

TRANSLATION

AUDIOVISUAL MEDIA SERVICES

Law 26.522

This Law applies to audiovisual media services rendered in the whole territory of Argentina.-----

Enacted: October 10, 2009.

Promulgated: October 10, 2009.

The Senate and House of Representatives of Argentina, met in Congress, etc. enact the following text with the force of a law:-----

TITLE I

General Provisions

CHAPTER I

Purpose

ARTICLE 1 - Scope. The purpose of this law is to regulate audiovisual media services rendered in the Argentine territory and to develop mechanisms aimed at promoting, deconcentrating and thriving competition so as to lower costs, democratize (1) and universalize the utilization of new information and communication technologies.-----

This law applies to all such broadcasts made from within the national territory, as well as those generated abroad when re-broadcasted or distributed therein.-----

NOTE to Article 1

This law aims at adopting a broader legal approach to audiovisual media services than the restricted one derived from the broadcasting concept, because law-making trends all over the world not only cover instances involving media as ultimate broadcasters as regards the general public, but other aspects in the field of regulatory public policy and promotion of the right to information and technological utilization and literacy, far exceeding those criteria covering only the technical support.-----

Thus, such compared parameters that have appeared to be deeper and wider have been followed. The European Commission published, on December 13, 2005, a proposal to rewrite the Television Without Frontiers Directive (TVWF) which became effective in December 2007. Said proposal was based on and finally embodied the basic principles of the current directive, though with some changes to reflect technological developments.-----

From such viewpoint, the current directive would evolve into a directive applicable to audiovisual media, regardless of the technology involved.-----

Identical or similar audiovisual contents must be governed by the same regulatory framework, regardless of the broadcasting technology used. Regulations should be

based - sets forth the Directive - only on the impact on public opinion, not on the broadcasting technology.-----

In that regard, Whereas 27 of the Directive sets forth: "(27) The country of origin principle should remain the core of this Directive, as it is essential for the creation of an internal market. This principle should therefore be applied to all audiovisual media services in order to ensure legal certainty for media service providers as the necessary basis for new business models and the deployment of such services. It is also essential in order to ensure the free flow of information and audiovisual programmes in the internal market".-----

And further: "A Member State, when assessing on a case-by-case basis whether a broadcast by a media service provider established in another Member State is wholly or mostly directed towards its territory, may refer to indicators such as the origin of the television advertising and/or subscription revenues, the main language of the service or the existence of programmes or commercial communications targeted specifically at the public in the Member State where they are received." (Whereas 31 to 34).-----

As for the growth intended for the present level of utilization of communication and information technologies, the proposal is in line with the historic mandates emerging from the 2003 and 2005 Geneva and Tunis World Summits on the Information Society Declarations of Principles and Plans of Action, which establish:-----

5. We further reaffirm our commitment to the provisions of Article 29 of the Universal Declaration of Human Rights, that everyone has duties to the community in which alone the free and full development of their personality is possible, and that, in the exercise of their rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations. In this way, we shall promote an Information Society where human dignity is respected.-----

8. We recognize that education, knowledge, information and communication are at the core of human progress, endeavour and well-being. Further, Information and Communication Technologies (ICTs) have an immense impact on virtually all aspects of our lives. The rapid progress of these technologies opens completely new opportunities to attain higher levels of development. The capacity of these technologies to reduce many traditional obstacles, especially those of time and distance, for the first time in history makes it possible to use the potential of these technologies for the benefit of millions of people in all corners of the world.-----

9. We are aware that ICTs should be regarded as tools and not as an end in themselves. Under favourable conditions, these technologies can be a powerful instrument, increasing productivity, generating economic growth, job creation and employability and improving the quality of life of all. They can also promote dialogue among people, nations and civilizations.-----

10. We are also fully aware that the benefits of the information technology revolution are today unevenly distributed between the developed and developing countries and within societies. We are fully committed to turning this digital divide into a digital

opportunity for all, particularly for those who risk being left behind and being further marginalized. (World Summit on the Information Society Declaration of Principles – WSIS- Geneva 2003).-----

The WSIS Plan of Action provides, among other things:-----

Chapter 8. Cultural diversity and identity, linguistic diversity and local content.-----

23. Cultural and linguistic diversity, while stimulating respect for cultural identity, traditions and religions, is essential to the development of an Information Society based on the dialogue among cultures and regional and international cooperation. It is an important factor for sustainable development.

a) Create policies that support the respect, preservation, promotion and enhancement of cultural and linguistic diversity and cultural heritage within the Information Society, as reflected in relevant agreed United Nations documents, including UNESCO's Universal Declaration on Cultural Diversity. This includes encouraging governments to design cultural policies to promote the production of cultural, educational and scientific content and the development of local cultural industries suited to the linguistic and cultural context of the users.-----

b) Develop national policies and laws to ensure that libraries, archives, museums and other cultural institutions can play their full role of content - including traditional knowledge - providers in the Information Society, more particularly by providing continued access to recorded information.-----

c) Support efforts to develop and use ICTs for the preservation of natural and cultural heritage, keeping it accessible as a living part of today's culture. This includes developing systems for ensuring continued access to archived digital information and multimedia content in digital repositories, and support archives, cultural collections and libraries as the memory of humankind.-----

d) Develop and implement policies that preserve, affirm, respect and promote diversity of cultural expression and indigenous knowledge and traditions through the creation of varied information content and the use of different methods, including the digitization of the educational, scientific and cultural heritage.-----

e) Support local content development, translation and adaptation, digital archives, and diverse forms of digital and traditional media by local authorities. These activities can also strengthen local and indigenous communities.-----

f) Provide content that is relevant to the cultures and languages of individuals in the Information Society, through access to traditional and digital media services.-----

g) Through public/private partnerships, foster the creation of varied local and national content, including that available in the language of users, and give recognition and support to ICT-based work in all artistic fields.-----

h) Strengthen programmes focused on gender-sensitive curricula in formal and non-formal education for all and enhancing communication and media literacy for women with a view to building the capacity of girls and women to understand and to develop ICT content.-----

i) Nurture the local capacity for the creation and distribution of software in local languages, as well as content that is relevant to different segments of population, including non-literate, persons with disabilities, disadvantaged and vulnerable groups especially in developing countries and countries with economies in transition.-----

j) Give support to media based in local communities and support projects combining the use of traditional media and new technologies for their role in facilitating the use of local languages, for documenting and preserving local heritage, including landscape and biological diversity, and as a means to reach rural and isolated and nomadic communities.-----

k) Enhance the capacity of indigenous peoples to develop content in their own languages.-----

l) Cooperate with indigenous peoples and traditional communities to enable them to more effectively use and benefit from the use of their traditional knowledge in the Information Society.-----

m) Exchange knowledge, experiences and best practices on policies and tools designed to promote cultural and linguistic diversity at regional and sub-regional levels. This can be achieved by establishing regional and sub-regional working groups on specific issues of this Plan of Action to foster integration efforts.-----

n) Assess at the regional level the contribution of ICT to cultural exchange and interaction, and based on the outcome of this assessment, design relevant programmes.-----

o) Governments, through public/private partnerships, should promote technologies and R&D programmes in such areas as translation, iconographies, voice-assisted services and the development of necessary hardware and a variety of software models, including proprietary, open source software and free software, such as standard character sets, language codes, electronic dictionaries, terminology and thesauri, multilingual search engines, machine translation tools, internationalized domain names, content referencing as well as general and application software.-----

Section 9. Media

24. The media—in their various forms and with a diversity of ownership—as an actor, have an essential role in the development of the Information Society and are recognized as an important contributor to freedom of expression and plurality of information.-----

a) Encourage the media - print and broadcast as well as new media - to continue to play an important role in the Information Society.-----

b) Encourage the development of domestic legislation that guarantees the independence and plurality of the media.-----

c) Take appropriate measures - consistent with freedom of expression - to combat illegal and harmful content in media content.-----

- d) Encourage media professionals in developed countries to establish partnerships and networks with the media in developing ones, especially in the field of training.-----
- e) Promote balanced and diverse portrayals of women and men by the media.-----
- f) Reduce international imbalances affecting the media, particularly as regards infrastructure, technical resources and the development of human skills, taking full advantage of ICT tools in this regard.-----
- g) Encourage traditional media to bridge the knowledge divide and to facilitate the flow of cultural content, particularly in rural areas-----

Section 10. Ethical dimensions of the Information Society

25. The Information Society should be subject to universally held values and promote the common good and to prevent abusive uses of ICTs.-----

- a) Take steps to promote respect for peace and to uphold the fundamental values of freedom, equality, solidarity, tolerance, shared responsibility, and respect for nature.- -
- b) All stakeholders should increase their awareness of the ethical dimension of their use of ICTs.-----
- c) All actors in the Information Society should promote the common good, protect privacy and personal data and take appropriate actions and preventive measures, as determined by law, against abusive uses of ICTs such as illegal and other acts motivated by racism, racial discrimination, xenophobia, and related intolerance, hatred, violence, all forms of child abuse, including paedophilia and child pornography, and trafficking in, and exploitation of, human beings.-----
- d) Invite relevant stakeholders, especially the academia, to continue research on ethical dimensions of ICTs.-----

ARTICLE 2 – Nature and scope of the definition. The activity performed by audiovisual media services is considered a public interest activity, essential for the socio-cultural development of the population, through which the inalienable human right of expressing, receiving, spreading and researching information, ideas and opinions is externalized. Audiovisual media services may be operated by public, private for-profit and private non-profit operators, who must have operating capacity and equitable access to all available broadcasting platforms.-----

The status of public interest activity entails the duty to preserve and conduct the activities set out herein as part of the national State duties established in Article 75, Section 19, of the National Constitution. Accordingly, the audiovisual communication through any support is a social activity of public interest, in which the State must safeguard the right to information, participation, preservation and promotion of the Rule of Law, as well as freedom of expression.-----

The main purpose of the services regulated hereunder is the promotion of diversity and universality in access and participation, with the consequent equal opportunities for all inhabitants to access the benefits of those services; particularly, the satisfaction of the information and social communication needs of the communities in which those media are established or that are covered by those media(2).-----

Legitimate Right. Any person lawfully interested(3) may require from the competent enforcement authority the compliance by audiovisual media services with the obligations set out in this law.-----

Said right includes the right to participate in public hearings required to be held in order to determine the extension of licences, among other things.-----

ARTICLE 3 - Objectives. Audiovisual media services and their contents must have the following objectives:-----

a) Promote and guarantee the free exercise of every person's right to research, seek, receive and disseminate information, opinions and ideas, without censorship, in observance of the democratic Rule of Law and respect for human rights, as outlined in the American Convention on Human Rights and other treaties embodied or to be embodied in the National Constitution in the future;-----

b) Promote federalism and regional integration in Latin America;-----

c) Communicate the guarantees and fundamental rights enshrined in the National Constitution;-----

d) Protect the human person and respect personal rights;-----

e) Build an information and knowledge society that gives priority to media literacy and removal of divides existing in access to knowledge and new technologies(4);-----

f) Promote the expression of popular culture and the cultural, educational and social development of population;-----

g) Safeguard the exercise of the people's right to access public information;-----

h) Act in accordance with ethical principles;-----

i) Participate as educators of individuals, social players and different views about life and the world, with plurality of perspectives and a comprehensive debate of ideas(5);

j) Strengthen actions contributing to the cultural, artistic(6) and educational development of the communities where they operate, and the development of formal strategies for mass and distance education, the latter under the supervision of the pertinent educational authorities;-----

k) Promote the balanced development(7) of a national content industry that preserves and foster the cultural heritage and diversity of all regions and cultures comprising the Nation;-----

l) Administer the radio spectrum on the basis of democratic and republican criteria assuring all individuals equal access opportunities through pertinent allocations;-----

m) Promote the protection and safeguard of equality between men and women, and plural, equal and non-stereotyped treatment, avoiding gender and sexual orientation discrimination(8);-----

n) Assure persons with disabilities(9) their right to access information and contents;---

ñ) Preserve and promote the identity and cultural values(10) of Native Populations.----

NOTE to Articles 2 and 3

The objectives of this law are in line with international human rights documents, in particular those related to freedom of expression:-----

The American Convention on Human Rights (ACHR, Article 13.1)-----
UNESCO Convention on Cultural Diversity. National Constitution. Articles 14, 32, 75
sections 19 and 22. Inter-American Commission on Human Rights (ICHR) Declaration
of Principles of Freedom of Expression, October 2000, Principles 12 and 13. ACHR,
Article 13.3, section 3.-----

Aspects related to statements laid by the World Summit on the Information Society
toward the removal of the so-called digital divide between rich and poor have been
added.-----

Declaration of Principles, May 12, 2004, Building the Information Society: a global
challenge in the new Millennium (available at http://www.itu.int/dms_pub/itu-s/md/03/wsis/doc/S03-WSIS-DOC-0004MSWS.doc) which sets forth:-----

A Our Common Vision of the Information Society-----

1 We, the representatives of the peoples of the world, assembled in Geneva from 10-
12 December 2003 for the first phase of the World Summit on the Information Society,
declare our common desire and commitment to build a people-centred, inclusive and
development-oriented Information Society, where everyone can create, access, utilize
and share information and knowledge, enabling individuals, communities and peoples
to achieve their full potential in promoting their sustainable development and
improving their quality of life, premised on the purposes and principles of the Charter
of the United Nations and respecting fully and upholding the Universal Declaration of
Human Rights.-----

