

➤ **Broadcasting Law - Sweden**

Radio and Television Act of 19 June 1996 *

*** with subsequent amendments by Act 1997:335, Act 1998:311, Act 1998:1713 and Act 1999:1009**

Chapter 1. The Scope of the Act

Section 1

This Act contains provisions concerning the transmission of sound radio and television programmes directed to the public and intended for reception using technical aids.

A transmission is considered to be directed to the public only if it simultaneously and without special request is available to any person whatsoever wishing to receive it.

Section 2

This Act applies to broadcasts of television programmes, where the transmission may be received in any State which is a signatory to the European Economic Area Treaty ("EEA-State") and where the person who conducts the transmission activities:

1. is established in Sweden in accordance with the definition set forth in Article 2.3 of the European Parliament and Council Directive 97/36/EC amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation, or administrative action in Member States concerning the pursuit of television transmission activities;
2. neither fulfils the criteria in subsection 1 nor is established in any other EEA-State, but utilises a frequency which has been allocated in Sweden;
3. neither fulfils any of the criteria in subsections 1 or 2, nor utilises a frequency which has been allocated by any other EEA-State, but utilises a satellite capacity which belongs to Sweden;
4. neither fulfils any of the criteria under subsections 1, 2 or 3 above, or utilises a satellite capacity which belongs to any other EEA-State, but utilises a satellite uplink situated in Sweden; or
5. neither fulfils any of the criteria in subsections 1, 2, 3, and 4 above, nor utilises a satellite uplink situated in any other EEA-State, but is established in Sweden in accordance with Article 52 et seq. in the Treaty establishing the European Economic Community.

In conjunction with the application of this Act, any person who, after being established in Sweden, establishes himself in any other EEA-State with the object of circumventing Swedish legislation where the activities are primarily directed toward Sweden, shall be deemed to be established in Sweden.

Section 3

This Act applies to cable transmissions only where the transmission reaches more than 100 homes. However, the provisions of Chapter 8, section 1, first paragraph regarding cable operators' obligations shall apply to transmissions that reach more than ten homes. Other than Chapter 1, sections 2 and 3, no provisions of the Freedom of Expression Act apply to cable transmissions which reach 100 homes or less.

Section 4

This Act shall apply to broadcasts of sound radio programmes via satellite that may be received in Sweden, where the person who conducts the broadcasting activities is domiciled in Sweden, or the transmission to the satellite occurs from a transmitter in Sweden.

Section 5

Provisions other than Chapter 3, Section 3, first Paragraph, item 1 relating to conditions concerning prohibitions on the transmission of commercial advertisements and Chapter 7, Section 11 concerning prohibitions on the transmission of commercial advertisements do not apply to sound in television transmissions, if the sound complies completely with an sound radio transmission made in pursuance of a licence under this Act or the Local Radio Act (1993:120) or for which the transmitting person has been registered.

Chapter 2. Licences and registration

Section 1

A licence is required under this Act in order to transmit sound radio or television programmes by means of radio waves at a frequency below 3 gigahertz. A licence is not required for transmissions of selectable teletext which takes place from a radio transmitter used for other transmissions by virtue of a licence under this Act or the Local Radio Act (1993:120). Nor is a licence required for transmissions which are specially adapted to persons with visual or hearing impairments and which take place for at most four hours per twenty-four hours from such a radio transmitter.

Provisions concerning licences to possess or use radio transmitters are laid down by the Radio Communications Act (1993:599).

Section 2

Licences to transmit television programmes and licences to transmit sound radio programmes throughout Sweden or abroad are granted by the Government.

Licences to transmit community radio under Chapter 4 are granted by the Swedish Radio and Television Authority.

Licences to transmit local radio are granted by the Swedish Radio and Television Authority in accordance with the Local Radio Act (1993:120).

The Swedish Radio and Television Authority may furthermore grant licences to transmit television programmes or sound radio programmes which are not community radio or local radio for a limited period of at most two weeks. The Authority may grant such licences subject to conditions in accordance with Chapter 3, Sections 1-3 and also decide that the provisions in Chapters 6 and 7 shall not apply to transmissions made by virtue of such a licence.

If there are special reasons the Government may grant a licence to transmit sound radio programmes in local transmissions which do not satisfy the requirements for community radio or local radio. Licences to conduct local digital sound radio transmissions are also granted by the Government.

Section 3

Anyone conducting a transmission operation for which a licence is not required and anyone who on behalf of another conducts transmission operations by satellite or grants the use of satellite capacity (satellite entrepreneur) must apply to the Swedish Radio and Television Authority for registration.

The notification shall state

1. name, company name or equivalent,
2. deputy for legal persons,
3. postal address and telephone number, and
4. information about the operation conducted.

