

Broadcasting *and on-demand audiovisual services* Regulations (No. 153 of 28 February 1997)

Unofficial translation

(Not complete, certain Sections that are not relevant for the implementation of the AVMS-directive have not been translated)

Chapter 1 General provisions

Section 1 – 1 Jurisdiction - relationship to international rules

A *media service provider* shall comply with Norwegian broadcasting rules if the company is under Norwegian jurisdiction according to this section.

A *media service provider* is under Norwegian jurisdiction if the company is established in Norway in conformity with the EEA Agreement's Broadcasting Directive, that is to say in the following cases:

- a) where the *media service provider* has its head office in Norway, and editorial decisions about programme schedules are taken in Norway, or
- b) where the *media service provider* has its head office in another EEA State but editorial decisions on programme schedules are taken in Norway provided a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Norway, or
- c) where the *media service provider* has its head office in Norway but editorial decisions on programme schedules are taken in another EEA State provided a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Norway, or
- d) where a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Norway as well as in another EEA State but the broadcaster's head office is in Norway, or
- e) where a significant part of the workforce involved in the pursuit of the television broadcasting activity does not operate in Norway or in another EEA State under b) to d) but where the broadcaster first began broadcasting in accordance with Norwegian legislation and maintains a stable and effective link with the economy of Norway, or
- f) where a *media service provider* has its head office in Norway but editorial decisions on programme schedules are taken in a non-EEA State, or vice-versa, provided a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Norway.

Media service providers to whom the provisions of the second paragraph are not applicable shall be deemed to be under Norwegian jurisdiction in cases where the broadcaster:

- a) uses a satellite up-link/satellite earth station located in Norwegian territory, or
- b) uses a satellite capacity appertaining to Norway

A *media service provider* to whom the provisions of the second or third paragraph are not applicable shall moreover be deemed to be under Norwegian jurisdiction if the *media service provider* is deemed to be established in Norway pursuant to the EEA Agreement article 31 et seq., and is not under the jurisdiction of another EEA State according to the provisions of Directive 2010/13/ EU Article 2 paragraph 3 or Article 2 paragraph 4.

If the first to fourth paragraphs are not applicable, and a *media service provider* registered in Norway is responsible for transmissions through an unbroken chain to a satellite from States which are party to neither the EEA Agreement's Directive 89/552/EEC, as amended by Directive 2010/13/ EU or the Council of Europe's Convention of 5 May 1989 on Transfrontier Television, the transmissions shall be in accordance with Norwegian broadcasting legislation. This paragraph applies to television transmissions by way of satellite

which can be received in States party to the Council of Europe's Convention on Transfrontier Television.

Section 1-2 Advertising broadcasts directed at States party to the Council of Europe's Convention on Transfrontier Television

Television transmissions from Norwegian territory which contain advertising specifically and frequently directed at a State party to the Council of Europe's Convention on Transfrontier Television shall comply with the rules of the receiving country relating to television advertising, insofar as the receiving country is entitled to demand such compliance under Article 16 of the Convention.

In the assessment of whether broadcasts fall within the scope of the first paragraph, importance shall be attached to, among others, the following factors:

- whether the broadcast is actually received in one or more countries,
- whether the goods and/or services advertised are available in the receiving country,
- whether the language of the receiving country is used in the advertisements,
- whether they specifically address viewers in the receiving country by other means,
- whether points of sale in the receiving country are referred to or mentioned in the advertisements.

Section 1-3 Duty to register

The Norwegian Media Authority maintains a register of broadcasters and local broadcasters which are required to register under the Broadcasting Act section 2-1 third paragraph.

Broadcasting or local broadcasting activity shall be registered with the Norwegian Media Authority using the prescribed form. The registration form shall contain the information necessary to enable the Norwegian Media Authority to carry out its functions pursuant to law and regulations.

Broadcasting may not take place until the Norwegian Media Authority confirms that it has received a correctly completed registration form.

