more severe sentence in accordance with the terms of the penal law.

2. The application of the sanction foreseen in the previous number does not interfere with the civil responsibility liability or by damage caused to the broadcasting entity.
3. If the transgressor is an agent or is employed by the State or by a State owned organization and he is responsible for actions as described in no. 1 he is punished with prison until 3 years and a fine up to 320 days, should there not be a more severe sentence in accordance with the terms of the penal law.

Article 64th Offences

1. It is considered an offence punishable with an administrative fine the following non-observances:
 - a. Between 750.000\$00 and 5.000.000\$00 the non-observance of the dispositions in no. 5 of article 3, in articles 4th, 22nd, 28th, 34th, 41st and 73rd as well as the non compliance with the first part of no. 1 of article 50th, the omission of the reference mentioned in no. 6 of article 56th and the refusal with no fundament to broadcast the reply or refutation as indicated in no. 1 of article 57th.
 - b. Between 2.000.000\$00 and 20.000.000\$00 the non observance of the dispositions in no. 2 to 4 of article 21st, 5 of article 25th and 3 of article 26th, in articles 27th, 29th, 31st to 33rd and 35th, in no. 1 to 3 of article 36th, in articles 37th and 38th, in no. 4 of article 49th, 1 of article 51st, 1 of article 56th, 2 to 5 of article 57th, 2 of article 58th and 1 of article 71st, as well as the violations to the dispositions in the second part of no. 1 of article 50th and of the times fixed in no. 1 of article 54th, 6 of article 56th and 1 of article 57th.
 - c. Between 7.500.000\$00 and 50.000.000\$00 the non observance of the dispositions in no. 1, 3 and 4 of article 3rd, in articles 11th and 15th, in no. 1 of articles 16th and 21st, in article 24th, in no. 2 and 6 of article 25th, 1 of article 26th and 2 of article 50th, in article 52nd, in no. 2 of article 73rd, in article 75th, the violation by any operator of the dispositions in no. 2 of article 23rd and of the right foreseen in no. 1 of article 54th, as well as the exploration of television channels by an entity, that is not the holder of the authorisation.
2. The person who will be held responsible for the non-observance listed above is the television operator.
3. Negligence is punishable.

Article 65th Accessory sanctions

1. In case of repeated disrespect of the conditions and terms of the project and the exploration of the television channels by an entity, that is not the holder of the authorisation, as well as the non-observance of the minimum limit of broadcast hours and the coverage obligations, there will be reasons, according to the gravity of the illegality committed, to apply accessory sanctions of suspension for a period not exceeding two months or of revocation of the corresponding permits.
2. The non-observance of the dispositions in no. 1 of article 21st, punished according to clause C of no. 1 of the previous article, may also give origin to the accessory sanction of suspension of the transmission channel where the illegality was committed for a period not exceeding 2 months or in case of serious and repeated violation, the revocation of the corresponding licence or authorisation, except when it concerns publicity transmissions. In this case, accessory sanctions and preventive measures according to the Publicity Code will apply.
3. The non-observance of the regulations in no. 1 and 2 of article 21st and 2 of article 50th, foreseen in clauses b) and c) of no. 1 of the previous article, when it occurs during the reserved broadcast time is punished, according to the gravity of the illegality committed, with the accessory sanction of suspension of the same right for periods between 3 and 12 months.

In case of repetition of the illegality, the minimum suspension is 6 months, without prejudice of other sanctions foreseen in the law.

4. The rules in no. 2 are also applicable to the simple cable distribution of third parties transmissions, in the terms established by the European Council Directive no. 89/552 of 3rd October.

5. The appeal from execution of accessory sanctions foreseen in the previous numbers has a suspension effect until the final decision is considered applicable.

Article 66th Control and competencies in matters of offences

1. It is the duty of Instituto de Comunicação Social to control of the observance of the terms of the present law. In what concerns publicity the Instituto do Consumidor is also responsible, without prejudice of the competencies inherent to any other entity with legal power for this purpose.