Section 4

The Swedish Radio and Television Authority shall maintain a register relating to those holding licences as referred to in Section 2 or who have given notice under Section 3. The register may be kept with the aid of computer systems. It may only contain such information as is referred to in Section 3, second paragraph, Chapter 6, Section 9, Chapter 9, Sections 4-7 and Section 22, second paragraph and Section 29 of the Local Radio Act (1993:120).

Chapter 3. Transmissions with Government licences

Section 1

A transmission licence granted by the Government may be combined with conditions whereby the transmission right must be exercised impartially and objectively and also with regard to the requirement that extensive freedom of expression and freedom of information shall predominate in sound radio and television.

Furthermore, a transmission licence may be subject to conditions as stated in Sections 2 and 3 and Section 4, second paragraph.

Section 2

Conditions for transmission licences may also relate to the obligation to

1. transmit programmes throughout Sweden or to a certain part of Sweden,
2. transmit for a certain minimum time,
3. simultaneously transmit a certain minimum number of programmes in each area,
4. provide space for transmissions specially adapted for persons with visual or hearing impairments in accordance with Chapter 2, Section 1, second paragraph,
5. design transmissions in such a way that they become available to persons with functional impairments,
6. provide space for transmissions which takes place by virtue of Government licences,
7. use a certain transmission technique,
8. use certain radio transmitters,
9. take account of the particular impact of sound radio and television as regards programme subjects and design and also the time for transmission of programmes,
10. observe the provision of Chapter 6, Section 3, first paragraph concerning rectification also as regards sound radio,
11. transmit rebuttals,
12. respect the privacy of the individual in the programme operation,
13. transmit a varied programme output,
14. regionally transmit and produce programmes,
15. transmit messages free of charge which are of importance to the public if an authority requests it,
16. provide information to the Broadcasting Commission which is necessary for the Commission's assessment of whether programmes transmitted comply with the conditions imposed in accordance with this Act, and
17. design the transmissions in such a way that they cannot only be received by a limited part of the public in the transmission area.
18. work out an military alert plan for the operation during times of higher military alert and by higher burdens on society at peace, and to deliver the plan to the government or to the authority, which the government may decide.

Section 3

Conditions for broadcasting licences may also relate to a prohibition against broadcasting:

1. advertisements or other announcements; and
2. sponsored programmes other than those referred to in Chapter 7, section 8, second paragraph, section 9, and section 10, second paragraph.

A broadcasting licence may also be issued subject to conditions which preclude discrimination against advertisers.

Section 4

Conditions for broadcasting licences may entail that the ownership structure and influence within an undertaking that obtains the licence may not be altered to more than a limited extent.

Section 5

A licence granted by the Government may include the right only to retransmit programmes which are simultaneously transmitted or have been transmitted shortly before by someone else. It may be stipulated in such a decision that the provisions in Chapters 6 and 7 shall not apply to transmissions taking place by virtue of the licence.

Section 6

A licence granted by the Government includes the right to transmit simultaneously the number of programmes in each area during that part of the day stated in the licence.

Section 7

A licence granted by the Government is valid for a certain period of time.

A licence which has been granted for a period of at least four years is extended on unaltered conditions for a further four years, if the licence holder so desires and the Government does not at least two years prior to the expiry of the licence period give notice that the licence will not be extended or that the Government desires to alter the conditions.

Section 8

Before the Government issues decisions concerning licences, the applicant shall be afforded the opportunity to see and express views on the conditions which the Government intends to attach to the licence. Decisions concerning transmission licences may only contain conditions which the applicant has accepted.

Chapter 4. Community radio

Section 1

Community radio means local sound radio transmissions for association activities.

Section 2

If an association which may obtain a licence in accordance with Section 4 so desires and it is technically feasible, there must be an opportunity to transmit community radio programmes in a municipality. If there are special reasons, more than one community radio programme may be transmitted simultaneously in the municipality.

The transmission area for community radio shall at the most cover a municipality. Outside the major city areas endeavours should be made to ensure that the transmissions may be received in the entire municipality. The Swedish Radio and Television Authority may special cases decide that on larger transmission areas than a municipality.

Section 3

The Swedish Radio and Television Authority decides who may transmit community radio and the period during which the transmission may take place.

Licences to transmit community radio is valid for a certain period of time.

If the licence holders cannot agree on the allocation of transmission periods, the Radio and Television Authority decides the transmission period. This also holds for cases where a licence holder asks for the entire transmission plan to be set by the Authority. Preference shall be given to the licence holder considered to have the greatest interest in transmitting at a certain point in time. Decisions concerning transmission times apply until a new decision is made by the Authority or until a licence holder or a community radio association in writing notifies the Authority that the applicants have agreed on another transmission period.

Section 4

A licence to transmit community radio may only be given to the following legal persons:

1. Local non-profit-making associations which have been formed in order to transmit programmes by community radio as a part of the operations which a national organisation conducts within the transmission area.
2. Parishes within the Church of Sweden.
3. Mandatory associations of students at universities and colleges of higher education.
4. Associations of several licence holders in a transmission area for common community radio purposes (community radio associations).