2 Our challenge is to harness the potential of information and communication
technology to promote the development goals of the Millennium Declaration, namely
the eradication of extreme poverty and hunger; achievement of universal primary
education; promotion of gender equality and empowerment of women; reduction of
child mortality; improvement of maternal health; to combat HIV/AIDS, malaria and
other diseases; ensuring environmental sustainability; and development of global
partnerships for development for the attainment of a more peaceful, just and
prosperous world. We also reiterate our commitment to the achievement of sustainable
development and agreed development goals, as contained in the Johannesburg
Declaration and Plan of Implementation and the Monterrey Consensus, and other
outcomes of relevant United Nations Summits.-----

3 We reaffirm the universality, indivisibility, interdependence and interrelation of all
human rights and fundamental freedoms, including the right to development, as
enshrined in the Vienna Declaration. We also reaffirm that democracy, sustainable
development, and respect for human rights and fundamental freedoms as well as good
governance at all levels are interdependent and mutually reinforcing. We further
resolve to strengthen respect for the rule of law in international as in national affairs.- -

4 We reaffirm, as an essential foundation of the Information Society, and as outlined in Article 19 of the Universal Declaration of Human Rights, that everyone has the right to freedom of opinion and expression; that this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Communication is a fundamental social process, a basic human need and the foundation of all social organization. It is central to the Information Society. Everyone, everywhere should have the opportunity to participate and no one should be excluded from the benefits the Information Society offers.-----

5 We further reaffirm our commitment to the provisions of Article 29 of the Universal Declaration of Human Rights, that everyone has duties to the community in which alone the free and full development of their personality is possible, and that, in the exercise of their rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations. In this way, we shall promote an Information Society where human dignity is respected.-----

Furthermore, and without this entailing a regulation in itself, it is intended that media owners and participants become committed to observe ethical principles, abiding by Principle 6 of the ICHR Declaration of Principles of October 2000.-----

The importance of adopting steps toward media literacy is one of the pillars of the EU Directive 65/2007 on audiovisual media services adopted in December 2007 by the European Parliament.-----

The aspects borne in mind to promote the development of the content industry are embodied in international initiatives for the creation of conglomerates or clusters, which have been extremely successful in countries like Australia in the creation of contents for domestic and internal broadcasting.-----

As for the right to access information: Principle 4 of the ICHR Declaration of Principles on Freedom of Expression, October 2000. (Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies).-----

Concerning the Information Society, reference should be made, as one of its backgrounds, to the fact that the countries represented at the Regional Preparatory Ministerial Conference of Latin America and the Caribbean for the World Summit on the Information Society, held with the collaboration of ECLAC on February 14, 2003 in Bavaro, Dominican Republic, in which Argentina participated, adopted the "Bavaro Declaration on the Information Society"(11).-----

In such Declaration, guiding principles and priority issues concerning the Information Society were adopted, "[Our countries], aware of the need to generate equal opportunities for access and use of information and communication technologies, are committed to taking action to overcome the digital divide, which both reflects and is a

factor in the differences that exist between and within countries in terms of economic, social and cultural aspects, education, health and access to knowledge."-----

The guiding principle of the Declaration, under item 1.b), establishes that: "The information society shall be oriented towards eliminating existing socio-economic differences in our societies, averting the emergence of new forms of exclusion and becoming a positive force for all of the world's people by helping to reduce the disparity between developed and developing countries, as well as within countries."-----

In turn, item 1.h) of the Bavaro Declaration sets forth: "The transition to the information society shall be led by the Governments in close coordination with private enterprise and civil society. An integral approach shall be taken that provides for an open and participatory dialogue with the whole of society in order to incorporate all stakeholders involved in the process of building a common vision for the development of an information society in the region."-----

Item 1.k) of the Bavaro Declaration establishes, as guiding principle, that: "The existence of independent and free communication media, in accordance with the legal system of each country, is an essential requirement for freedom of expression and a guarantee of the plurality of information. Unhindered access by individuals and communication media to information sources shall be ensured and strengthened in order to promote the existence of vigorous public opinion as a pillar of civil responsibility in accordance with article 19 of the United Nations Universal Declaration of Human Rights and other international and regional instruments dealing with human rights."-----

Accordingly, the European Parliament resolution on the risks of violation, in the EU and especially in Italy, of freedom of expression and information (Article 11(2)) of the Charter of Fundamental Rights (2003/2237(INI)) sets forth: 6. Stresses that the concept of the media is undergoing a redefinition through convergence, interoperability, and globalisation; considers that technological convergence and the increase in supply through internet, digital, satellite, cable and other means should not however result in 'convergence' of content; consumer choice and plurality of content is the key issue, more so than plurality of ownership or supply.-----

7. Notes that digital media will not automatically guarantee greater choice, because the same media companies that already dominate the national and global media markets also control the dominant content portals on the Internet, and since the promotion of digital and technical literacy are strategic issues for the development of lasting media pluralism, and expresses concern about the switching off of the analogue frequencies in some parts of the Union.-----

14. Welcomes the establishment in some Member States of a media ownership authority with the duty of monitoring the ownership of the media and the power to undertake own initiative investigations; stresses that such authorities should also monitor compliance with the law, equal access to the media for the various social, cultural and political players and the objectivity and accuracy of the information supplied.-----

15. Notes that diversity of media ownership and competition between operators is not sufficient to ensure pluralism of media content and that the increased use of press agencies results in the same headlines and content.-----

16. Considers that pluralism in the EU is threatened by the control of the media by political bodies or persons and by certain commercial organisations, such as advertising agencies, and that, as a general principle, the national, regional or local government should not abuse its position by influencing the media and that, furthermore, even stricter safeguards should be provided for where a member of the government has specific interests in the media.-----

17. Recalls that the Green Paper examined possible provisions to prevent such conflicts of interests, including rules to disqualify persons who may not become media operators, and rules for the transfer of interests or changes in the 'controller' of the media operator.-----

18. Considers that, as far as the public is concerned, the principle of pluralism can and must be observed by each and every broadcaster, with due respect for the independence and professionalism of operators and opinion-formers; with this in mind, reaffirms the importance of editorial statutes designed to prevent interference in information content by owners or shareholders or outside agencies such as governments.-----

19. Welcomes the forthcoming Commission study into the impact of control measures on the markets in television advertising but remains concerned about the relationship between advertising and pluralism in the media as large media companies have an advantage in obtaining more advertising.-----

20. Stresses expressly that cultural and audiovisual services are not services in the conventional sense and should therefore not be the subject of liberalisation negotiations under international trade agreements, e.g. in the context of GATS.-----

Commercial media

30. Welcomes the contribution of commercial media to innovation, economic growth and pluralism, but notes that the increase in the concentration of the media, including multimedia multinationals and cross-border ownership, threatens media pluralism.-----

31. Notes that, although the Commission investigates the most significant mergers under the EU Merger Regulation, it does not specifically examine the effect of the merger on pluralism and that approved mergers may still be examined and blocked on the grounds of pluralism by the Member States.-----

32. Considers that even medium-sized media mergers can have significant effects on pluralism and that media mergers should systematically be subject to an examination of the effect on pluralism either by a competition authority or a separate authority as suggested by the OECD, without compromising editorial and publishers' freedom through governmental or regulatory intervention.-----

33. Notes the diversity of methods for determining the degree of horizontal concentration in the media (audience-share; licence holder-share; revenue share/frequency limitation and the capital share/broadcasting), and the degree of vertical integration and 'diagonal or cross' concentration in the media.-----

79. Calls, therefore, on the Commission also to examine the following issues for inclusion in an action plan on measures to promote pluralism in all EU sectors of activity:-----

(a) the revision of the television-without-frontiers directive to clarify the obligation of the Member States to promote political and cultural pluralism within or between editorial offices, taking into account the need for a consistent approach across all communications services and media forms;-----

(b) the establishment of EU-wide minimum conditions to ensure that the public service broadcaster is independent and free from interference by the government, as recommended by the Council of Europe;-----

(c) the promotion of political and cultural pluralism in journalism courses so that the views held within society are adequately reflected within or between editorial offices;- -

(d) an obligation on the Member States to make an independent regulator (such as the telecommunications or competition regulator) responsible for monitoring media ownership and equal access and with the power to undertake own-initiative investigations;-----

(e) for the establishment of a European 'Working Party' composed of independent national media regulators (see, for example, the Article 29 data-protection group);-----

(f) rules requiring the transparency of the ownership of the media, in particular, in relation to cross-border ownership and for the publication of information on significant interests in the media;-----

(g) a requirement that information on media ownership collected in the national markets be sent for comparison to a European-wide body, such as the European Audiovisual Observatory;-----

(h) an examination into whether divergent national regulatory models create obstacles in the internal market and whether there is a need for the harmonisation of the national rules restricting the horizontal, vertical and cross ownership of the media to ensure a level playing field and, in particular to ensure an adequate supervision of cross-border ownership;-----

(i) an examination of the need to introduce in the EU Merger Regulation a 'pluralism' test and lower thresholds in relation to media mergers, or whether such provisions should be included in the national rules;-----

(j) guidelines on the way the Commission is to take public-interest concerns such as pluralism into account when applying competition law to media mergers;

(k) an examination into whether the advertising market distorts the conditions of competition in the media sector and whether specific controls on the advertising market are needed to ensure equitable conditions of access;-----

(l) a review of the 'must carry' obligations in the Member States on telecommunications operators to carry the public service broadcasters, the market trends and whether further measures are needed to promote the distribution of the public service broadcasters;-----

(m) the establishment of a general right of EU citizens applicable to all media to reply to inaccurate information, as recommended by the Council of Europe;-----

(n) an examination into the need to reserve sufficient digital transmission capacity for public service broadcasters;-----

(o) a scientific study on the impact of the new communication technologies and services on media concentration and pluralism;-----

(p) a comparative study on national rules relating to political information - in particular in the context of elections and referendums - and equal and non-discriminatory access for different groupings, movements and parties to the media, as well as the identification of best practices in this field to guarantee the right of citizens to information, to be recommended to Member States;-----

(q) possible specific measures which should be adopted to assist the development of pluralism in the accession countries;-----

(r) the establishment of an independent body in the Member States, such as a Press Council, consisting of external experts, to oversee disputes over reporting by the media and journalists;-----

(s) measures to encourage media organisations to strengthen editorial and journalistic independence and high standards of quality and ethics through editorial statutes or self-regulatory means;-----

(t) the promotion of works councils in media organisations, and in particular, in companies established in the accession countries;-----

Following such line of thought, recognition is given to the Inter-American Court of Human Rights case law in matters of protection of pluralism through its various rulings and advisory opinions. Accordingly, reference is made to the ruling dated March 3, 2009 in the case "Rios v Venezuela" which sets forth, under paragraph 106: "Given the importance of the freedom of expression in a democratic society and the responsibility it entails for social communication media and professionals in the field, the State must minimize restrictions on information, and balance, to the extent possible, the participation of the various currents in public debate, promoting information pluralism. This may explain the protection of human rights for people confronted with the power of media, the latter having to responsibly exercise their social task, and make efforts to assure structural conditions enabling the equitable expression of ideas". Adoption was also made of Principle 6 of the Inter-American Commission on Human Rights Declaration of Principles of October 2000, referring to: Journalistic activities must be guided by ethical conduct, which should in no case be imposed by the State".-----

CHAPTER II

Definitions

ARTICLE 4 - Definitions. The following terms shall, under this Law, have the following meaning:-----

Advertising agency: a company registered in the national territory and engaged in advising, cooperating and creating advertisements, planning patterns, and hiring the relevant spaces for broadcasting.-----

Coverage area: such geographic area where, in real conditions, reception of a station can be established. The coverage area is often a wider area than the primary service area.-----

Service area: such geographic area reached by a broadcasting service provider through a physical link.-----

Primary service area: in the case of an open broadcasting station, such geographic area over which the licence or authorization to supply the service is granted, without prejudicial interference by other signals, in accordance with the protection conditions established by applicable technical regulations.-----

Authorization(12): title that qualifies State and non-State entities under public law and national universities and national university institutes to provide each of the services established in this Law, the range and scope of which are established in each particular case.-----

Audiovisual communication: such cultural activity whose editorial responsibility falls on an audiovisual media service provider or signal or content producer, intended to provide programmes or contents, on the basis of a broadcast schedule, destined to inform, entertain or educate the general public through electronic communication networks, including television broadcasting to stationary receivers, mobile receivers and audio broadcasting services, regardless of the support used, or through satellite service, whether on a subscription or non-subscription basis.-----

Co-production: a production made jointly between a licensee and/or authorized party and an independent producer on an occasional basis.-----

Distribution: making available an audiovisual communication service provided through any type of link to the user's address or mobile receiver(13).-----

Digital dividend: the result of the greater efficiency in the use of the spectrum accommodating a greater number of channels through a lesser number of waves, and providing a greater convergence of services.-----

Community broadcaster: a private player committed to a social end and characterized by being managed by non-profit social organizations of different nature. It is mainly characterized by community participation in the media ownership, as well as in programming, management, operation, financing and assessment. These broadcasters are independent, non-governmental media(14). A community broadcaster shall in no event be deemed a service with restricted geographic coverage.-----

Advertising firm: a firm that serves as intermediary between an advertiser and audiovisual media companies for the production of advertising or promotion of companies, products and/or services(15).-----

Station of origin: such station set up to generate and transmit own radioelectric signals, including a key station of a network of relay stations.-----

Relay station: a station operated exclusively to simultaneously broadcast radioelectric signals generated by a station of origin or broadcast by another relay station, connected through a physical or radioelectric link.-----

Television or radio licence: title that qualifies persons other than State and non-State entities under public law and national universities to provide each of the services established in this Law, the range and scope of which are established in each particular case.-----

National film: feature film that complies with the requirements established by Article 8 of Law 17741 (text restated in 2001) as amended.-----