In the event of changes to the information provided upon registration, the broadcaster shall immediately communicate the changes to the Norwegian Media Authority. The broadcaster shall immediately notify its cessation of broadcasting.

Entities subject to registration under section 1-3 of the Regulations who hold a licence pursuant to earlier Regulations are obliged to register upon expiry of the licence, but not later than one year after the entry into force of these Regulations.

Section 1-4 Use of the licence

The licence must be used by the licensee himself. The licensee shall notify the licensing body when use of the licence has commenced.

The licence shall lapse if it is not used within six months of being granted, or if it subsequently remains unused for a period of at least one year.

The licensing body may make exceptions from the provision of the second paragraph in special cases.

Section 1-5 Facilities for broadcasting and retransmission of broadcasts

The Norwegian Media Authority may grant a licence for the establishment or operation of wireless, groundbased transmitting facilities which will mainly be used for broadcasting or retransmission of broadcasts, cf. Section 2-2 of the Act. The licence shall be granted for a specific period of time.

Section 1-7 Announcement issued by government authorities

A ministry or the government authority empowered by the ministry may demand that an announcement be broadcast nationally and/or locally and/or by way of cable networks when life or health is threatened and it is of great importance that the announcement be made public by such broadcast.

The ministry may lay down further provisions for the implementation of the provision of the first paragraph.

Section 1-8 Supervisory agency

The Consumer Ombudsman shall oversee advertising in accordance with rules set out in section 3-1 second paragraph of the Act and section 3-4 and section 3-6 of the Regulations. The administrative agency responsible for overseeing compliance with a prohibition of advertising pursuant to other provisions of Norwegian law shall oversee compliance with section 3-4 first paragraph of the Regulations.

The Norwegian Media Authority shall oversee compliance with other provisions of the Act and the Regulations and provisions issued pursuant thereto. The Norwegian Media Authority is empowered under section 1-1 sixth paragraph second sentence of the Act to exempt a service entirely or in part from the provisions of the Act in special cases.

Decisions made by the Norwegian Media Authority pursuant to section 3-1 third paragraph of the Act may be appealed to the Market Council, cf. section 2-1 sixth paragraph of the Act. *The Norwegian Media Authority's individual decisions relating to the control of licensing terms for nationwide broadcasting cf. Section 2.1 of the Act, or installations for nationwide broadcasting or re-transmission of broadcasts cf. Section 2-2 of the Act can be appealed to the Ministry* Other individual decisions made by the Norwegian Media Authority in pursuance of the broadcasting legislation may be appealed to *the Media Complaints Board*.

Chapter 2 European programme material on television and protection of minors etc

Section 2-1 Proportion of European programmes in television

The broadcaster shall ensure that at least 50 per cent of its television transmission time, excluding the time appointed to news, sporting events, entertainment programmes with competitive elements, advertising or teletext services, is reserved for broadcasts of European works, cf. section 2-3.

The Ministry may issue further rules concerning implementation of the provision of the first paragraph, including transitional provisions.

This section does not apply to television broadcasts intended for local viewers, provided that such broadcasts do not form part of a nationwide network.

Section 2-1a European programme share in on-demand audiovisual services

Providers of on-demand audiovisual services shall, when this is practically possible using their own assets, promote the production of and access to European work.

Providers of on-demand audiovisual services shall keep statistics that show the percentage of European work in their programme catalogues. The statistics shall, together with a report showing the provider has attempted to promote the production of European work, be sent to the Norwegian Media Authority by 1st April 2015 and then by 1st April each fourth year thereafter .

Section 2-2 Television programmes produced by independent producers

At least 10 per cent of the television transmission time, excluding the time appointed to news, sport, entertainment programmes with competitive elements, advertising or teletext services, shall be reserved for broadcasts of European works produced by producers who are independent of the television company. An adequate proportion of transmission time shall be reserved for programmes transmitted no more than five years after they were produced.

Section 2-1 second and third paragraphs apply correspondingly.