Section 5

Licences to transmit community radio may only be granted after the association has given notice of who is appointed as publisher in accordance with the Fundamental Law on Freedom of Expression.

Section 6

A licence to transmit community radio may not be granted to anyone who has a licence to transmit local radio or digital sound radio.

A transmission licence does not apply if the licence holder obtains a licence to transmit local radio or digital sound radio. The licence to transmit community radio will then cease as of the date the transmissions may commence by virtue of the licence to transmit local radio or digital sound radio.

Section 7

The Swedish Radio and Television Authority may decide that a transmission time may not be utilized by any one else during a period of at most three months, if a holder of a licence to transmit community radio against whom an order subject to a conditional fine under this Act has been directed declines a transmission time or waives a transmission licence.

A transmitter for community radio may not be used for other transmissions for which a licence is required under this Act.

Chapter 5. Local radio

Section 1

Local radio means local sound radio transmissions requiring a licence other than those which require a licence from the Government or which may only take place during a limited period in accordance with Chapter 2, Section 2, fourth paragraph or which are community radio.

The Local Radio Act (1993:120) contains provisions concerning local radio.

Chapter 6. The content of transmissions etc.

Section 1

Any person transmitting television programmes or who transmits sound radio programmes by virtue of a licence from the Government shall ensure that the programme operation as a whole is characterised by the fundamental democratic constitutional concepts and principles concerning the equality of people and the individual's freedom and integrity.

Section 2

Programmes containing portrayals of violence of a realistic character or with pornographic pictures that are broadcast on television shall either be preceded by a sound warning, or contain a warning which is continuously displayed on screen during the entire broadcasting time. Such programmes may not be broadcast during such times and in such a manner that there is a significant risk that children may see the programmes, unless such broadcast is nevertheless justifiable.

Section 3

Information which appeared in a television programme which is not commercial advertisements and which is transmitted by means other than wire shall be rectified when it is justified.

Information which has appeared in a television programme which is not commercial advertisements and which is transmitted by wire should also be rectified when necessary.

Section 4

Programmes other than commercial advertisements may not favour commercial interests in an improper manner.

Section 5

In transmissions for which conditions concerning impartiality apply, messages may not appear which are transmitted on the assignment of someone else and which have the purpose of gaining support of political or religious views or views on issues concerning the labour market interests.

It is indicated by Chapter 7, Section 1 that such messages shall be regarded as announcements.

Section 6

In community radio, only programmes which have been produced specially for its own operation may be transmitted. However, for at most ten hours a month a licence holder may transmit programmes which have not been produced for its own operation, if the content of the transmission - is of particular interest to the licence holder's members. - promotes knowledge and education - contains recordings of local cultural events.

Section 7

A community radio association's programme output may contain only

1. transmissions from events of common interest to the licence holders,
2. information, to a limited extent, concerning municipal activities,
3. information concerning programmes and programme times and other information concerning community radio operations in the district, and

4. test transmissions of programmes, produced by legal persons who are eligible to obtain licences to transmit community radio, in every individual case for at most three months.

Section 8

Unless special cause otherwise dictates, any person who broadcasts television programmes by satellite or by virtue of a licence issued by the Government shall ensure that:

1. more than half of the annual broadcasting time is taken up by programmes of European origin; and
2. at least ten per cent of the annual broadcasting time or at least ten per cent of the programme budget is dedicated to programmes of European origin which have been produced by independent producers; as large a portion as possible should consist of programmes which have been produced during the immediately preceding five years.

For the purposes of this section, "broadcasting time" means the time when programmes are broadcast with content other than news, sport, competitions, announcements and programme services as referred to in Chapter 7, section 5, third paragraph. Nor shall transmissions of text only be included in the transmission time.

Television broadcasts in accordance with the first paragraph and sound radio broadcasts which take place by virtue of a licence issued by the Government shall, unless special cause dictates otherwise, contain to a significant extent programmes in the Swedish language, programmes with Swedish artists, and works of Swedish authors.

Section 9

Anyone transmitting programmes in accordance with this Act shall use such designation for the transmissions as has been approved by the Swedish Radio and Television Authority. The designation shall be given at least once every transmission hour or, if this is not possible, between programmes. In selectable teletext the designation shall be stated continuously.

Section 10

The person who broadcasts television programmes and holds the exclusive right to broadcast a Swedish or a foreign event, which is of particular importance to the Swedish society, shall not utilise such right, if he broadcasts the event, in such a manner that a significant portion of the general public in Sweden is excluded from the possibility of viewing the event on television, which is free of charge, simultaneously or, where basis of facts exist, with a small delay. The events in question are such that they occur not more than once a year and are of interest for the general public in large in Sweden.