Permit: title that exceptionally authorizes experimental transmissions for research and development of technological innovations, which is of a provisional nature and confers no right to its holder. A permit will remain in effect for as long as the criteria of timeliness or convenience that led to the granting thereof subsist, which may be extinguished at any time, under full and timely or even precautionary judicial control, and upon payment of such fees established in regulations.-----

Production: integral execution of a programme from a given idea through release.-----

Independent production: national production to be released by broadcast service holders, which is carried out by persons having no corporate connection with licensees or authorized parties(16).-----

Local production: programmes broadcast by the various services, produced in the relevant primary area or licensee's service area in the case of services supplied through a physical link. A local production must necessarily involve authors, artists, actors, musicians, directors, journalists, producers, researchers and/or technicians who are local residents representing no less than sixty percent (60%) of total participants.-

National production: programmes or advertising messages fully produced in national territory or as a co-production with foreign investors, involving authors, artists, actors, musicians, directors, journalists, producers, researchers and/or technicians either born or residing in Argentina representing no less than sixty percent (60%) of total participants.-----

Own production: production directly executed by licensees or authorized parties to be originally broadcast through their services(17).-----

Related production: production executed by producers having a permanent corporate legal or business relation with licensees or authorized parties.-----

Producer: individual or legal entity responsible for and holder or in charge of operations intended to manage and sequentially organize audio or audiovisual contents, making up a signal or programme, or audiovisual products(18).-----

Advertising producer: entity engaged in preparing, producing and/or procuring advertising on the media established in this law, at the request of a third party known as advertiser.-----

Programme: set of audio signals, images or both, forming part of a broadcasting content or catalogue of offers intended to inform, entertain and educate, excluding signals received only as alphanumeric text.-----

Educational programme: audiovisual product that has been designed and structured with an educational approach, for teaching purposes within the formal or non-formal educational system.-----

Children's programme: audiovisual product specifically intended for release on radio or television, created for and targeted at boys and girls, generated on the basis of stylistic, rhetorical and expository elements of any type or combination of types, which must be transversed by conditioning factors, limitations and characteristics addressing and understanding childhood as a special status, different from other audiences.-----

Advertising: any form of message broadcast on an audiovisual media service in exchange for a fee or similar consideration, or for self-promotion ends by a public or private company or an individual about a given trade, industry, craft or profession, aimed at promoting, in exchange for a fee, the provision of goods or services, including goods, real property, rights and obligations(19).-----

Non-traditional advertising (NTA): any form of audiovisual commercial consisting of displaying or referring to a product, service or trademark, as part of a programme, in exchange for a fee or similar consideration.-----

Radiocommunication: any telecommunication transmitted by radio waves.-----

Broadcasting: form of radiocommunication consisting of the transmission of signals to be received by the general or ascertainable public. These transmissions may include audio, TV and/or other types of broadcasts, and may be received by stationary or mobile devices.-----

Open broadcasting: any form of primarily unidirectional radiocommunication directed at transmitting signals to be received by the general public on a free basis, through the use of the radio spectrum.-----

Mobile broadcasting: any form of primarily unidirectional radiocommunication directed at transmitting audiovisual signals through the use of the radio spectrum for the simultaneous reception of programmes, on the basis of a broadcast schedule, suitable for reception by mobile terminals. Licensees must be operators capable of providing the service on an open access or combined or hybrid basis, simultaneously and through subscription services, different from stationary subscription services.-----

Subscription broadcasting: any form of primarily unidirectional communication directed at transmitting signals to be received by an ascertainable public, through the use of either the radio spectrum or a physical link, from terrestrial or satellite transmitters or retransmitters.-----

Subscription broadcasting through the use of the radio spectrum: any form of primarily unidirectional communication directed at transmitting signals to be received by an ascertainable public, through the use of the radio spectrum, from terrestrial or satellite transmitters or retransmitters.-----

Subscription broadcasting through the use of a physical link: any form of primarily unidirectional radiocommunication directed at transmitting signals to be received by an ascertainable public, through the use of physical means.

Audio broadcasting: any form of primarily unidirectional radiocommunication directed at transmitting audio signals, on the basis of a broadcast schedule, to be received by the general public on a free basis, through the use of the radio spectrum.-----

Television broadcasting: any form of primarily unidirectional radiocommunication intended for transmission of audiovisual signals, with or without audio, for the simultaneous viewing of programmes, on the basis of a broadcast schedule, to be received by the general public, through the use of the radio spectrum.-----

Station network: set of stations connected by physical or radioelectric links simultaneously transmitting a programme from the key station.-----

On-demand television broadcasting service: service offered by an audiovisual media service for access to a programme at the time elected by the public and on an on-demand basis, from a catalogue of programmes selected by the service provider.-----

Signal: packed content of programmes produced for distribution through audiovisual media services.-----

National signal: packed content of programmes produced for distribution through a physical or radio link, terrestrial or satellite, open or coded, comprising at least sixty percent (60%) of national production during half of the daily broadcast schedule.-----

Foreign signal: packed content of programmes comprising less than sixty percent (60%) of national production during half of the daily broadcast schedule.-----

Regional signal: signal produced through the association of licensees whose service areas comprise no less than six thousand (6,000) inhabitants and are related for historic, geographic and/or economic reasons. A regional signal shall be produced as per the criteria established for local production, including a suitable number of local labour, contents and productions from the service areas where the signal is distributed(20).-----

Telefilm: audiovisual work having a thematic unity, produced and edited especially to be broadcast on television, on conditions to be set out by regulations.-----

ARTICLE 5 – Reference to other definitions. Terms and technical concepts not defined herein shall be construed in accordance with the definitions contained in the National Telecommunications Law 19798, regulations thereunder and international treaties on telecommunications or broadcasting to which Argentina is a party.-----

ARTICLE 6 – Related services. The provision of related services such as telematics, data supply, transportation or access, by broadcasting service holders or third parties authorized by them, through the use of physical, radioelectric or satellite links, is free and subject to the relevant agreement between provider and carrier as per relevant regulations. The following is a list of related services approved to be provided by licensees and authorized third parties.-----

a) Teletext;-----

b) Electronic Programme Guide, meaning electronic information on individual programmes broadcast by each radio or television station, giving direct access to said stations or signals or other related or accessory services.-----

NOTE to Article 6

The provision about related services was included in a bill supported on the provisions of the European Information Society laws and directives that allow the use of technologies related, accessory or complementary to broadcasting services, which are in said sites governed by specific laws. For instance, the European Directive No. 20/2002.-----

ARTICLE 7 – Radio spectrum. The radio spectrum shall be administered as established under this law and international rules and recommendations laid by the International Telecommunication Union or other relevant entities.-----

The National Executive Branch, through the enforcement authority under this law, shall be responsible for administering, allocating, controlling and managing the radio spectrum segments directed at the broadcasting service. Broadcasting services shall be subject to federal jurisdiction.-----

If a spectrum allocation is made, the same shall be limited to assure the conditions for the provision of the licensed or authorized service, notwithstanding the provisions of Article 6 of this law.-----

NOTE to Article 7

In this connection, the OAS Office of the Special Rapporteur for Freedom of Expression, in its Annual Report 2002, establishes:-----

44. (...) there is a technological question that should not be ignored: to ensure optimal use of the radio spectrum by radio and television stations, the International Telecommunication Union (ITU) allocates countries groups of frequencies which they then administer within their territories, thereby, inter alia, preventing interference between different telecommunications services.-----

45. With this, the Office of the Special Rapporteur understands that states, in administering the frequencies of the radio spectrum, must assign them in accordance with democratic guidelines that guarantee equal opportunity of access to all individuals. That is precisely the thrust of Principle 12 of the Declaration of Principles on Freedom of Expression.-----

NOTES to Articles 4 to 7

International Telecommunication Union agreements and ratifying laws which define telecommunications and broadcasting. International regulations on the matter derive from the International Telecommunication Union agreements, specifically the ITU Resolution 69, Recommendation 2 (included in the Geneva Agreements of December 1992 and later in Kyoto in 1994) which sets forth: "Considering the Declaration of Human Rights of 1948, the Conference of Plenipotentiaries of the International Telecommunication Union, aware of the noble principles behind the free dissemination of information and of the fact that the right to communicate is a basic right of any

community, RECOMMENDS that all member States facilitate the free dissemination of information via the telecommunication services".-----

Article 1, paragraph 11, of the ITU Constitution establishes that the Union shall: "effect allocation of bands of the radio-frequency spectrum, the allotment of radio frequencies and the registration of radio-frequency assignments and, for space services, of any associated orbital position in the geostationary-satellite orbit or of any associated characteristics of satellites in other orbits, in order to avoid harmful interference between radio stations of different countries".-----

Article 44, section 1 (paragraph 195) sets forth: "Member States shall endeavour to limit the number of frequencies and the spectrum used to the minimum essential to provide in a satisfactory manner the necessary services. To that end, they shall endeavour to apply the latest technical advances as soon as possible". Section 2 (paragraph 196) establishes: "In using frequency bands for radio services, Member States shall bear in mind that radio frequencies and any associated orbits, including the geostationary-satellite orbit, are limited natural resources and that they must be used rationally, efficiently and economically, in conformity with the provisions of the Radio Regulations, so that countries or groups of countries may have equitable access to those orbits and frequencies, taking into account the special needs of the developing countries and the geographical situation of particular countries".-----

The definition of Audiovisual Communication embodies the concerns raised at the Doha Round and the WTO Ministerial Conference, demanding that historic audio and television broadcasting services, as well as on-demand television services, the definition of advertising and producer, due to their characteristics and consequences which are the reasons for including them, among which audiovisual services are aligned, be excluded from the liberalization under the negotiation round relative to the GATS. Accordingly, as our country has ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which sets forth, in particular, "cultural activities, goods and services have both an economic and a cultural nature, because they convey identities, values and meanings, and must therefore not be treated as solely having commercial value", said circumstances acquire a significant value.-----

The national production concept was based on the criterion of certified national product requiring SIXTY PERCENT (60%) of the value added. The term "signal" was defined on the basis of the General Audiovisual Bill proposed by Spain's Industry, Commerce and Tourism Ministry in 2005.-----

Likewise, certain terminology precisions have been added in order to make a more efficient and accurate interpretation of this law, particularly in those issues derived from the forthcoming emergence of new technologies or services, for which end, US and EU compared models were gathered.-----

A particularly important model is the one concerning the digital dividend, defined by the International Telecommunication Union as the beneficial result of implementing digitization processes which will provide the opportunity to make the use of the spectrum more efficient and democratic (ITU Regional Radiocommunication Conference (RRC 06)).-----

Definitions related to the advertising activity have been inspired by the European Directive 65/2007. The concepts of licence, authorization and permit have been widely accepted by scholars and courts dealing with Administrative Law matters.-----

Another relevant issue has been the definition of broadcasting services as primarily unidirectional in order to accommodate interactivity principles which do not reject the notion of the programme offering as unique to broadcasting and admit the existence of those interactive complements.-----

ARTICLE 8 – Nature of reception. The reception of open broadcasting programmes is free. The reception of subscription broadcasting services may be in exchange for a fee, as set forth in the regulations.-----

NOTE to Article 8

The ITU broadcasting definition as directed at the general public is followed.-----
Subscription services in the comparative law are often in exchange for a fee.-----

However, the growth of paid television in Argentina is quite uncommon in terms of laying and household reach.-----

ARTICLE 9 – Language. Programmes broadcast through the services foreseen in this law, including advertising and trailers, must be in the official language or in the languages of Native Peoples(21), except:-----

- a) Programmes directed at publics located outside national frontiers;-----
- b) Programmes directed at teaching foreign languages;-----
- c) Programmes released in another language but simultaneously translated or subtitled;-----
- d) Special programmes directed at foreign communities, living or residing in the country;-----
- e) Programmes derived from reciprocity agreements;-----
- f) Lyrics of musical, poetry or literary compositions.-----
- g) Signals of international range that are received in national territory.-----

TITLE II

Authorities

CHAPTER I

Federal Audiovisual Communication Services Authority

ARTICLE 10 – Enforcement Authority. The Federal Audiovisual Communication Services Authority is hereby created as a decentralized and autarchic entity reporting to the authority of the National Executive Branch, as enforcement authority under this law(22).-----

ARTICLE 11 – Nature and domicile. The Federal Audiovisual Communication Services Authority shall have full legal capacity to act in matters of public and private law, and its assets will comprise all such goods as may be transferred to it or as may be acquired by it in the future under any title whatsoever. Its main offices will be located in the City of Buenos Aires and shall set up at least one (1) delegation office in each province or region or city, with a minimum of one (1) delegation office in each locality with a population of over five hundred thousand (500,000) inhabitants.-----

ARTICLE 12 – Missions and duties. The Federal Audiovisual Communication Services Authority shall have the following missions and duties:-----

- 1) Apply, construe and enforce this law and regulations thereunder.-----
- 2) Write and approve regulations for the conduct of Board proceedings.-----
- 3) Be among the National Government's representatives attending to the relevant international bodies and take part in the drafting and negotiation of international treaties or conventions on broadcasting, telecommunications insofar as they relate to the provisions of this law, and those concerning processes related to the Information and Knowledge Society's projects, where applicable, jointly with other State authorities having jurisdiction in the matter.-----
- 4) Draft and update the National Service Standard and technical regulations governing the activity, jointly with the regulatory authority and enforcement authority in matters of telecommunications.-----
- 5) Promote the participation of audiovisual media services in the development of the Information and Knowledge Society.-----
- 6) Approve broadcasting stations' technical projects, grant the relevant permit and approve the commencement of regular broadcasts, jointly with the regulatory authority and enforcement authority in matters of telecommunications.-----
- 7) Draft and approve the bidding terms and conditions for the award of audiovisual media services.-----
- 8) Substantiate proceedings related to invitations to tender bids, direct award and authorizations, where applicable, for the operation of audiovisual media services.-----
- 9) Keep public consultation records hereunder created current, which records shall be published on the Internet site of the Federal Audiovisual Communication Services Authority.-----
- 10) See to the development of fair competition and the promotion of the existence of as most diverse communication media as possible, to foster the exercise of the human right to freedom of expression and communication.-----
- 11) Award and extend, where applicable, and revoke licences, permits and authorizations, subject to full and timely or even precautionary judicial control.-----