A producer is to be regarded as an independent producer in relation to the first paragraph if:

- a) a broadcaster does not own shares or interests in the production company representing more than 25 per cent of the votes in the company. Where several broadcasters are co-owners of a production company, the broadcasters' assets must not constitute more than 50 per cent of the votes in the production company. The same applies where a production company owns shares or interests in a broadcaster.
- b) the producer does not sell more than 90 per cent of its production over a three-year period to one and the same broadcaster, unless the producer produces only one programme or a series in the course of this period.
- c) the producer holds secondary rights to its productions.

Section 2-3 Definition of European works

"European works" means works originating in States party to the EEA Agreement or in States party to the Council of Europe's Convention on Transfrontier Television. The works must be produced with the participation of authors and workers residing in one or more of the said States.

Furthermore, the works must meet at least one of the following three conditions:

- a) they must be produced by one or more producers established in the said States, or
- b) production must be actually monitored and controlled by one or more producers established in the said States, or
- c) co-producers in the said States must supply a majority share of the total cost of the co-production. The co-production shall not be controlled by one or more producers established outside the territory of the said States.

Works mainly produced with the assistance of authors and workers residing in one or more States party to the EEA Agreement, but to which the first and second paragraphs do not apply, shall be regarded as European works to an extent corresponding to the proportion of the contribution of co-producers in the States party to the EEA Agreement to the total production costs.

"European works" also means works originating in European States other than States party to the EEA Agreement or the Council of Europe's Convention on Transfrontier Television. For such works it is a condition that the works are mainly produced with the assistance of authors or workers residing in one or more European States and that:

- d) the works are either exclusively produced by or in co-production with producers established in one or more of the States party to the EEA Agreement, or
- e) the works are produced by producers established in other European states and the necessary agreements have been concluded between States party to the EEA Agreement and the state in question.

The first to fourth paragraphs apply on condition that works originating in states Party to the EEA Agreement are not subjected to discriminatory measures in the European third states in question.

Works produced within the framework of bilateral agreements on co-production concluded by States party to the EEA Agreement and other states, but to which the preceding paragraphs do not apply, shall be deemed to be European works provided that co-producers in

States party to the EEA Agreement supply a majority share of the total production costs, and that production is not controlled by one or more producers established outside the member States' territories.

Section 2-4 Statistics on European works

Broadcasters shall keep annual statistics showing the proportion of European works televised, including recent productions, cf. Section 2-1, 2-2 and 2-3.

Annual statistics shall be sent to the Norwegian Media Authority by 1 March of the following year.

The Ministry may issue further provisions concerning the compilation of statistics.

Section 2-5 Prohibition of programme content which may cause serious harm to minors

The broadcasting of television programmes whose content may seriously impair the physical, mental *or* moral development of minors is prohibited. In the assessment of whether programmes are likely to cause serious harm to minors, particular emphasis shall be given to any pornographic content or gratuitous violence.

Section 2-6 Time of broadcast for programmes whose content may cause harm to minors

Programmes containing scenes or items which may impair the physical, mental *or* moral development of minors shall only be broadcast after 2100hrs. This does not however apply to news and current affairs programmes.

When programmes as referred to in the first paragraph are broadcast in unencoded form they shall be preceded either by a verbal acoustic warning to the effect that they may be harmful to minors or be identified by the presence of a visual symbol throughout their duration.

Section 2-7 Compliance with rules established in the EEA Agreement's *Audiovisual media services Directive*

Any directly affected natural or legal person residing or established in a State party to the EEA Agreement shall be entitled to approach the Norwegian Media Authority and administrative agencies in whom authority is vested under section 3-14 of these Regulations if such person deems that a Norwegian *service provider* is in breach of the rules transposing directive 89/552/EEC, as amended by directive 2010/13 EU. Such cases shall be dealt with under the Public Administration Act or relevant special legislation insofar as it is appropriate.