Where the European Commission, in a notice in the Official Journal of the European Commission, declares that an event is of particular importance for society in another EEA-State, the person who broadcasts television programmes and who holds the exclusive right to broadcast the event to the State shall not utilise such right, if he broadcasts the event, in such a manner that a significant portion of the general public in the State is excluded from the possibility of viewing the event on television which is free of charge in such a manner detailed in the notice.

Where, in order to fulfil obligations pursuant to the first paragraph, a person invites any other person to broadcast the event on television, such shall be done subject to reasonable terms and conditions.

Regulation regarding execution of the first paragraph is issued by the Government.

Chapter 7. Commercial advertisements and other announcements

Section 1

Before and after every transmission of announcements, a special signature shall be transmitted which clearly distinguishes the announcements from other transmissions. The signature in television shall consist of both sound and picture. In selectable teletext and in such sales programmes referred to in Section 5, third paragraph, the signature shall always be continuous, but only needs to be given in picture form.

As regards transmissions for which the Government has granted a licence, the Government may issue exceptions from the obligation under the first paragraph and from the requirement under Section 6.

Announcements mean commercial advertisements and also transmissions which, without being commercial advertisements, are transmitted on the assignment of someone else.

Section 2

An announcement which is not a commercial advertisement shall indicate in whose interest it is being transmitted. Section 5 of the Marketing Act (1995:450) contains provisions concerning commercial advertisement identification.

Section 3

Persons who play a prominent role in programmes primarily dealing with news and news commentaries may not appear in announcements.

Section 4

Commercial advertisements in a television transmission may not have the purpose of attracting the attention of children under the age of twelve.

Persons or characters who play a prominent role in programmes primarily intended for children under the age of twelve may not appear in commercial advertisements in a television transmission.

Section 5

Announcements may be transmitted for at most eight minutes during an hour between each strike of the hour. This time may in a television transmission be extended to ten minutes either of the transmission time between 19-00 and 24.00 or in purely exceptional cases. If the transmission time does not comprise an hour between each strike of the hour, the announcements may be transmitted for at most ten per cent of that time.

Programme services exclusively intended for programmes in which the public are invited to order goods or services (sales programmes) may, notwithstanding what has been stated in the first and second paragraphs, be transmitted on television. Programme services means a combined output of programmes transmitted under a common designation. In addition to what is provided by Chapter 6, Section 9, the designation of programme services shall be stated at the beginning and at the end of the transmission.

Section 6

The aggregate announcement time on television on a particular occasion may not be less than one minute after the transmission time for the special signature has been deducted.

Section 7

Announcements in television transmissions shall be transmitted between the programmes. However, announcements may interrupt a programme, if they are transmitted

1. in breaks in sports programmes where longer pauses occur or in breaks in programmes relating to performances or events with pauses for the audience,
2. between parts of programmes consisting of concluded parts and where every part which is preceded or followed by announcements lasts at least 20 minutes.

When applying the first paragraph, a programme shall not be regarded as a special programme if it consists of nothing more than a simple message, without stating the name or source, concerning time, weather, news or the like.

Commercial advertisements may not occur immediately before or after a programme or part of a programme which is principally intended for children under the age of twelve except when it is a message referred to in Section 8.

Section 8

If a programme which is not an announcement has been wholly or partly financed by someone else than the one conducting the transmission operations or who produces audiovisual works (sponsored programme), it shall be stated by suitable means at the beginning and end of the programme or on both occasions who the contributors are. In selectable teletext, such a message shall be provided continuously. Such information need not be provided with a signature in the manner stated in Section 1, first paragraph, and shall not be included in the announcement time stated in Section 5.

A programme which primarily deals with news or news commentaries may not be sponsored.

Section 9

Provisions concerning prohibitions against commercial advertisements for alcoholic beverages and tobacco products are included in the Act containing Certain Regulations concerning the Marketing of Alcoholic Beverages (1978:763) and the Tobacco Act (1993:581). A programme may not be sponsored by anyone whose main activity is the manufacture or sale of alcoholic beverages or tobacco products.

Section 10

Advertisements for prescription medicinal products and such medicinal treatments as are only available by prescription may not be broadcast on television unless they involve a message as referred to in section 8 and are permitted in accordance with the second paragraph.

Where a pharmaceutical company sponsors television programmes, the sponsorship may only promote the company's name or image but not prescription medicinal products and such medicinal treatments as are only available on prescription.

Sales programmes for medicinal products or for medicinal treatments may not be broadcast on television.

"Medicinal products" means preparations which must be approved or recognised in order to be sold in accordance with section 5 of the Medicinal Products Act (SFS 1992:859) or Council Regulation (EEC) No. 2309/93 of 22 July 1993 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European agency for the evaluation of medicinal products.

Section 11

A local cable transmission firm may not transmit commercial advertisements except when it is a message referred to in Section 8.