- 12) Supervise compliance with the obligations foreseen in this law and the commitments assumed by audiovisual media and broadcasting services in technical, legal, administrative and content matters.-----
- 13) Promote and encourage competition and investment in the sector; prevent and discourage anti-competitive practices and/or abuse of dominant position practices as part of the duties assigned to this Authority or other authorities having jurisdiction(23).-----
- 14) Apply relevant penalties in case of breach of this law, regulations thereunder and administrative decisions, subject to full and timely or even precautionary judicial control.-----
- 15) Declare the illegality of stations and/or broadcasts and initiate the consequent judicial proceedings, even injunctions, adopting any actions necessary to cause those so-declared illegal broadcasts to cease.-----
- 16) Monitor, receive and manage revenues from charges, fees and fines, and administer its own goods and resources.-----
- 17) Deal, at administrative level, with appeals and claims filed by the public or other interested parties.-----
- 18) Modify, on legal or technical grounds, the technical parameters assigned to a licence, permit or authorization, on account of services actually rendered.-----
- 19) Assure that contents broadcast by audiovisual media services are not contrary to the National Constitution, laws and International Treaties.-----
- 20) Keep and update the public records referred to herein.-----
- 21) Register and empower technical staff and commentators and announcers engaged in broadcasting and audiovisual media services where appropriate, and provide for their education and training.-----
- 22) Receive, at its delegation offices, and channel letters and claims addressed to the Audience Protection Office(24).-----
- 23) Set up and manage the Upgrading Fund for its personnel(25).-----
- 24) Provide the necessary resources for the operation of the Federal Audiovisual Communication Council.-----
- 25) Manage its administrative and technical affairs(26).-----
- 26) Establish its organizational and functional structure.-----
- 27) Prepare the annual budget, estimate revenues and investment account.-----
- 28) Accept subsidies, legacies and grants.-----
- 29) Acquire, encumber and sell real and personal property, as per applicable regulations.-----

30) Enter into any type of contracts and reciprocity agreements or service agreements with other bodies, individuals or legal entities, as per applicable regulations.-----

31) Take loans as per applicable regulations.-----

32) Appoint, promote and remove its personnel.-----

33) Enact regulations, resolutions and procedural rules as may be necessary for the more efficient performance of its duties.-----

34) Respond to any requests from the Federal Communication Council, the Audience Protection Office, and the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication.-----

35) Conduct regular assessments to determine the level and effect of radioelectric emissions on the human body and the environment, so as to prevent all such emissions as may be harmful to the health or cause environmental damage, and give notice thereof to competent authorities.-----

The Federal Audiovisual Communication Services Authority will be subject to supervision by the National General Accounting Office and the National General Auditing Office. The Board shall be, at all times, under the duty to publish its decisions in matters of resources, expenses, appointments of personnel and contracts, in order to make them transparent.-----

ARTICLE 13 - Budget. The budget of the Federal Audiovisual Communication Services Authority shall comprise:-----

a) Charges to be paid by licensees and other providers of audiovisual communication services;-----

b) Fines applied;-----

c) Grants and/or legacies and/or subsidies as may be received;-----

d) Budget allocations from the National Treasury; and-----

e) Any other revenues as may be lawfully allocated.-----

Fines and other monetary penalties shall not be exchangeable for official or public-interest advertising, either public or private, State or non-State, nor for any other in-kind consideration.-----

ARTICLE 14 - The Board. The Federal Audiovisual Communication Services Authority shall be managed by a Board made up of seven (7) members appointed by the National Executive Branch.-----

The Board shall comprise one (1) Chairman, and one (1) director, appointed by the National Executive Branch; three (3) directors proposed by the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication, to be selected by the latter among candidates proposed by the parliamentary blocks, as follows, one (1) by the

majority or first minority, one (1) by the second minority, and one (1) by the third minority; two (2) directors among candidates proposed by the Federal Audiovisual Communication Council, of which one shall be an academic from schools of or courses on information sciences, communication sciences or journalism pertaining to national universities.-----

The Board and directors may not have interests or links with the matters falling under their responsibility under Law 25188.-----

Directors shall be highly qualified professionals in social communication and have renown democratic and republican background, with a pluralist approach, shall be open to debate and exchange of different viewpoints.-----

Prior to their designation, the National Executive Branch shall publish the names and curricula of the persons proposed to the Board.-----

The Chairman and directors shall hold office for a term of four (4) years and may be re-elected for one additional period. The Board shall be set up within the two (2) years prior to the end of the term of office of the National Executive Branch incumbent, since there must be a two-year period between the beginning of the directors' term of office and that of the national Executive Power.-----

The chairman and directors may only be removed from office upon breach of their duties or upon existence of a conflict of interest established by Law 25188. Their removal shall be approved by two thirds (2/3) of all the members of the Federal Audiovisual Communication Council, through a proceeding that must have fully assured the right to defence, and the resolution to be adopted on removal shall be duly supported on the grounds set forth above.-----

The Chairman of the Board shall also act as legal representative of the Federal Audiovisual Communication Services Authority, and shall preside and call Board meetings, in accordance with regulations enacted by the enforcement authority in exercise of its powers.-----

Decisions shall be adopted by simple majority of votes.-----

CHAPTER II

The Federal Audiovisual Communication Council

ARTICLE 15 - Federal Audiovisual Communication Council. Creation. The Federal Audiovisual Communication Council is hereby created, reporting to the Federal Audiovisual Communication Services Authority(27). The Council shall have the following missions and duties:-----

a) Assist and advise on the design of the public broadcasting policy;-----

b) Propose guidelines for the preparation of bidding terms and conditions for invitations to tender bids or direct award of licences;-----

c) Prepare and refer to the National Executive Branch the list of significant events of public interest mentioned in the articles of Title III, Chapter VII of this law;-----

- d) Present to the Audience Protection Office any claims from the public when so requested by interested parties or where, due to the institutional significance of the claim, the Council deems it advisable to do so;-----
- e) Submit to the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication, an annual report on the status of compliance with the law and the development of broadcasting in Argentina;-----
- f) Convene, every year, the members of the Board of the Federal Audiovisual Communication Services Authority, to provide them with a detailed management report;-----
- g) Enact its internal regulations;-----
- h) Give advice to the enforcement authority upon request;-----
- i) Propose the adoption of measures to the enforcement authority;-----
- j) Propose panels of judges for invitations to tender bids;-----
- k) Set up standing or ad-hoc committees for the discussion of issues inherent to their responsibilities(28);-----
- l) Participate in the definition of criteria for the drawing-up of the Service Plan;
- m) Select, on the basis of an objective assessment model, the projects submitted for the Grant Promotion Fund;-----
- n) Propose for appointment by the National Executive Branch, two (2) directors to the Federal Audiovisual Communication Services Authority, of which one shall be an academic from schools of or course on information sciences, communication sciences or journalism pertaining to national universities;-----
- ñ) Propose for appointment by the National Executive Branch, two (2) directors to Radio y Televisión Argentina Sociedad del Estado, of which one shall be an academic from schools of or courses on information sciences, communication sciences or journalism pertaining to national universities;-----
- o) Remove the directors of the Federal Audiovisual Communication Services Authority by the favourable vote of two thirds (2/3) of all its members through a proceeding that must have fully assured the right to defence, and the resolution to be adopted on removal shall be duly supported on the grounds set forth above.-----

ARTICLE 16 – Composition of the Federal Audiovisual Communication Council.-----

The members of the Federal Audiovisual Communication Council shall be designated by the National Executive Branch, at the proposal of and in the number as follows:-----

- a) One (1) representative from each province and the Buenos Aires City Government. Said representative shall be the highest political authority in the matter in each province;-----
- b) Three (3) representatives from entities gathering private for-profit providers(29);---

- c) Three (3) representatives from entities gathering non-profit providers;-----
- d) One (1) representative from national university broadcasters;-----
- e) One (1) representative from national universities having communication schools or courses;-----
- f) One (1) representative from public media from all locations and jurisdictions;-----
- g) Three (3) representatives from union entities gathering media workers(30);-----
- h) One (1) representative from rights management companies(31);-----
- i) One (1) representative from Native Peoples recognized by the National Institute for Indigenous Affairs (INAI)(32);-----

Designated representatives will hold office for a term of two (2) years; they will perform duties on an honorary basis, and may be replaced or removed by the National Executive Branch at the request of the entity proposing such representative.

One (1) chairman and one (1) assistant chairman shall be elected from among its members, whose term of office shall be for two (2) years, and may be re-elected if appointed again.-----

Regular meetings of the Federal Audiovisual Communication Council shall be held at least every six (6) months, and special meetings may also be held at the request of at least twenty-five percent (25%) of its members. An absolute majority of all its members shall constitute quorum at regular and special meetings.-----

ARTICLE 17 - Advisory Council on Audiovisual Communication and Childhood. The enforcement authority shall set up a multi-disciplinary, pluralist and federal(33) Advisory Council on Audiovisual Communication and Childhood, made up of people and social organizations with an established background in the field, and representatives of boys, girls and teenagers.-----

The conduct of its proceedings shall be regulated by the enforcement authority under the law. Said Advisory Council will have the following duties:-----

- a) Prepare proposals aimed at improving the quality of programmes directed at boys, girls and teenagers;-----
- b) Establish criteria and diagnoses on recommended or priority contents and specify contents that are unsuitable or harmful for boys, girls and teenagers, supported by theoretical arguments and empiric analyses;-----
- c) Select, on the basis of an objective assessment model, the projects submitted for the Grant Promotion Fund foreseen in Article 153;-----
- d) Promote the conduct of research and studies on audiovisual communication and childhood, and training programmes on the subject;
- e) Support film, video and television contests, awards and festivals directed at boys, girls and teenagers, and courses, seminars and activities approaching the relationship

between audiovisual communication and childhood, as may take place in the country, as well as exchanges with other international festivals, events and research centres, under present or future agreements on audiovisual communication and cultural cooperation;-----

f) Promote an outstanding participation of Argentina in world summits on media for children and youth that take place in different countries every two years, and support preparatory actions taken in the country to that end;-----

g) Draft a plan of action to strengthen the Relation of Audiovisual Communications, comprising films, television, video, video-games, information technology and other means and supports using audiovisual language, with culture and education;-----

h) Nominate audiovisual representatives to the Honorary Advisory Council for Public Media;-----

i) Promote the production of contents for children and youth with disabilities(34);-----

j) Develop a Training Programme on Critical Reception of Media and Communication and Information Technologies, intended to:-----

(1) Contribute to train and update teachers in the apprehension of audiovisual and communication and information technologies in a critical and creative manner, as increasingly articulated fields of knowledge and languages.-----

(2) Build the capabilities of critical analysis, understanding and audiovisual communication of children and youth, so that they may exercise their rights to freedom of choice, information and expression, in their status as citizens and competent audiences of national and international audiovisual works.-----

(3) Support the creation and operation of children and youth networks where participants may independently analyze and create their own audiovisual speeches and their distribution scheme, as an essential part of their integral formation and their status as citizens.-----

(4) Contribute to the existence of equal opportunity access to information, knowledge, capabilities and information and communication technologies allowing to overcome the digital divide and promoting the insertion of children and youth in the knowledge society and intercultural dialogue such society calls for.-----

k) Monitor compliance with legislation in force on children and youth labour on television;-----

l) Establish and agree with relevant sectors on basic criteria for advertising contents, so as to prevent that these messages have a negative impact on children and youth, bearing in mind that one of the main learning manners children have is to imitate what they see.-----

NOTE to Article 17

The inclusion of precepts on the protection of children and youth through a space for consultation within the enforcement authority is consistent with the proposal made by 10 POINTS FOR A TOP-QUALITY TELEVISION for our children and youth(35).-----

CHAPTER III

Bicameral Committee on Promotion and Follow-up of Audiovisual Communication

ARTICLE 18 – Bicameral Committee. The Bicameral Committee on Promotion and Follow-up of Audiovisual Communication is hereby created as a Standing Committee, reporting to the National Congress. The Bicameral Committee will be made up of eight (8) senators and eight (8) national representatives, as per resolution of each House. The Bicameral Committee will enact its regulations.-----

One (1) president, one (1) vice president and one (1) secretary will be appointed each year from each House members to hold office for one year.-----

The Committee shall have the following duties:-----

a) Put forward to the National Executive Branch candidates for appointment of three (3) members of the Board of the Federal Audiovisual Communication Services Authority, and three (3) members of the Board of Radio y Televisión Argentina Sociedad del Estado, and of the head of the Audiovisual Communication Audience Protection Office, under both houses’ joint resolution;-----

b) Receive and examine the report submitted by the Honorary Advisory Council for Public Media, and report to its respective organic bodies, publishing its conclusions(36);-----

c) See to the compliance with the provisions applicable to Radio y Televisión Argentina Sociedad del Estado;-----

d) Assess the performance of the members of the Board of the Federal Audiovisual Communication Services Authority and of the Audience Protection Office;-----

e) Give its opinion on the removal of the Head of the Audience Protection Office for breach of duties, through a proceeding that must have fully assured the right to defence, and the resolution to be adopted on removal shall be duly supported on the grounds set forth above.-----