Chapter 3 Advertising, sponsorship, supervision

Section 3-1 Duration

Advertisements shall in aggregate not exceed 15 per cent of the broadcaster's daily transmission time. Advertisements shall in aggregate not exceed 20 per cent per hour of the clock. Advertisements in the form of teleshopping or similar direct offerings to viewers relating to the sale, purchase or rental of products or services may not, however, in aggregate exceed one hour of daily transmission time. No advertisements may be broadcast outside the advertising blocks.

Section 3-2 Language

Advertising messages shall mainly be presented in Norwegian or other language used in programmes produced by the broadcaster itself.

Section 3-3 Days on which advertising is not permitted

The broadcasting of advertisements on Good Friday, Easter Sunday, Whit Sunday and Christmas Day is prohibited.

Section 3-4 Content

No advertisements may be broadcast containing a trademark or logo that is used in the promotion of a product or service the advertising of which is prohibited under Norwegian rules.

No advertisements for weapons, models of weapons or toy versions of weapons may be broadcast.

No advertisements using subliminal techniques may be broadcast.

Section 3-6 Advertising and its relationship to children and young people under the age of 18

Account must be taken of the fact that all advertising may be seen or heard by children, and particular care must be shown in respect of children's susceptibility and lack of experience.

No advertisements may be broadcast for products or services of special interest to children and young people that involve the participation of persons or figures who in the preceding 12 months have featured regularly or over a long period of time as important elements in programmes for children or young people on a radio or television channel received in Norway.

No advertisements specifically directed at children may be broadcast, cf. section 3-1 of the Act. In the assessment of whether advertising is specifically directed at children, importance shall be attached, inter alia, to the following factors:

- whether the advertisement concerns a product or a service of particular interest to children,
- the time at which the advertisement is broadcast,
- whether children under the age of 13 are participants,
- whether animation or other form of presentation which particularly appeals to children is used.

No advertisements may be broadcast ten minutes immediately before or after a children's programme.

A programme is to be regarded as a children's programme when children are deemed to be the primary target group for the programme. In the assessment of whether a programme is to be regarded as a children's programme, importance shall be attached, inter alia, to the following factors:

- the content and form of the programme,
- whether children under the age of 13 are participants,
- when the programme is broadcast,
- who are potential viewers in relation to the time of broadcast,
- actual viewers,
- the use of language in the programme.

Teletext pages whose target group is children shall not contain advertising.

Section 3-7 Insertion of television advertisements

Broadcasts of religious services may not be interrupted by advertisements.

Where a programme may be interrupted under this section, the interruption shall be inserted in such a way that the value and integrity of the programme are not prejudiced. In this assessment particular importance shall be given to natural breaks in and the duration and nature of the programme.

If a feature film or a film made for television is interrupted, advertisements may be broadcast during one of the interruptions if the interruption lasts at least 20 minutes. Fiction-based series and programmes may be interrupted once by advertising provided the interruption last no more than 60 seconds. If fiction-based series or programmes are interrupted by advertising, the programme may not in addition be interrupted by programme trailers or other announcements from the broadcaster.

In broadcasts of theatre performances and concerts, advertisements may only be broadcast during natural breaks in the actual performance. In sports broadcasts and other programmes consisting of autonomous parts or where natural breaks occur, advertisements may be broadcast between the parts or during the natural breaks in the actual performance or event, provided that each part of the programme lasts at least 20 minutes.

Other programmes may be interrupted by advertisements if the programme lasts 45 minutes or more, and each part of the programme lasts at least 20 minutes.

The Norwegian Media Authority decides cases of doubt under this section.

Section 3-8 Programme workers and their relationship to television advertisements

No advertisements may be broadcast involving the participation of workers who regularly appear on the broadcaster's news programmes, current affairs programmes or weather forecasts.

Section 3-9 Radio advertising

Radio advertisements shall be kept quite separate from the ordinary programme schedule by a special acoustic signal.

Section 3-10 Sponsorship of broadcasting and on demand audiovisual services - identification

Where a programme is sponsored, information to this effect shall be given prior to and/or after the programme. Sponsors may not be identified in programmes or in programme trailers. In case of breaks in programmes, the sponsor may be identified at the start and end of each part of the programme.