Section 12

The provisions of this chapter do not apply to such commercial advertisements which the transmitter makes for his programme operation.

The provisions of Section 5 and 7 do not apply to selectable teletext.

Chapter 8. Retransmissions by cable network

Section 1

Any person who owns or otherwise has the right of use of a cable transmission station where television programmes are re-transmitted to the general public and from which the transmissions reach more than ten homes shall ensure that the residents of the property that are connected to the station can receive television transmissions which take place subject to a licence from the Government and which are intended to be received in such area without special payment conditions. This obligation only applies to transmissions for which the licence is subject to requirements of impartiality and objectivity, and a condition concerning a multifaceted programme range which must include news coverage.

The transmissions must be receivable in a satisfactory manner and without charge for the reception itself. A programme which has been transmitted exclusively by means of digital technology must be re-transmitted only if the station transmits other programmes by means of digital technology. In such case, the programme need only be re-transmitted digitally.

The transmission duty also applies to transmissions which a licence-holder carries out in order to fulfil the obligation to transmit to the entire country or to parts of the country, but where the manner of transmission does not require a licence issued by the Government.

Transmission duties pursuant to the first paragraph cover not more than three simultaneously transmitted television programmes which are transmitted by licence-holders whose activities are financed through allocations from television fees pursuant to the Television Fees Act (SFS 1998:41), and not more than one television programme transmitted by another licence-holder. The obligation pursuant to the first paragraph does not apply to a station where a limited number of television programmes are transmitted to subscribers through an integrated telecommunications network with the help of digital technology.

The transmission duty does not cover transmissions which take place by virtue of re-broadcasting licences pursuant to Chapter 3, section 5.

Section 2

Everyone who owns or otherwise has at his or her disposal an installation for wire transmission where television programmes are retransmitted to the public and from which the transmissions reach more than 100 dwellings shall, in every municipality where he or she have such an installation, make available free of charge a specially decided capacity for transmissions of television programmes from one or more of the firms appointed by the Swedish Radio and Television Authority (local cable transmission firms).

Section 3

The provisions of Sections 1 and 2 do not apply if the retransmissions at the installation only relate to television programmes from transmitters on the surface of the earth with a lower frequency than 3 gigahertz.

Section 4

A person retransmitting television programmes with the aid of radio waves with a frequency above 3 gigahertz, shall in every municipality where he or she conducts such operations make available free of charge a specially decided capacity for transmissions of television programmes from one or more local cable transmission firms.

Section 5

A local cable transmission firm shall be such a legal person as has been formed in order to conduct local cable transmissions and which can be assumed to allow different interests and points of view to be expressed in its activities.

A local cable transmission firm shall in its transmission activities endeavour to attain the broadest possible freedom of expression and freedom of information.

The Swedish Radio and Television Authority's appointment of local cable transmission firms shall be of three years at the most.

Section 6

The Swedish Radio and Television Authority may grant exceptions from the obligations under Sections 1, 2 and 4 if there are special reasons for so doing.

Chapter 9. Inspection and supervision

Section 1

The Chancellor of Justice monitors by retroactive inspections whether programmes transmitted contain representations of violence or pornographic pictures in contravention of Chapter 6, Section 2.

Section 2

The Swedish Broadcasting Commission shall monitor, through post-broadcast review, whether broadcast programmes are in accordance with this Act and the conditions which may apply to the transmissions. The Swedish Broadcasting Commission shall also monitor compliance with the provisions concerning exclusive rights set forth in Chapter 6, section 10. The provisions regarding advertisements set forth in Chapter 7, sections 3 and 4, and section 10, first and third paragraph, shall however, be monitored by the Consumer Ombudsman. Broadcasts which take place pursuant to licences for re-transmission in accordance with Chapter 3, section 5, shall not be reviewed by the Swedish Broadcasting Commission. Where The Swedish Broadcasting Commission finds that a broadcast contains portrayals of violence or pornographic pictures in violation of Chapter 6, section 2, the Commission shall report the matter to the Office of the Chancellor of Justice.

Section 3

The Broadcasting Commission consists of a Chairperson and six other members. There are deputies for the members in the number decided by the Government. At least one of the members or the deputies shall be Vice Chairperson. The Chairperson and Vice Chairperson shall be or have been appointed a permanent judge.

The Chairperson or a Vice Chairperson and a further three members constitute a quorum for the Broadcasting Commission. However, matters which are clearly not of great importance or of importance in principle may be determined by the Chairperson or a Vice Chairperson. The Government may prescribe that an officer of the Commission shall be entitled to make decisions on behalf of the Commission, although not decisions to the effect that the transmitter failed to apply this Act or the conditions applicable to the transmissions.

If in deliberations of the Broadcasting Commission differing views are presented, the rules of the Swedish Code of Judicial Procedure, Chapter 16 are applicable.