CHAPTER IV

Audiovisual Communication Audience Protection Office

ARTICLE 19 - Audiovisual Communication Audience Protection Office. The Audiovisual Communication Audience Protection Office is hereby created, and shall have the following missions and duties:-----

a) Receive and channel all queries, claims and complaints brought by the public of radio and television and other services regulated hereunder, with judicial and extrajudicial powers to act ex officio or ex parte before any administrative or court authority. Its judicial competency will be regardless of the existence of an individual case, and will include both, subjective and objective competency as well as on account of rights of collective incidence expressly or impliedly foreseen in the National Constitution and other rights inherent to the democratic and social development of the Rule of law and the republican form of government;-----

- b) Keep a record of all queries, claims and complaints submitted by users whether in public or private manner and through the pertinent means;-----
- c) Call on public or private intermediate organizations, research centres and other public welfare entities, to set up a framework for permanent debate on the development and operation of communication media;-----
- d) Follow-up claims and complaints submitted, and report their outcome to competent authorities, interested parties and the press and public in general, and publish their outcome(37);-----
- e) Submit an annual report on its activities to the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication;-----
- f) Call public hearings in different regions of the country in order to assess the appropriate operation of broadcasting media and participate in hearings herein established or called by the relevant authorities;-----
- g) Propose changes to regulations on matters falling within its authority or bring court actions to question the legality or reasonableness of existing or future regulations, without time restrictions but abiding by the authority of res judicata;-----
- h) Make public recommendations to authorities competent in broadcasting matters, which shall be binding;-----
- i) Represent the interests of the public and the community, whether individually or as a whole, at administrative or judicial level, with competency to sue and consequently to request the revocation of general or particular acts, the issuance, modification or substitution of acts, and other precautionary or substantive actions necessary for a more effective performance of its duties.-----

The Audiovisual Communication Audience Protection Office will issue public recommendations to service providers, authorities or social media professionals foreseen in this law, or file administrative or judicial actions instructing them to adjust their actions to law, where applicable.-----

The enforcement authority delegations shall receive proceedings addressed to the Audiovisual Communication Audience Protection Office, and shall refer said proceedings to the Audience Protection Office immediately(38).-----

NOTE to Article 19

The Audience Protection Office was incorporated to the Broadcasting Bill drafted by the Democracy Promotion Council, and adopted in subsequent bills. Similar concepts exist, such as the Guarantor under the Italian legislation, and the Listener and Viewer Protection Office in Andalusia.-----

Another approach to be considered is that each broadcasting station has its own protection office. In this regard, the Colombian legislation establishes, under Article 11 of Law 335 of 1996, that: "Private television operators shall have FIVE PERCENT (5%) of all their broadcasting contents exclusively devoted to programmes of public and social interest. One of those spaces will be devoted to the viewer protection. The viewer protection authority shall be designated by each private television operator".----

The Constitutional Court, in Ruling C-350 dated July 29, 1997 found this article ENFORCEABLE in the understanding that said provision does not refer to or promote any form of citizen involvement in managing and supervising the television utility service. Said form of involvement shall be regulated by the lawmaker as soon as possible.-----

ARTICLE 20 – Head of the Audience Protection Office. Requirements. The Head of the Audience Protection Office shall be designated by joint resolution of both Houses, at the suggestion of the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication, and shall meet the same eligibility criteria as those applicable to become a member of the Board of the Federal Audiovisual Communication Services Authority.-----

Prior to designation, the National Congress shall publish the name and background of the person proposed as Head of the Audience Protection Office, and shall assure adequate procedures so that the general public, non-governmental organizations, professional associations, academic entities and human rights groups, may raise their positions, remarks and opinions about the proposed candidate.-----
He/she shall hold office for four (4) years and may be re-elected on a one-time basis.--

The Head of the Audience Protection Office shall not have conflicts of interest with the affairs he/she will deal with, as established in Law 25188.-----

The Head of the Audience Protection Office may be removed for breach of duties by the National Congress, subject to the prior opinion of the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication, through a proceeding that must have fully assured the right to defence, and the resolution to be adopted on removal shall be duly supported on the grounds set forth above.-----

The Head of the Audience Protection Office will report to the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication, and his/her actions will be governed by the procedure established by Law 24284 where applicable.-----

NOTE to Article 20

A similar situation occurs with entities periodically reporting to bicameral committees, such as the Ombudsman's Office.-----

TITLE III

Provision of audiovisual communication services

CHAPTER I

Providers of audiovisual communication services

ARTICLE 21 - Providers. The services contemplated in this law shall be operated by three (3) types of providers: State, private for-profit, and private non-profit. The right may be vested on:-----

a) State and non-State entities under public law;-----

b) Private individuals or legal entities, for-profit or non-profit.-----

NOTE to Article 21

The existence of three types of broadcasting operators, without restrictions that might be contrary to the right to freedom of expression standards is the result of multiple historical demands which were not satisfied in the country until the enactment of Law 26053. However, it seems important to note that at the recent meeting of Rapporteurs on Freedom of Opinion and Expression, the above mentioned Joint Declaration on Diversity in Broadcasting (Amsterdam, December 2007), stated: "Different types of broadcasters – commercial, public service and community – should be able to operate on, and have equitable access to, all available distribution platforms. Specific measures to promote diversity may include reservation of adequate frequencies for different types of broadcasters, must-carry rules, a requirement that both distribution and reception technologies are complementary and/or interoperable, including across national frontiers, and non-discriminatory access to support services, such as electronic programme guides".-----

The study "The State of Community Media in the European Union" submitted by the European Parliament(39) in September 2007 notes the importance of giving legal recognition to community media. The study shows that the recognition of said status enables community media organizations to commit to the rules of regulatory authorities, partner with other organizations, establish alliances, and also to have advertisers, which contributes to their sustainable development.-----

On its part, the World Summit on the Information Society's Declaration of Principles, Geneva, 2003, declared the need that "Diversity of media ownership should be encouraged" and the UNESCO Convention on Cultural Diversity (2005) establishes that the States have the duty and right to "adopt measures to promote diversity in social media".-----

In that connection, the Inter-American Court of Human Rights, in its Advisory Opinion 5/85, has said: 85. "If freedom of expression requires, in principle, that the communication media are potentially open to all without discrimination or, more precisely, that there be no individuals or groups that are excluded from access to such media, it must be recognized also that such media should, in practice, be true instruments of that freedom and not vehicles for its restriction. It is the mass media that make the exercise of freedom of expression a reality. This means that the conditions of its use must conform to the requirements of this freedom, with the result that there must be, inter alia, a plurality of means of communication, the barring of all monopolies thereof, in whatever form..."-----

The Inter-American Court of Human Rights has also adopted this approach of plurality of media and subjects, stressing, in accordance with Article 13 of the Convention above referred, the individual and social dimensions of the freedom of expression: "It includes the right of each person to seek to communicate his own views to others, as well as the right to receive opinions and news from others. For the average citizen it is just as important to know the opinions of others or to have access to information generally as is the very right to impart his own opinions"... and further: "In its individual dimension, freedom of expression goes further than the theoretical recognition of the right to speak or to write. It also includes and cannot be separated from the right to use whatever medium is deemed appropriate to impart ideas and to

have them reach as wide an audience as possible..." (Advisory Opinion 5/85, Opinion 31).-----

Likewise, the Inter-American Court understands that: "When the Convention proclaims that freedom of thought and expression includes the right to impart information and ideas through "any... medium," it emphasizes the fact that the expression and dissemination of ideas and information are indivisible concepts. This means that restrictions that are imposed on dissemination represent, in equal measure, a direct limitation on the right to express oneself freely" (Advisory Opinion 5/85, Opinion 31).--

As for the Comparative Law, it is noted that France recognizes, under Law 86-1067 dated September 30, 1986, three sectors to which it refers as public, private commercial, and private non-commercial associative (law available at www.csa.fr).-----

Ireland also recognizes these three sectors under the Broadcasting Act of 2001, and such is the case with the United Kingdom under its Communications Act of 2003.-----

Australia, through its Radiocommunications Act of 1992, recognizes national (State), commercial and community broadcasting services, and emphasizes, among the objectives of the Act, the need to promote the diversity in broadcasting services.-----

It will further allow non-profit entities traditionally excluded, such as religious orders, development agencies, mutual funds, civil associations, unions and other parties involved in Argentina's cultural activity to obtain a legitimate status as social media players, including licensees and permit holders.-----

ARTICLE 22 - Authorizations. Those entities listed in item a) of Article 21 intending to set up and operate an audiovisual media service shall obtain the pertinent authorization from the enforcement authority, in the terms established by regulations.-

NOTE to Article 22

The distinction between authorizations and licences as legal titles enabling the operation of radioelectric broadcasting stations is used in Uruguay to refer to State and private broadcasters.-----

The Mexican legislation makes a distinction between concession and permit holders, depending on whether they are for-profit or non-profit. Here, the distinction would be based on the manner of access to a licence and on its ownership by the State or a university.-----

Native Peoples are also included, since their legal status has been recognized in the National Constitution (Article 75, section 17).-----

ARTICLE 23 - Licences. Licences will be awarded to the subjects listed in Article 21, section b) as well as to non-State entities under public law insofar as an authorization is not herein required to be awarded to them(40).-----

ARTICLE 24 – Eligibility - Individuals. Individuals, as holders of broadcasting licences, and individuals as partners of for-profit legal entities shall, upon commencement of the licence award process, and during the effective term of the licence:-----

- a) Be Argentine citizens by birth or by choice, or naturalized with a period of residence in the country of at least five (5) years;-----
- b) Be of age and competent(41);-----
- c) Not have been de-facto government officers holding offices and ranks currently listed in Article 5, sections a) to o), and sections q), r), s) and v) of Law 25188 as may be amended or substituted in the future;-----
- d) Be able to prove the source of the funds committed to be invested;-----
- e) Be able to prove, in their capacity as partners of for-profit legal entities and members of non-profit legal entities' management and supervision bodies, the source of the funds committed to be invested in their own right;-----
- f) Not be disqualified, under civil or criminal law, to enter into contract or do business , and not have been convicted of fraud;-----
- g) Not be a defaulting debtor in respect of tax liabilities, retirement contributions, union fees, social security charges or copyright management company fees(42), or of charges and/or fines imposed by this law;-----
- h) Not be a judge, lawmaker, public servant, military or member of the security forces; this requirement shall not apply to members of non-profit legal entities;-----
- i) Not be a director or manager of legal entities, or a shareholder holding ten percent (10%) or more of shares with voting power in a legal entity which is a provider, under a licence, concession or permit, of a national, provincial or municipal utility.-----

ARTICLE 25 - Eligibility – Legal entities. Legal entities, as licensees of audiovisual communication services and as partners of legal entities holding a licence for the provision of audiovisual communication services shall, upon commencement of the licence award process, and during the effective term of the licence:-----

- a) Be lawfully organized in the country. Where applicant is a legal entity in process of incorporation, the licence award shall be subject to the completion of incorporation steps;-----
- b) Not have any legal corporate relation or be directly or indirectly subject to foreign companies providing audiovisual communication services.-----

In the case of non-profit legal entities, their managers and advisors shall not be directly or indirectly related to national or foreign private for-profit companies providing audiovisual communication and telecommunication services. This requirement shall be deemed fulfilled provided the source of the non-profit legal entity's funds is not directly or indirectly related to national or foreign private for-profit companies providing audiovisual communication and telecommunication services(43);-

- c) Not be affiliates or subsidiaries of foreign companies or take actions or enter into contracts or corporate agreements enabling a dominant position of the foreign capital in the conduct of licensee's affairs.-----

The requirements established in sections b) and c) shall not be applicable to cases where, according to international treaties to which Argentina is a party, an effective reciprocity(44) is established in audiovisual communication services(45);-----

d) Not be a quotaholder or shareholder holding ten percent (10%) or more of the shares or quotas with voting power in a legal entity that is owner or shareholder of another legal entity that is a provider, through licence, concession or permit of a national, provincial or municipal public utility;-----

e) Legal entities of any kind shall not, without the approval of the enforcement authority, issue shares, bonds, securities or other notes or create trusts over their shares whereby voting rights are conveyed to third parties.-----

No shares, bonds, debentures, securities or other notes shall be issued or trusts created over shares where said transactions involve over thirty percent (30%) of shares with voting power.-----

Said prohibition applies to companies authorized or to be authorized to make a public offering of shares, which offering shall be allowed in the terms of Article 54 of this law;

f) Not be a defaulting debtor in respect of tax liabilities, retirement contributions, union fees, social security charges or copyright management company fees, or of charges and/or fines imposed by this law;-----

g) Be able to prove the source of the funds committed to be invested.-----

ARTICLE 26 – Individuals as licence holders of audiovisual media services, individuals as partners of for-profit legal entities, members of management and supervision bodies of for-profit and non-profit legal entities, and legal entities as licence holders of audiovisual media services and as partners of legal entities that are shareholders or quotaholders of audiovisual media services shall not be awarded or participate under any title in the operation of audiovisual media services where such participation directly or indirectly entails a breach of the provisions of Article 45 of this law (Multiple Licences).-----

ARTICLE 27 – Controlled and Related Companies. The extent of corporate control, as well as the extent of direct and indirect corporate relationship shall be fully evidenced, so as to allow the enforcement authority to be duly aware on the way majority decisions are made.-----

ARTICLE 28 – General Requirements. The enforcement authority shall evaluate bids tendered for the award of licences, on the basis of the requirements established in this law, and the relevant background and communicational proposal(46). All other requirements established are eligibility conditions.-----