Sponsor identification may not contain slogans, statements, images, sound or other form of additional information that can be linked to a *sponsor's name trademark / brand, logo, product or service* or the latter's activity. Slogans, statements or the like may not be used even if these elements are a part of the sponsor's trademark, *logo, product or service*. Elements from the sponsor's advertising campaigns may not be used for identification purposes. Nor may trademarks, advertising figures and the like be used to promote products or services the advertising of which is prohibited under Norwegian rules.

Identification of an individual sponsor may last for a maximum of 10 seconds. If a programme has three or more sponsors, sponsor identification may have a total duration of 30 seconds.

The Norwegian Media Authority may issue regulations setting a monetary threshold to identify when a programme is sponsored.

Section 3-11 Prohibition of sponsoring of broadcasting programmes

Programmes for children and young people may not be sponsored by natural or legal persons whose purpose is to pursue business activity.

Political party organisations may not sponsor broadcasting programmes.

Section 3-13 Special rules concerning the Norwegian Broadcasting Corporation

Pages in the Norwegian Broadcasting Corporation's teletext services containing programme overviews shall not contain advertising. As regards identification of sponsors in

the Norwegian Broadcasting Corporation's *broadcasts and on-demand audiovisual services*, section 3-10 is supplemented by a requirement to the effect that a sponsor may only be identified orally and/or by a non-moving image.

The Norwegian Broadcasting Corporation may accept contributions from sponsors for:

- a) production and transmission of live or recorded broadcasts of sporting events. The Norwegian Broadcasting Corporation may not accept contributions in respect of other sports programmes which are not purely broadcasts of sporting events.
- b) production from events where the production in whole or in part takes place in the Norwegian Broadcasting Corporation's auspices and the programme is to be broadcast to more than one country or is of social interest or cultural significance; principally productions from important national events.
- c) production of educational programmes. Section 3-11 first paragraph applies correspondingly to educational programmes directed at children and/or young people. In the assessment of whether an educational programme is directed at children and/or young people, section 3-6 is applicable insofar as it is appropriate.

The Norwegian Broadcasting Corporation may not accept contributions from sponsors for types of programme other than those set out in the second paragraph.

Section 3-14 Relationship to teletext services

With the exception of section 3-4, section 3-6 and section 3-13 first paragraph, the provisions of this Chapter shall not apply to teletext services.

Section 3-15 *Advertisements specifically directed at minors*

Section 3-6, section 3-11 first paragraph and section 3-13 second paragraph litra c applies correspondingly for on-demand audiovisual services.

Chapter 4 Cable broadcasts etc

(Sections 4-1 to 4-3 not relevant for the implementation of the AVMS-Directive)

Section 4-4 Exemptions from the prohibition of retransmission

Section 4-5 first paragraph litra a) of the Act does not apply to television channels covered by the EEA Agreement's Broadcasting Directive or the Council of Europe's Convention on Transfrontier Television.

The provisions of section 4-5 first paragraph litra a) of the Act nevertheless apply to television channels which are only covered by the Council of Europe's Convention on Transfrontier Television if the channel shows advertising that is specifically and frequently directed at Norwegian viewers.

Section 4-5 Procedures related to the imposition of a prohibition of retransmission

If Norwegian authorities intend to refuse to permit the retransmission of a foreign television channel *pursuant to the Act Section 4-5 first paragraph litra a to d*, and the television channel has on at least two prior occasions during the previous 12 months infringed the same provision of section *pursuant to the Act Section 4-5 first paragraph litra a to d*, the broadcaster in question and the authorities of the broadcasting country shall be notified in writing of the infringement and of the fact that the Norwegian authorities intend to halt retransmission of the channel if the infringement should occur again.

If the transmitting country is party to the EEA Agreement, a prohibition may not be imposed until the EFTA Surveillance Authority has received written notification of the infringement, and Norwegian authorities have initiated consultations with the authorities of the broadcasting country and the surveillance authority with a view to eliminating the basis for refusing to allow retransmission.