Section 4

Everyone transmitting television programmes via satellite or by virtue of a licence from the Government shall report annually to the Swedish Radio and Television Authority how large a

share of the activity was constituted by such programmes as are referred to in Chapter 6, Section 8, first paragraph.

Section 5

At the request of the Swedish Radio and Television Authority, a person transmitting television programmes via satellite or by virtue of a licence from the Government shall provide information as to who owns the firm and in what way the activity is financed.

Section 6

At the request of the Swedish Radio and Television Authority a satellite entrepreneur shall provide information concerning who is the commissioner, the commissioner's address, the programme service's designation and also how the transmission via satellite takes place.

Section 7

At the request of the Swedish Radio and Television Authority a person who obtained a licence from the Government shall provide information concerning such holdings of stock or shares or agreements entered into whereby such person has influence in another firm with such a licence. Furthermore, at the request of the Swedish Radio and Television Authority a firm which is a licence holder shall provide information concerning such holding of stock or shares or agreements entered into whereby someone alone has a decisive influence in the firm.

Section 8

A person who, in accordance with Chapter 5, Section 3 of the Act with Regulations in the field of the Freedom of the Press Act and the Fundamental Law on Freedom of Expression (1991:1559), has recorded a programme shall at the request of the Broadcasting Commission, the Swedish Radio and Television Authority or the Consumer Ombudsman provide, free of charge, such a recording to the authority.

Section 9

At the request of the Broadcasting Commission, the Swedish Radio and Television Authority or the Consumer Ombudsman, a person who has got the permission to transmit community radio shall provide information regarding his transmission periods.

The Broadcasting Commission can also request information regarding the extent of transmissions referred to in Chapter 6, Section 6, second paragraph.

Chapter 10. Fees and penalties etc.

Section 1

Anyone who intentionally or by carelessness transmits programmes without a licence when a licence is required under this Act, shall be sentenced to a fine or to imprisonment for at most six months.

Section 2

Anyone who intentionally or by carelessness transmits from a radio installation in the open sea or in the airspace above it or who establishes or possesses such an installation, shall be sentenced to a fine or to imprisonment for at most six months, if

- the transmission is intended to be received or can be received in a country which has acceded to the European agreement to restrict broadcasts from stations outside national territories, or

- the transmission causes the use of radio in any of these countries to be injuriously affected. Anyone who commits such an offence abroad is sentenced, if he or she is in Sweden, in accordance with this Act and by a Swedish court, even though Chapter 2, Sections 2 or 3 or the Penal Code are not applicable and not withstanding Chapter 2, Section 5 a, first and second paragraphs of the Penal Code.

Prosecution is instituted only by order of the Government or the authority appointed by the Government against

- Swedish citizens for offences concerning transmissions which are not intended to be received or cannot be received in Sweden and which do not cause injurious effects to radio use in Sweden either, or
- aliens even in other cases than those stated in Chapter 2, Section 5 of the Penal Code.

Section 3

Anyone who intentionally or by carelessness does not fulfil his or her duty to give notice in accordance with Chapter 2, Section 3, shall be sentenced to a fine.

Section 4

Property which is used in the commission of offences under Section 2, shall be declared forfeited if it is not manifestly unreasonable. Instead of forfeiture of property its value may be declared forfeited. The gains from such an offence shall also be declared forfeited, unless it is obviously unreasonable.

An object which has been used as an aid to commit an offence under this Act or the value of the object may be declared forfeited, if this is necessary in order to prevent crime or there are other special reasons for so doing.

Section 5

A person who disregards the provisions and conditions set forth in this section may be ordered to pay a special fine. Such shall apply to:

1. conditions regarding announcements and sponsored programmes which are issued pursuant to Chapter 3, section 3, first paragraph;
2. the provision regarding unwarranted promotion of commercial interests pursuant to Chapter 6, section 4;
3. the provisions regarding announcements in Chapter 7, sections 1 and 5 - 7;
4. the provisions regarding announcements other than advertisements set forth in Chapter 6, section 5 and Chapter 7, sections 2 and 3;
5. the provisions regarding sponsoring set forth in Chapter 7, sections 8 and 9, and section 10, second paragraph;
6. the provision regarding advertisements set forth in Chapter 7, section 11; or
7. the provisions regarding exclusive rights set forth in Chapter 6, section 10.

When adjudicating the issue of the imposition of a fine, the court shall specifically take into consideration the nature, duration, and scope of the breach.

The fine shall accrue to the State.

Section 6

The special fee shall be set at not less than five thousand kronor and no more than five million kronor. However, the fee should not exceed ten per cent of the transmitter's annual turnover during the previous accounting year.

When the amount of the fee is set, special regard shall be paid to the circumstances forming the basis for the determination of the issue of whether a fee should be imposed and also the

income which the person transmitting can be estimated to have received by reason of the infringement.