ARTICLE 29 – Corporate capital. Provisions of Article 2, first and second paragraphs, of Law 25750 shall apply to legal entities.-----

If the service provider is a business company, the latter shall have a corporate capital of national origin, with only up to a thirty percent (30%) share of foreign capital carrying votes equivalent to such thirty percent (30%) provided such percentage does not entitle either directly or indirectly to have a majority voting power.-----

NOTE to Article 29

As per Law 25750, which determines that broadcasting services are "cultural assets" and therefore establishes restrictions on their ownership and/or control by foreign capitals.-----

In this connection, such legislation sets forth that "Restrictions on foreign ownership may be lawfully designed to promote national cultural production and opinions. The local dominant control over a national resource of such significance is considered necessary in many countries"(47).-----

ARTICLE 30 - Exception(48). Section d) of Article 25 shall not apply to non-profit legal entities, which may be licence holders of audiovisual media services(49).-----

In the case of subscription audiovisual media services that are provided through a physical link in a service area already served by another provider, the enforcement authority shall, in each particular case, fully assess such application with a view to protect the public interest, shall publish the application in the Official Gazette and the enforcement authority's web site.-----

If another licensee operating in the same service area files an objection, the enforcement authority shall request the enforcement authority under Law 25156 to establish the conditions of service. Objections shall be filed within thirty (30) running days as from the date of publication of the application in the Official Gazette.-----

Non-profit licensees of public utilities who are awarded audiovisual media service licences in the terms established in this Article shall in all cases:-----

- a) organize a business unit for the provision of audiovisual media services separate from the business unit existing for the utility;-----
- b) keep separate accounts and invoices in respect of the licensed service;-----
- c) Not adopt anti-competitive practices such as tied practices and cross subsidies with funds from the utility toward the licensed service;-----
- d) Facilitate competitors of licensed services, upon request, access to their own support infrastructure, particularly poles, masts and pipes, on market conditions. If no agreement is reached between the parties, the involvement of the enforcement authority shall be requested;-----
- e) Not adopt anti-competitive practices in matters related to exhibition rights on contents to be broadcast through their networks, and allocate a growing percentage – to be determined by the enforcement authority- to the distribution of contents produced by independent third parties.-----

Management and Supervision Bodies. Members of management and supervision bodies of non-profit legal entities which are utility providers as set forth in this Article will be entitled to act in such capacity.-----

ARTICLE 31 – Corporate Requirements. In addition to the requirements established in Articles 24, 25, 26, 27, 28, 29 and 30, legal entities that are licence holders of audiovisual media services shall comply with the following requirements:-----

a) In the case of stock companies or corporations, their shares shall be registered and non-endorsable;-----

b) Controlling and controlled companies shall be deemed a single entity, as per Article 33 of the Business Company Law 19550 as amended;-----

c) Their corporate purpose shall exclusively comprise the provision and operation of the services foreseen in this law and other communication activities, unless in the following events: (i) the exception established in Article 30; (ii) the activity not related to audiovisual media services has been previously authorized, in which event such activities would be exceptionally allowed to continue to be performed through separate business units so as to distinguish between audiovisual media services and the other activities conducted by a single company, and separate accounts for each such activity shall be kept.-----

CHAPTER II

Regime for Award of Licences and Authorizations

ARTICLE 32 – Award of Licences for Services using the Radio Spectrum.

Licences for non-satellite audiovisual media services using the radio spectrum, as provided for in this law, shall be awarded through permanent open invitation to tender bids.-----

Licences for open audiovisual media services with a primary service area in excess of fifty (50) kilometres, located in cities with a population of over five hundred thousand (500,000) inhabitants, shall be awarded, through an invitation to tender bids, by the National Executive Branch. Licences for all other open audiovisual media services and subscription audiovisual media services using non-satellite radioelectric links, scheduled to be awarded, shall be awarded by the enforcement authority.-----

Prior to award, a technical report from the competent entities shall be requested.-----

Flexible technological criteria shall be adopted for the calls, allowing to enhance the resource through the use of new technologies in order to facilitate the participation of new players.-----

Such frequencies not allocated as established in the technical plan shall remain available for open permanent invitation to tender bids, and the enforcement authority shall trigger a new invitation if a potential service provider emerges.-----

Where an interested party requests that an invitation be made, such call shall be made within sixty (60) running days following submission of the documentation and compliance with such formalities established by regulations.-----

Upon request by an interested party, any radioelectric location not foreseen in the Technical Plan may be included therein, if it is found to be feasible and technically

compatible with the Technical Plan. Once found to be feasible, an invitation shall be called for award thereof.-----

NOTE to Article 32

Three guidelines have been determined to exist at an international level for management of the overall spectrum. Particularly in connection with telecommunications: "The regulatory response to these difficulties has not been consistent: at one end, there are countries like Spain, that continue to stick to the traditional management and control model, adopting a rigid approach when frequencies are scarce, while somewhere in-between there is legislation and regulators who elect to allocate an increasing number of the spectrum segments through market competitions (auctions), and finally, at the other end of the scale, there are those that subsequently allow a secondary market for rights of use which (with some variants) provides for such convergence"(50).-----

The Inter-American Human Rights System elected, in its October 2000 Declaration (item 12), to recommend the adoption of democratic and transparent mechanisms, and particularly, the OAS Special Rapporteur for Freedom of Expression 2001 Report on Guatemala sets forth, under item 30: "The Special Rapporteur received information about aspects related to broadcasting and the concern existing in connection with the legal framework and criteria for allocation of radio frequencies. One of the main concerns is that government continues to allocate such frequencies exclusively based on economic criteria, leaving minority sectors of Guatemala's society such as indigenous populations, youth and women without access. In this regard, the award or renewal of broadcasting licences must be subject to a clear, fair and objective procedure that takes into account the importance of media so that society participates in the democratic process in an informed manner".-----

Likewise, most current bills on broadcasting opt for said method.-----

There have been cases of distinctions made regarding the way of access to licences involving the allocation of the spectrum by way of bids. The criterion adopted mainly consists in that an asset that is not unlimited should not be awarded simply at the request of a party.-----

The Spanish legislation establishes a system of invitations to tender bids(51), just as in Chile(52), Mexico, and Uruguay where legislation on community standards has been recently enacted. In Canada: the Canadian Radio-television and Telecommunications Commission (CRTC) must take into account programming proposals before awarding a licence.-----

Such criterion is followed by the above referred bill proposed by the Spanish Industry Ministry. The difference between on-demand allocation of part of the spectrum and tender lies in the selection of content proposals. Otherwise, it would fall into the telecommunications regime and would therefore be included in the World Trade Organization pact, rather than in UNESCO Diversity Conventions and cultural exception provisions.-----

The possibility to include radioelectric locations initially excluded follows a flexible spectrum management model that favours plurality. In this respect, it has been said

that international frequency plans are approved at competent radiocommunication conferences, in connection with specific applications, geographic regions and frequency bands, which are subject to an a-priory frequency plan at competent radiocommunication conferences. A frequency plan is a chart, or more generally a function, which assigns appropriate characteristics to each radiocommunication station (or group of stations). The name "frequency planning" dates back to early radiocommunication times when only the operating frequency of a radioelectric station and its geographic location could vary. International plans are general by nature and contain a minimum number of details. Conversely, frequency plans for the design and operation include all necessary details for the station's operation.-----

In a-priory frequency plans, specific frequency bands and associated service areas are reserved for particular applications well ahead of the commencement of actual operations. The spectrum allocation is based on the needs anticipated or reported by the interested parties. This method was used, for instance, at the World Radiocommunication Conference (WRC-97) that established another plan for the satellite broadcasting service for frequency bands 11.7-12.2 GHz in Region 3 and frequency bands 11.7-12.5 GHz in Region 1, and a plan for satellite broadcasting service links in the stationary satellite service for frequency bands 14.5-14.8 and frequency bands 17.3-18.1 GHz in Regions 1 and 3.-----
Both plans are enclosed to Radiocommunications Regulations.-----

The supporters of the a-priory approach mention that the ad hoc method is not equitable since it transfers all problems to the last-to-arrive players who must adapt their needs to those of already existing users. On the other hand, those against the approach say that the a-priory planning halts technological progress and leads to a "storage" of resources, meaning that resources are not used but instead held stand-by. However, where resources are not utilized, no benefits are yielded"(53).-----

Note how this issue is examined at an ITU seminar: "Private companies are conducting significant research and development on cognitive radio systems and relevant network layouts. Consequently, and since efforts have to be made in respect of WRC-11 Agenda Item 1.19, ITU-R hosted, on February 4, 2008, a seminar on software defined radio and cognitive radio systems, aimed at examining radiocommunication issues that could be enhanced with the use of this type of systems".-----

ARTICLE 33 – Approval of Bidding Terms and Conditions. The bidding terms and conditions for the award of licences for the services foreseen in this law shall be approved by the enforcement authority.-----

The bidding terms and conditions shall bear in mind the distinctive characteristics of legal entities, whether they are for-profit or non-profit(54).-----

ARTICLE 34 – Assessment Criteria for Applications and Bids(55). Applications and bids tendered for the award of audiovisual communication services shall, notwithstanding the provisions of Articles 24, 25, 26, 27, 28, 29, 30, be assessed(56) based on the following criteria:-----

a) Enhance or otherwise maintain plurality of audiovisual communication services and information sources, within the service area;-----

- b) Guarantee the free and pluralist expression of ideas and opinions in audiovisual communication services whose editorial and content responsibility is to be assumed by the successful bidder;-----
- c) Satisfy the interests and needs of potential users of the audiovisual communication service, bearing in mind the service area, the characteristics of the service or signals to be broadcast and, if part of the service were to be provided on a pay-per-view basis, the highest money-for value benefit for the subscriber, insofar as the service feasibility is not at risk;-----
- d) Promote, where applicable, the development of the Information Society to be provided by the service by including related services, additional interactive services and other associated capabilities;-----
- e) Provide capabilities additional to those required under the law to assure access by persons with disabilities or special needs;-----
- f) Contribute to the development of the content industry;-----
- g) Develop certain contents of social interest;-----
- h) All other criteria as may be set forth in the bidding terms and conditions.-----

NOTE to Article 34

The eligibility criteria are supported on the Inter-American Commission on Human Rights Declaration of Principles on Freedom of Expression, Principles 12 and 13, as the fact of scoring the economic bid assimilates the process to an spectrum auction. In this connection, the Inter-American Commission, in addition to the already mentioned Report on Guatemala, gave its opinion about Paraguay in March 2001, setting a standard for the whole region. One of the three recommendations made to the Paraguayan government established: "...the need to adopt democratic criteria in awarding radio and television licences. Said allocations must not be based solely on economic criteria, but also on democratic criteria assuring an equal opportunity access to them". With respect to Guatemala, that same Report urges: "An in-depth investigation should be conducted about the possible existence of a facto monopoly in open television channels, and mechanisms should be implemented allowing a greater plurality in their licensing (...) Regulations applicable to radio and television licences should be revised to reflect democratic principles assuring equal opportunity access to them".-----

ARTICLE 35 – Financial Capacity. The financial capacity shall be assessed in order to assure that the bid is eligible and viable.-----

ARTICLE 36 - Qualification. In each invitation to tender bids or award process, the enforcement authority shall establish the scoring system to be used for the communicational proposal, as per the objectives set forth in Articles 2 and 3, as well as a scoring system to assess the expertise of individuals participating in the project, so as to assure the best backgrounds(57).-----

Licensees shall maintain the guidelines and objectives of the communicational proposal reflected in the committed programming throughout the effective term of the licence.