If grounds for refusing to allow retransmission *pursuant to the Act Section 4-5 first paragraph litra a to d* exists fifteen days after the matter has been taken up in accordance with the first paragraph, and the second paragraph where this is necessary, the Norwegian Media Authority may impose a prohibition of retransmission.

In the assessment of whether a prohibition shall be imposed against retransmission of television channels which specifically and frequently show advertising directed at Norwegian viewers, cf. section 4-4, second paragraph, importance shall be attached, inter alia, to the following factors:

- whether the broadcast is in fact only received in Norway,
- whether the goods and/or services advertised are available in Norway,
- whether the Norwegian language is used in the advertisements, or whether they in another manner particularly address Norwegian viewers,
- whether points of sale in Norway are referred to or mentioned in the advertisements.

When dealing with cases concerning *the Act Section 4-5 first paragraph litra a to d* the Norwegian Media Authority shall request bodies with expertise in the fields in question to assess whether the advertisement is incompatible with the rules in force.

Section 4-6 Procedures in enforcing a ban on retransmission pursuant to the Act Section 4-5 first paragraph litra e

The Norwegian Media Authority can through regulations or individual ruling ban the retransmission of broadcast programmes pursuant to the Act Section 4-5 first paragraph litra e if the following conditions are met:

- a) The broadcast is in wholly or mostly directed at Norway*
- b) The Norwegian Media Authority has contacted the member state in which the television company is established with the aim of achieving a mutually satisfactory solution*
- c) The application failed to provide a satisfactory result or had not been replied to within two months*
- d) The Norwegian regulation have been adopted in the general public interests and the measures are objectively necessary, applied in a non-discriminatory manner and proportionate to the objectives the pursue*
- e) Norway has informed EFTA Surveillance Authority and the member state in which the television company is established that The Norwegian Media Authority intends to ban retransmission and the grounds for this, and*
- f) EFTA Surveillance Authority has concluded that the ban is compatible with EEA legislation and in particular that the measures are correctly founded.*

When assessing whether the broadcast is in whole or part aimed at Norway pursuant to litra a, emphasis shall be used on the language used in the broadcast, from where advertising and subscriptions mainly originate from and whether there are programmes and/or advertising broadcasts specifically aimed at Norway.

Chapter 5 Utilisation of rights to televise events of major importance for society

Section 5-1 Substantial proportion of the viewers

“Substantial proportion of the viewers” means 90 per cent of the viewers.

Section 5-2 Free television

“Free television” means television channels which can be received by the public without additional payment. Licence fees and annual subscription fees to a cable network or communal aerial installation for reception of channels in accordance with section 5-2 are not regarded as additional payment.

Section 5-3 Reporting of purchase

A broadcaster who purchases exclusive rights to entire events or parts thereof that figure in other EEA states’ lists of important events approved by the EU Commission or EFTA’s Surveillance Authority and published in the Official Journal of the European Union shall immediately report the purchase to the Norwegian Media Authority.

Section 5-4 Broadcaster’s obligations in relation to other EEA states’ lists of important events

Broadcasters may only utilise broadcasting rights in another EEA state in accordance with the rules that this EEA state has notified to, and for which it has obtained approval from, the European Commission or EFTA’s Surveillance Authority.

Chapter 6

(Not relevant for the implementation of the AVS-directive)

Chapter 7

(Not relevant for the implementation of the AVS-directive)

Chapter 8

(Not relevant for the implementation of the AVS-directive)

Chapter 9

(Not relevant for the implementation of the AVS-directive)

Chapter 10 Sanctions

(Sections 10-1 to 10-8 not relevant for the implementation of the AVMS-directive)

Section 10-9 Sanctions against on contraventions of the regulations on audio-visual subscription services

Sections 10-1 to 10-7 applies mutatis mutandis to on-demand audiovisual media services.