Section 7

An act violating Chapter 7, Sections 3, 4 and 10 shall, when applying Sections 4, 14 and 19 of the Marketing Act (1995:450) be considered to be unfair to consumers. Such an act may be punishable by a market disruption fee in accordance with the provisions of Sections 22-28 of the Marketing Act.

Section 8

The Broadcasting Commission may decide that the person transmitting shall in a suitable manner publicise the decision of the Commission, when the Commission considers that someone has violated the conditions decided under Chapter 3, Sections 1, 2 or 3, second paragraph, or the provisions concerning rectification in Chapter 6, Section 3, first paragraph. The decision, which may include an order subject to a conditional fine, may not require the publication to take place in the broadcaster's programme.

Section 9

Anyone who disregards the provisions stated in this Section may be ordered to observe the provisions. An order may be made subject to a conditional fine. This applies to the provisions concerning

1. the content of community radio transmissions (Chapter 6, Sections 6 and 7),
2. designations (Chapter 6, Section 9),
3. the duty to transmit or the duty to provide channels for local cable transmission firms (Chapter 8, Sections 1, 2 and 4),
4. the obligation to provide certain information to the Swedish Radio and Television Authority (Chapter 9, Sections 4-7), or
5. the obligation to provide recordings (Chapter 9, Section 8)
6. the obligation to give information regarding community radio transmission periods (Chapter 9, Section 9, first paragraph), or
7. the obligation to give information regarding transmission content (Chapter 9, Section 9, second paragraph).

Orders in accordance with the first paragraph, items 1, 2 and 5 to 7 may be imposed by the Broadcasting Commission. Orders under the first paragraph, items 3-6 may be imposed by the Swedish Radio and Television Authority. Orders under the first paragraph, items 5 and 6 may also be imposed by the Consumer Ombudsman.

Section 10

The Swedish Radio and Television Authority may by an order prohibit a licence holder from contravening decisions concerning transmission times for community radio, which has been made by the Authority, or to let some other in his or her place make use of such transmission time. The order may be made subject to a conditional fine.

Section 11

If someone on repeated occasions transmits representations of violence or pornographic pictures on television at times and in a manner referred to in Chapter 6, Section 2, the Chancellor of Justice may order him or her not to transmit such programmes again at times and in such a manner that there is a significant risk that children may see the programmes. The order may be subject to a conditional fine.

Section 12

If a person who transmits via satellite is not domiciled in Sweden, the Broadcasting Commission may order the satellite entrepreneur to observe the provisions and conditions stated in Section 5. The order may be made subject to a conditional fine.

The order under Section 9 or 11 may be directed at the satellite entrepreneur, if the person who transmits via the satellite is not domiciled in Sweden.

If the satellite entrepreneur shows that the person transmitting via satellite has obtained access to the transmission facility by reason of permission from one of the satellite entrepreneur's principals without the satellite entrepreneur having approved of it, the order under the first or second paragraph may instead be directed at the principal.

Chapter 11. Revocation of licence

Section 1

A licence to transmit sound radio or television programmes shall be revoked at the request of the licence holder. Such a licence may also be revoked in accordance with what is stated in Sections 2-4. Decisions concerning revocation under any of these sections may only be taken if, having regard to the reasons for the measure, it does not appear to be too great an intervention.

Section 2

A licence issued by the Government may be revoked where:

1. the licence-holder has materially breached the provisions set forth in Chapter 6, sections 1 - 5, or Chapter 7, sections 1 - 10; or
2. a condition subject to which the licence was issued pursuant to Chapter 3, sections 1 - 4 has been breached in a material manner.

Section 3

A licence to transmit community radio may be revoked if the licence holder

1. no longer meets the requirements under Chapter 4, Section 4,
2. has not utilised the right to transmit community radio during three consecutive months.

A licence to transmit community radio may also be revoked if a court finds that a programme constituted an offence against the freedom of expression involving a serious abuse of the freedom of expression.

Section 4

A decision concerning revocation of a licence to transmit community radio may include a period, of at most one year, within which the licence holder may not obtain a new licence. In cases referred to in Section 3, second paragraph the court may decide that the licence holder may not obtain a new licence within a period of at most one year, or if there are exceptional reasons, at most five years. This also applies if the person who held the licence when the freedom of expression offence was committed did not have a licence to transmit community radio at the time of the judgement.

The court may order that the decision shall apply during the period before the judgement enters into final legal force.

Section 5

Repealed

Section 6

An appointment as a local cable transmission firm may be revoked if some transmission operations have not taken place or if such operations have only taken place to an insignificant extent during a consecutive period of at least three months.

Chapter 12. Procedure relating to fees, conditional fines and revocation

Section 1

Matters concerning revocation of licences by reason of contraventions of conditions imposed under Chapter 3, Section 1 or Chapter 3, Section 2, items 9-12 and concerning contraventions of Chapter 6, Sections 1-3, shall on the application of the Chancellor of Justice be dealt with by a general court.