ARTICLE 37 – Authorizations to State Entities under public law, National Universities, Native Peoples and the Catholic Church. Authorizations to State entities under public law, National Universities, Native Peoples and the Catholic Church will be granted upon request and on a direct basis, according to the spectrum availability, where applicable(58).-----

NOTE to Article 37

This is in accordance with the recognition of entities under public law as providers of audiovisual media services.-----

It further recognizes the legal nature that the National Constitution affords to Native Peoples and the legal status of the Catholic Church in our country.-----

ARTICLE 38 – Award of Subscription Broadcasting Services. The Federal Audiovisual Communication Services Authority shall, upon request, award licences for the installation and operation of audiovisual communication services on a subscription basis, through physical link or satellite broadcasting. The award of licences in these cases does not imply the allocation of spectrum bands or orbital points.-----

NOTE to Article 38

Awards to providers of satellite services shall be limited to their specific objective and will not assure more spectrum than that required for the assigned service.-----

ARTICLE 39 – Effective Term of the Licence. Licences shall be granted for a term of ten (10) years counted as from the date of the Federal Audiovisual Communication Services Authority resolution authorizing commencement of regular broadcasts(59).- - -

NOTE to Article 39

The criterion of the new Spanish legislation of 2005 that promotes digital television has been followed. The term of the licences has been raised from five to ten years. The same number of years prevails in Paraguay. Licences in the United States(60) have a term of eight years, and those in Canada, seven years.-----

ARTICLE 40 - Extension. The terms of licences may be extended on a one-time basis, by ten (10) years, subject to the public hearing to be held at the locality where the service is rendered, in accordance with general public law principles in the matter.-----

The extension application shall be filed by the licence holder at least eighteen (18) months prior to the expiration date. Such application shall be assessed subject to the submission of the documentation established in regulations.-----

No extension shall be granted to licence holders which have been repeatedly penalized for gross misconduct, as per the classification established by this law and regulations thereunder.-----

Upon expiration of the extended term, licensees may participate in a new invitation to tender bids or award procedure.-----

Authorizations shall be granted for an indefinite term.-----

NOTE to Article 40

Public hearings for the extension of licences have been adopted by Canada where the Canadian Radio-television and Telecommunications Commission (CRTC) cannot grant, revoke or suspend licences, or establish compliance with the licence objectives unless a public hearing is held (Broadcasting Act, 1991, Article 18)). The only exception is where the public hearing is not required to be held for reasons of public interest, duly supported.-----

Also in Uruguay's organic law which provides for the creation of the Regulatory Unit for Communication Services - URSEC-, Article 86, section v) establishes: "call a public hearing where deemed necessary, upon prior notice to all interested parties, whether in proceedings ex officio or ex parte in connection with breaches under the relevant regulatory frameworks". Such is also the case under the Community Broadcasting Law, enacted in November 2007.-----

Similarly, the US Federal Communications Commission (FCC) has adopted the same approach(61). The FCC, the US regulatory entity, establishes the mechanism for and the suitability of protecting information at the request of a party, balancing the public and private interest, as shown in GC Docket No. 96-55 FC, Section II.B.21, and FCC Rules, Section 457.-----

ARTICLE 41 - Transfer of Licences. Authorizations and licences for audiovisual media services are non-transferable(62).-----

The transfer of shares or quotas in licensees is exceptionally authorized upon expiration of five (5) years of the term of the Licence, provided such transfer is required for the service continuity; however, fifty percent (50%) of the original capital carrying majority votes, either subscribed or to be subscribed shall remain to be held by original shareholders or quotaholders. Said transfer will be subject to prior approval of the enforcement authority under a duly grounded resolution, depending on whether such authority determines that the requirements established for award continue or not to be met.-----

Transfers effected without prior approval shall be subject to revocation of the licence, by operation of law, and shall be null and void.-----

Non-profit Legal Entities. Licences awarded to non-profit private providers shall be non-transferable.-----

NOTE to Article 41

In Spain, Royal Decree 3302/81, dated December 18, 1981, establishes regulations for the transfer of private broadcasting licences. Said piece of legislation states that private broadcasters may be transferred, with the previous consent of the Government, provided the assignee meets the same requirements for the award of the original licence (Article 1.1).-----

A stringent control over transfers is particularly envisaged by Spanish scholars, among them, Luís de Carreras Serra, in Régimen Jurídico de la Información, Ariel Derecho, Barcelona, 1996 (pages 305 to 307).

ARTICLE 42 – No Encumbrance. Irrespective of their nature, licences and/or authorizations may not be encumbered and no further rights may be furnished thereon other than those expressly provided for in this law.-----

ARTICLE 43 – Affected Assets. For the purposes of this law, those assets that are essential for the regular provision of audiovisual media services shall be deemed affected to the provision of such service. Such assets shall comprise those described in the bidding terms and conditions and in bids tendered as minimum equipment for each station and replacement items.-----

Essential assets may be disposed of or pledged or mortgaged only for the improvement of the service, with the prior approval of the enforcement authority, in the terms established by regulations. Otherwise, such disposition, pledge or mortgage shall be null and void and shall be deemed a gross misconduct(63).-----

ARTICLE 44 – No Assignment. Audiovisual media services awarded under a licence or authorization shall be operated by their holders.-----

The following shall be deemed events of assignment and shall be deemed a gross misconduct.-----

- a) any assignment or sale of spaces on the broadcaster’s programmes to third parties, either in whole or in part;-----
- b) execution of exclusivity agreements with advertising marketing firms;-----
- c) execution of exclusivity agreements with content production organizations;-----
- d) granting of mandates or powers of attorney to third parties or execution of legal transactions enabling total or partial substitution holders in the operation of broadcasters;-----
- e) assignment of distribution of audiovisual media services to third parties(64).-----

NOTE to Article 44

The non-assignable nature is aimed at maintaining the actual operation of the broadcaster by original licensees who have proved to be qualified to undertake such operation and have been assessed by the enforcement authority. If a third party were indirectly authorized to operate the service, it would be contrary to the strict awarding procedure and the principles the law seeks to promote.-----

However, co-production agreements with third parties, either related or not, are allowed as in many countries, as shown by vertical integration processes in the audiovisual communication sector, though subject to the limitation of non-assignment.

ARTICLE 45 – Concentration of Licences. In order to guarantee the principles of diversity, plurality and respect for the local culture, limitations are established on the concentration of licences.-----

Accordingly, an individual or legal entity may be a shareholder or quotaholder in companies that are holders of broadcasting licences, subject to the following limitations:-----

1. At a national level:-----

a) One (1) licence for audiovisual media services over satellite support. A holder of a subscription satellite audiovisual media licence may not hold any other type of licences for audiovisual media services;-----

b) Up to ten (10) licences for audiovisual media services plus ownership of one content signal registry, if audio broadcasting, open television broadcasting and subscription television broadcasting services through the use of the radio spectrum;-----

c) Up to twenty-four (24) licences, notwithstanding the duties derived from each licence granted, in the case of licences for the operation of subscription broadcasting services through a physical link at different locations. The enforcement authority will determine territorial and population coverage of licences.-----

The existence of multiple licences at a national level and for all services will in no event entitle to provide services to more than thirty-five percent (35%) of the country's population or subscribers to the services herein referred, as the case may be.-----

2. At a local level:-----

a) Up to one (1) audio broadcasting licence by amplitude modulation (AM);-----

b) One (1) audio broadcasting licence by frequency modulation (FM) or up to two (2) licences where there are more than eight (8) licences in the primary service area;-----

c) Up to one (1) subscription television broadcasting licence, provided applicant does not hold an open television broadcasting licence;-----

d) Up to one (1) open television broadcasting licence, provided applicant does not hold a subscription television broadcasting licence. In no event may the total number of licences awarded in the same primary service area or group of primary service areas overlapping over most of their territory, exceed three (3).-----

3. Signals: Ownership of signal registries shall be in accordance with the following rules:-----

a) Providers listed in paragraph 1, subparagraph b, will be allowed to own one (1) signal registry for audiovisual services;-----

b) Subscription television broadcasting providers may not own a signal registry, except their own-generation signal.-----

If a service holder applies for another licence in the same area or in a mostly overlapping adjacent area, said licence shall not be awarded where the applied service were to use the only frequency available in said area.-----

NOTE to Article 45

The first proposition to be considered lies in Principle 12 of the Inter-American Commission on Human Rights Declaration of Principles on Freedom of Expression,

about the presence of monopolies or oligopolies in social communication, and Chapter IV of the 2004 Special Rapporteur Report, paragraph D, Conclusions, which sets forth:-

"D. Conclusions

The Office of the Special Rapporteur reiterates that monopolistic and oligopolistic practices in mass media ownership have a serious detrimental impact on the freedom of expression and on the right to information of the citizens of the Member States, and are not compatible with the exercise of the right to freedom of expression in a democratic society.-----

The continuous complaints received by the Office of the Special Rapporteur in relation to monopolistic and oligopolistic practices in mass media ownership in the region indicate that there is grave concern in several sectors of civil society with respect to the impact that concentration of media ownership may represent where it comes to ensuring pluralism as an essential element of the freedom of expression.-----

The Office of the Special Rapporteur for Freedom of Expression recommends to the OAS Member States that they take measures to impede monopolies and oligopolies in media ownership, and adopt effective mechanisms for implementing them. Such measures and mechanisms must be compatible with the framework of Article 13 of the Convention and Principle 12 of the Declaration of Principles on Freedom of Expression.

The Office of the Special Rapporteur for Freedom of Expression considers it important to develop a legal framework that establishes clear guidelines for defining criteria for a balancing test that accords weight to both efficiency in the broadcasting market and pluralism in information. The establishment of mechanisms for supervising these guidelines will be fundamental for ensuring pluralism in the information that is made available to society".-----

The second proposition lies in provisions, already referred to, of the comparative law clearly described in the statements and requests of the European Parliament above reproduced.-----

As for the kind of limitation on concentration, the recently published book: "Broadcasting, Voice, and Accountability: A Public Interest Approach to Policy, Law, and Regulation" by Steve Buckley • Kreszentia Duer, Toby Mendel • Seán 'O Siochrú, with Monroe E. Price and Mark Raboy, says "General rules on ownership concentration designed to alter competition and provide a low-cost better quality service, are not enough for the broadcasting sector. These rules only provide for a minimum diversity, well below that level required to maximize the capacity of the broadcasting sector to deliver value added to society. An excessive ownership concentration must be avoided not only because of its impact on competition, but also because of its impact on the key role broadcasting plays in society, and so specific and dedicated measures are required. As a result, some countries limit such ownership, for instance, having a fixed number of stations or establishing a market percentage. These rules are lawful insofar as they are not unduly restrictive, considering issues such as viability and economies of scale and how the content quality might be affected. Other kind of rules to restrict concentration and cross-ownership are lawful, including measures to restrict vertical concentration. For example, the ownership of broadcasters and advertising agencies, and cross-ownership of newspapers in the same market or overlapping markets".-----

As for the market share that may be held by a single licensee, a mixed scheme for controlling concentration has been adopted, by which the universe of potential users is viewed not only in terms of a single licensee's actual capacity to reach such market, but also the quantity and quality of licences to be obtained by a single interested party. Such design has been derived from the US regulatory model that combines the number of licences by coverage area and nature of the services awarded, considering the number of like-nature media located in such area, with national and local limits derived from the market percentage authorized to be licensed, approaching the different universes in a different manner, whether subscribers to subscription services, or population in the case of open broadcasting services.-----

ARTICLE 46 – No Co-existence. Licences for satellite direct broadcasting services and licences for mobile broadcasting services shall not - as a condition for award and during their effective term- co-exist with licences for other own services of different type or nature, except for open terrestrial television broadcasting services existing prior to their transition to digital services and their substitute station.-----

ARTICLE 47 – Changes a result of New Technologies. The enforcement authority shall, toward the preservation of licence or authorization holders, refer to the National Executive Branch and the Bicameral Committee a biannual report examining changes in the rules about multiplicity and non co-existence of licences so as to enhance the use of the spectrum by applying new technologies(65).-----

NOTE to Article 47

The proposal made is further enhanced with a working hypothesis toward the future in which the digital dividend would allow a greater flexibility of rules. Thus, consideration has been made of the instances which the US Telecommunications Act of 1996, section 202 h)- has afforded the FCC to periodically adapt concentration rules impacted by technologies and the emergence of new players, a hypothesis that materialized with the duties federal courts have imposed on this enforcement authority after the "Prometheus" judgment(66).-----

This article establishes that rules applicable to compatibility and multiplicity of licences should change as a result of technological developments. This is clearly understandable. In the analogue world, setting a limit on a licence for a TV service by coverage area is reasonable. However, it might no longer be reasonable where, as a result of TV digitization, existing channels begin to multiply, both as a result of migration of technologies, the use of UHF and multiplex.-----

The bill establishes a minimum number of licences, reflecting these days' technological reality, still predominantly analogue. Said threshold cannot be reduced or revised. Now, there exists a universe of technological capabilities. It is then reasonable to create a flexible legal instrument that allows Argentina to adopt these new technologies, as other countries have made.-----

ARTICLE 48 – Undue Concentration Practices. Prior to award of licences or authorizations for the assignment of shares or quotas, determination shall be made of the existence of corporate ties reflecting vertical or horizontal integration of businesses whether related or not to social media.-----

The licence multiplicity regime provided for in this law may not be claimed as a vested right vis-à-vis general regulations in matters of deregulation or anti-competitive practices established in this law or to be established in the future.-----

Holding licences for different types of services is deemed incompatible where the limits established by Articles 45, 46 and related provisions are not observed.-----

NOTE to Articles 45, 46 and 48

The legislation reviewed in matters of concentration shows the following guidelines:---

In England, there prevails a regime for national and regional licences (16 regions). The total number of licences may not exceed there fifteen percent (15%) of the overall audience.-----

Similarly, newspapers with a market share in excess of twenty percent (20%) may not hold licences, and national radio and television licences may not co-exist.-----

In France, radio broadcasting licences are subject to a maximum number of population covered by the same contents. However, concentration in TV services allows up to 1 national service and 1 local service (up to 6 million inhabitants), and printed media exceeding a twenty percent (20%) market share are excluded.-----

In Italy, the television regime allows up to 1 licence per coverage area, and up to 3 overall. Radio regulations allow 1 licence per coverage area, up to a total of 7; additionally, local and national licences may not be cross-owned.-----

In the United States, due to anti-trust legislation, newspapers and open TV may not overlap in each area. Likewise, radio licences may not exceed 15% of the local market; the potential national audience may not exceed thirty-five percent (35%) of the market; open TV and radio licences may not be simultaneously held. -----

This bill also follows the provisions of Law 25156 on Competition Protection and Prohibition of Abuse of the Dominant Position, as well as national courts' criteria in its enforcement. Note, further, the importance of avoiding monopolist actions or a dominant position in a field such as this. Therefore, Article 12, section 13) of this law, empowers the enforcement authority hereunder to report any action that is prohibited under Law 25156 to the National Anti-trust Committee (CNDC).-----

ARTICLE 49 – Special Regime for Low Power Broadcasters. The enforcement authority will establish direct award procedures for open low power audiovisual media services, as defined in the technical service standard, on an exceptional basis, where available spectrum is found to exist and in highly vulnerable and/or low population density locations, provided their programmes are oriented to satisfy social communication demands.-----

These broadcasting licences may be extended upon expiration of their terms, provided available spectrum conditions existing upon award are maintained. Otherwise, licences shall extinguish and an invitation to tender bids shall be called for award of the radioelectric location.-----

The Federal Audiovisual Communication Services Authority shall not authorize broadcasting stations obtaining a licence under this article an increase in the effective radiated power or a change of locality.-----

ARTICLE 50 – Extinction of Licences. Licences shall extinguish upon:

- a) expiration of the original term if no extension has been applied for, as established in Article 40, or upon expiration of the extended term;-----
- b) death of the licence holder, except as provided in Article 51;-----
- c) a licensee becoming incompetent or disqualified in the terms of Article 152 bis of the Civil Code;-----
- d) failure by a legal entity to be rearranged as foreseen in Articles 51 and 52 of this law;-----
- e) relinquishment;-----
- f) revocation;-----
- g) a licensee’s adjudication in bankruptcy;-----
- h) failure to commence regular broadcasts within the term established by the competent authority;-----
- i) loss or non-satisfaction of the requirements for award herein established, after a summary proceeding allowing the exercise of the right to defence;-----
- j) undue suspension of broadcasts for more than fifteen (15) days in one (1) year.-----

Service Continuity. Upon expiration of the licence upon occurrence of any of the events foreseen, the enforcement authority may take interim measures assuring the service continuity until service is back to normal, thereby safeguarding the public and social interest.-----

ARTICLE 51 – Death of the Licence Holder. Upon death of the licence holder, his heirs shall give notice thereof to the enforcement authority within sixty (60) days.-----

The licensee’s heirs shall, within one hundred and twenty (120) days as from the death of the licence holder or member, evidence to the enforcement authority that succession proceedings have commenced, and such heir/s who evidence, within ninety (90) running days as from the declaration of heirship, compliance with the requirements established to become a licensee, may continue to operate the licence. If more than one heir, all these heirs shall organize a company as established in this law.