2. It is the duty of the President of Instituto de Comunicação Social to set the fines and accessory sanctions foreseen in the present law, with exception to those that involve violation of:

a. Articles 11th, 15th, 21st, 22nd and 49th to 58th. Here, the High Authority for the Social Communication is responsible; and

b. Article 21st when the violation is committed through publicity transmissions, and article 32nd and 33rd. Here, the Committee in charge of applying the fines foreseen in the Publicity Code is responsible.

3. The entity in charge of applying the corresponding fines is responsible for the implementation of the offences, except those that involve violation of articles 21st, when committed through publicity transmissions, 32nd and 33rd, for which Instituto do Consumidor is responsible.

4. 60% of the income of the fines reverts to the State, 40% to Instituto de Comunicação Social, when it is competent for the application of the fines. When the violation is made through publicity transmissions, the State will get 60% of the income, 20% for the entity in charge of the control and 20% for the entity responsible for the control of the offences that concern the violation of articles 21st, when the violation is made through publicity transmissions, 32nd and 33rd.

SECTION II Special dispositions of the process

Article 67th Form of the process

The Código de Processo Penal and complementary legislation regulate the proceeding in case of criminal infractions committed through television with the specialities stemming from the present law.

Article 68th Territorial competency

The court of the jurisdiction where the operator has its headquarters or permanent representation is competent to deal with the crimes foreseen in the present law.

The crimes against the good name and reputation, the preservation of private life or other personal values are an exception to the rules in the previous article. The judgement of these crimes is a competence of the court of the District where the offended part is resident.

Article 69th Proof framework

To make proof of the conditions required to the access to the rights of reply or refutation, without prejudice of other means foreseen in the law, the interested party may request, on the terms of article 528th of Código de Processo Civil that the broadcast entity is notified to

present, within the time frame allowed for refutation, the tapes where the programme in question is recorded. Documentary proof, besides the referred in the previous number, will only be accepted when submitted with the original request or with the refutation.

Article 70th Broadcast of the decisions

By request of the Public Ministry or of the offended party, and subject to decision of the court, the sentence for crimes committed through television will be transmitted by the broadcast entity after the final decision is considered applicable.

CHAPTER VII Preservation of the television assets

Article 71st Legal deposit

1. The recording of transmissions considered to have special public interest, according to their historical or cultural relevancy, will be subject to a legal deposit for long term preservation and accessibility to researchers.
2. Special law that will safeguard the interests of the authors, producers and television operators will regulate the legal deposit foreseen in the previous number.
3. By means of special protocols to be agreed with each of the operators, the State will also promote the long term preservation and the public accessibility of recordings considered to have special public interest and which are prior to the law that regulates the legal deposit.

CHAPTER VIII Final and transitory dispositions

Article 72nd Operators registration

1. The registration of the television operators is organized by Instituto da Comunicação Social and must consist of:
 - a. Statutes
 - b. Composition of the corporate bodies
 - c. List of the share capital holders and value of their shares
 - d. Information of the share capital detained in other communication societies
 - e. Identity of the persons responsible for the program grid
 - f. Editorial statutes
2. For registration purposes television operators have the obligation to send to Instituto da Comunicação Social every first quarter of the year the information referred in the previous number, and also to update whenever there is an alteration, within 30 days after the alteration occurred.
3. Instituto da Comunicação Social is authorized to audit whenever they decide, in order to verify and control the elements submitted by television operators.

Article 73rd Control broadcasting times

To comply with the present law, the persons responsible for the television broadcast stations ensure the account and control of the times granted for reserved broadcast times, reply and political contest, informing the interested parties about the results.

Article 74th Transitory note

Television operators licenced according to Act 58/90 of 7th December are subject to the conditions in no. 1 of article 16th. They are allowed 180 days after the date this Act enters into force to submit to the High Authority for the Social Communication alterations eventually made in the original projects.

Article 75th Revoking note

1. Acts 60/79 of 18th September and 58/90 of 7th September are revoked.
2. Article 26th of Código da Publicidade, approved by law 330/90 of 23rd October, according to the terms drafted in law 6/95 of 17th January is also revoked.

Approved in June 18th, 1998 The president of the Parliament, António de Almeida Santos
Promulgated in July 6th, 1998 To be published The President of the Republic, Jorge Sampaio
Referendum held in July 7th, 1998-07-29 The Prime-Minister, António Manuel de Oliveira
Guterres

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