In other cases matters concerning revocation of licences are dealt with by the Swedish Radio and Television Authority.

Section 2

If the licence has been granted by the Government, an issue concerning revocation may be taken up first after notification by the Government, unless the licence holder requests that the licence shall be revoked.

In questions concerning revocation by reason of infringement of the provisions of this Act or of the conditions of the licence which shall be examined by the Broadcasting Commission under Chapter 9, Section 2, the Swedish Radio and Television Authority shall request that the Commission provide an opinion. The licence may only be revoked if the Commission considers that the contravention is substantial.

Section 3

The provisions for freedom of expression cases apply to trials in cases under Section 1, first paragraph. What these provisions provide concerning the accused shall apply to the person against whom the application for revocation is directed. The jury's consideration shall relate to the issue of whether revocation should be effected.

The court may order that the judgment shall also apply for the period pending the judgment entering into final legal force.

Section 4

Issues concerning the imposition of special fees are considered by the County Administrative Court for the County of Stockholm on application of the Broadcasting Commission.

Issues concerning a special fee lapse if the person against whom the suit is directed has not been served with the application within five years from the time when the infringement ceased. A decision concerning fees ceases to apply if the decision is not enforced within five years from the date that the judgment entered into final legal force.

Section 5

Issues concerning orders to pay conditional fines imposed by the Chancellor of Justice under Chapter 10, Section 11 are considered by a general court at the suit of the Chancellor of Justice. In trials of such cases the provisions for freedom of expression cases are applied.

What these provisions provide concerning the accused shall apply to the person against whom an order to pay a conditional fine is directed. The jury's consideration shall relate to the issue of whether the conditional fine should be ordered to be paid.

Issues concerning orders to pay conditional fines in other cases are determined in accordance with what is generally prescribed concerning conditional fines.

Chapter 13. Appeals

Section 1

Decisions under this Act by the Swedish Radio and Television Authority concerning the granting of licences to transmit community radio, the allocation of transmission time in community radio and revocation of licences may be appealed against to a general administrative court.

The decision applies immediately even if it is appealed against.

Section 2

The following decisions of the Swedish Radio and Television Authority may also be appealed against to a general administrative court, namely decisions concerning

1. designations under Chapter 6, Section 9,
2. appointment of local cable transmission firms under Chapter 8, Section 2,
3. revocation of such an appointment under Chapter 11, Section 6, and
4. decisions under Chapter 8, Section 6 concerning exceptions from transmission duties and obligations to make channels available for local cable transmission firms.

Decisions concerning revocation of an appointment stated in item 2 apply immediately even if they are appealed against.

Section 3

Decisions of the Broadcasting Commission and the Swedish Radio and Television Authority concerning orders subjected to conditional fines under Chapter 10, Sections 8, 9, first paragraph, items 1-3 and Section 10 may be appealed against to a general administrative court.

Orders under Chapter 10, Sections 8, 9, first paragraph, items 1 and 2 and Section 10 apply immediately, even if they are appealed against.

Section 4

Leave to appeal is required to appeal to an administrative court of appeal against a decision issued by a county administrative court under Sections 1-3.

Section 5

Decisions of the Broadcasting Commission and the Swedish Radio and Television Authority other than those stated in Sections 1-3 may not be appealed against.

Transitional Provisions

Act 1996:844

1. This Act enters into force on 1 December 1996.

2. This Act repeals

The Prohibitions in Certain Cases on Broadcasting on the Open Sea Act (1966:78)

The Radio Act (1966:755)

The Radio Newspapers Act (1981:508)

The Community Radio Act (1982:549)

The Broadcasting of Finnish Television Programmes Act (1986:3)

The Cable Transmissions to the Public Act (1991:2027)

The Satellite Transmissions of Television Programmes to the Public Act (1992:1356)

3. The provisions of Chapter 13 do not apply in those cases where the first decision in the matter was made before 1 December 1996. Otherwise the Acts apply if the transmission took place before they entered into force.

Act 1997:335

This Act enters into force on 1 July 1997. Older rules still apply to transmissions made before it entered into force.

Act 1998:311

This Act enters into force on 1 July 1998.

Act 1998:1713

1. This Act shall enter into force on 1 February 1999.

2. The provisions of Chapter 6, section 10 shall not be applied to rights which were acquired prior to 30 July 1997. Agreements which have been entered into prior to 30 July 1997, and which are renewed thereafter, shall be deemed to be agreements to which the provisions of Chapter 6, section 10 shall apply.

3. Broadcasts which, pursuant to Chapter 8, section 1, first paragraph in its previous wording, are to be re-transmitted via cable networks on 1 January 1998, shall be re-transmitted pursuant to the new provisions for such time as the conditions set forth in Chapter 8, section 1, first paragraph in its new wording are fulfilled.