In either case, the previous consent of the competent authority shall be requested.----

If these duties are not complied with, the licence may be revoked.-----

ARTICLE 52 – Corporate Rearrangement. Upon death or loss of the personal requirements established by this law for shareholders or partners of business

companies, the licensee shall submit to the Federal Audiovisual Communication Services Authority a proposal that enables to rearrange the legal entity.-----

If the proposal submitted shows that the proposed partner does not comply with the requirements established by Article 23 and related provisions, the Federal Audiovisual Communication Services Authority will declare the revocation of the licence.-----

ARTICLE 53 - Meetings. Decisions adopted at shareholders' or partners' meetings which have not been –exclusively- attended by those subjects recognized as such by the enforcement authority shall be deemed invalid for the purposes of this law.-----

ARTICLE 54 – Trading of Capital Stock. Shares of companies that are holders of licences for open audiovisual media services may be traded on the stock exchange for a maximum amount equivalent to fifteen percent (15%) of the voting shares. Said percentage shall be of up to thirty percent (30%) in the case of subscription audiovisual media services.-----

ARTICLE 55 – Trusts. Debentures. The creation of trusts over the shares of licensees shall be subject to the previous consent of the enforcement authority where such shares are not traded on the stock exchange and provided such trusts grant rights to third parties to participate in the corporate decision-making process.-----

Those parties requiring authorization to be trustees or to acquire rights entailing a potential influence on the political rights of licensees' shares shall evidence that they comply with the same conditions established for licensees and that said participation does not exceed the limits established by this law. Companies holding licences for audiovisual communication services may not issue debentures without the enforcement authority's consent.-----

CHAPTER III

Registries(67)

ARTICLE 56 – Shareholders Registry. The shareholders registry of stock companies or corporations shall at all times reflect compliance with the provisions relative to the corporate capital ownership and shareholder requirements. Non-compliance under this Article shall be deemed gross misconduct.-----

ARTICLE 57 – Public Registry of Licences and Authorizations. The Federal Audiovisual Communication Services Authority shall keep updated, as a public registry, the Public Registry of Licences and Authorizations, which registry shall contain data establishing the identity of the licensee or authorized party, their partners, members of management and supervision bodies, technical parameters, effective and expiration dates of licences and extensions, breaches, penalties and other data as may be useful to assure transparency.-----
The enforcement authority shall establish a public enquiry mechanism via Internet(68).

ARTICLE 58 – Public Registry of Signals and Producers. The Federal Audiovisual Communication Services Authority shall keep updated, as a public registry, the Public Registry of Signals and Producers.-----

The following parties shall be entered in said registry:-----

a) Producers of contents aimed at dissemination through the services regulated by this law for the sole purpose of determining compliance with production quotas;-----

b) Companies generating and/or selling signals or screening rights for dissemination of contents and programmes through the services regulated by this law.-----

Regulations hereunder shall determine such registration data to be completed by them and which data shall be open to public access; the enforcement authority shall establish a public enquiry mechanism via Internet.-----

NOTE to Article 58

In Canada and Great Britain, licences are granted for particular signals or for content providers. In Great Britain, for instance, the law determines that content providers may be different from the multiplex owner and need to obtain a general licence from the Independent Television Commission.-----

ARTICLE 59 – Public Registry of Advertising Agencies and Producers. The Federal Audiovisual Communication Services Authority shall keep the Public Registry of Advertising Agencies and Producers, the registration of which shall be mandatory to sell spaces on broadcasting services. Regulations shall determine such registration data to be completed by them and which data shall be open to public access. -----

The following parties shall be entered in such registry: -----

a) Advertising agencies posting ads on the media governed by this law;-----

b) Firms acting as intermediaries for the marketing of ads for the media governed by this law.-----

The enforcement authority shall keep updated the registry of licences and authorizations and shall establish a public enquiry mechanism via Internet.-----

ARTICLE 60 - Signals. Parties responsible for producing and transmitting packed signals disseminated through the national territory shall:-----

a) Register in the registry established in this law;-----

b) Designate a legal representative or agency sufficiently empowered;-----

c) Establish registered domicile in the City of Buenos Aires.-----

Non-compliance with these provisions shall be deemed a gross misconduct, as will be the dissemination or retransmission of signals by parties failing to provide proof of such registry.-----

Licensees or parties authorized to provide the services regulated under this law shall not broadcast or retransmit signals generated abroad if the above mentioned requirements are not complied with. -----

ARTICLE 61 – Advertising Agencies and Producers. Licensees or parties authorized to provide the services regulated under this law shall not broadcast advertising of any

type from advertising agencies or producers which shall not have complied with the registration established in Article 59. -----

CHAPTER IV

Promotion of Diversity and Regional Contents

ARTICLE 62 – Network Authorization. Broadcasting stations making up a network shall not commence simultaneous broadcasting (simulcasts) unless the Federal Audiovisual Communication Services Authority has approved the relevant networking agreement, as per Article 63.-----

The Federal Audiovisual Communication Services Authority shall have sixty (60) business days to approve or reject any such application. If the Federal Audiovisual Communication Services Authority fails to make a decision within such term, the application shall be deemed approved, provided all data required have been submitted.

No radio and/or television networks shall be organized among licensees covering the same service area(69), except in localities with a population of no more than fifty thousand (50,000) inhabitants, and provided such broadcasting involves retransmission of local contents. The enforcement authority may grant exceptions to localities in provinces with low population density.-----

ARTICLE 63 – Network Creation. The organization of radio and television networks is allowed exclusively among providers rendering the same type of service(70) for a limited period of time. A station that forms part of one or more networks shall:-----

- a) not broadcast more than thirty percent (30%) of such network’s broadcasting content per day;-----
- b) maintain one hundred percent (100%) of all contracting rights on advertising broadcast by it;-----
- c) continue to broadcast a local news service of its own during prime time.-----

Networks with a greater percentage of broadcast time may be exceptionally admitted where the allocation of multiple hub stations for the contents to be broadcast has been proposed and ascertained.-----

Providers of different types of services, if not located in the same service area, may agree among each other the terms and conditions for retransmission of certain programmes, provided such programme retransmissions do not exceed ten percent (10%) of monthly broadcasting(71).-----

The creation of open radio and television networks for broadcasting events of relevant interest is allowed with no restrictions.-----

ARTICLE 64 - Exceptions. Services held by the National State, provincial States, national universities, national university institutes and Native Peoples’ broadcasters are exempted from the requirement established in section a) of Article 63.-----

CHAPTER V

Programme Contents

ARTICLE 65 - Contents. Licence or authorization holders shall, in order to provide audiovisual media services, meet the following guidelines concerning their daily programme contents:-----

1. Audio broadcasting services:-----

a. Private and Non-State Broadcasters-----

i. Shall broadcast at least seventy percent (70%) of national production.-----

ii. Shall broadcast at least thirty percent (30%) of music of national origin, whether national authors or performers, irrespective of the type of music, during half of the daily broadcast schedule. This quota of national music shall be distributed proportionally along the daily programme, simultaneously assuring a fifty percent (50%) broadcasting of music independently produced where their authors and/or performers have selling rights over their own phonograms through their transcript by any support system, with absolute freedom to market and sell their work(72). The Federal Audiovisual Communication Services Authority may exempt audio broadcasting stations directed at foreign communities or theme broadcasters from this duty.-----

iii. Shall broadcast at least fifty percent (50%) of own production including local news programmes.-----

b. Broadcasters owned by Provincial Governments, Buenos Aires City Government, municipalities and national universities:-----

i. Shall broadcast at least sixty percent (60%) of own local production, including local news programmes.-----

ii. Shall broadcast educational, cultural or public interest programmes equivalent to at least twenty percent (20%) of total programme contents.-----

2. Open television broadcasting services:-----

a. Shall broadcast at least sixty percent (60%) of national production;-----

b. Shall broadcast at least thirty percent (30%) of own production, including local news programmes;-----

c. Shall broadcast at least thirty percent (30%) of independent local production in the case of stations located in cities with a population of over one million five hundred thousand (1,500,000) inhabitants; at least fifteen percent (15%) of independent local production, in the case of cities with a population of over six hundred thousand (600,000) inhabitants, and at least ten percent (10%) in other locations(73).-----

3. Stationary reception subscription television services:-----

a. Shall include unencoded broadcasts and signals generated by Radio Televisión Argentina Sociedad del Estado, all public broadcasters and signals of the National State, and those in which the National State has an interest;-----

b. Shall arrange their programme schedules so that all signals of the same kind are listed successively and appear on the schedule as per regulations to be enacted, giving priority to local, regional and national signals(74);-----

c. Non-satellite subscription television services shall include at least one (1) signal of own local production that satisfies the same requirements established by this law for open television broadcasts, for each licence or jurisdictional area where cable laying has been authorized. -----

In the case of services located in cities with a population of less than six thousand (6,000) inhabitants, the service may be offered by a regional signal(75);-----

d. Non-satellite subscription television services shall include unencoded signals generated by the originating open television services with the same coverage as their service area;-----

e. Non-satellite subscription television services shall include unencoded signals generated by Provincial States, the Buenos Aires City Government, municipalities and national universities located in their service areas;-----

f. Satellite subscription television services shall include unencoded open signals generated by Provincial States, the Buenos Aires City Government, municipalities and national universities;-----

g. Satellite subscription television services shall include at least one (1) signal of own national production that satisfies the same requirements established by this law for open television broadcasts;-----

h. Subscription television services shall include, in their channel list, a minimum number of signals originating in MERCOSUR member countries and Latin American countries with which Argentina has executed or may execute agreements in that respect, which signals shall be recorded in the registry of signals foreseen in this law(77).-----

Mobile Television. The National Executive Branch will establish the requirements concerning the mobile television service foreseen in this article, subject to ratification by the Bicameral Committee created by this law.-----

NOTE to Article 65

The prospects set forth in the bill are in line with policies adopted by countries or regions having a cultural and artistic production ready for development and which needs to be protected.-----

With respect to public media signals and the need for their inclusion in the schedules of multiple signal services, the Rapporteur for Freedom of Expression states, in the "Joint Declaration on Diversity in Broadcasting" of December 2007: "Different types of broadcasters – commercial, public service and community – should be able to operate on, and have equitable access to, all available distribution platforms. Specific measures to promote diversity may include reservation of adequate frequencies for different types of broadcasters, must-carry rules, a requirement that both distribution and reception technologies are complementary and/or interoperable, including across

national frontiers, and non-discriminatory access to support services, such as electronic programme guides”-----

Consideration of the impact on access to the media, and on different types of broadcasters, should be taken into account in planning for a transition from analogue to digital broadcasting. This requires a clear plan for switchover that promotes, rather than limits, public interest broadcasting. Measures should be taken to ensure that digital transition costs do not limit the ability of community broadcasters to operate. Where appropriate, consideration should be given to reserving part of the spectrum for analogue radio broadcasting for the medium-term.-----

At least part of the spectrum released through the ‘digital dividend’ should be reserved for broadcasting uses”-----

Regulations are aimed at allowing schedules to be updated in line with the powers of the enforcement authority and the National Executive Branch, which have been derived from Section 202 h) of the US Telecommunications Act.-----

As for the protection of national programming quotas, note that the Canadian legislation has stringent provisions in matters of protection of its audiovisual production(78), just as the European Television Directive of 1989 (Article 4)(79). In our country, the effort is oriented to fulfilling the mandate in Article 75, Section 19, of the National Constitution and the commitments assumed with UNESCO when the Convention on the Protection and Promotion of the Diversity of Cultural Expressions was adopted.-----

ARTICLE 66 – Accessibility. Open television broadcasts, the local signal of own production in subscription systems and news, educational, cultural and general interest programmes of national production, shall incorporate additional visual communication features using closed caption, sign language and audio description, making them accessible for persons with sensory disabilities, the elderly and other persons who might find it difficult to access contents. Regulations will determine gradual requirements for implementation(80).-----

NOTE to Article 66

The provision aims at satisfying communicational needs of persons with hearing disabilities who need more than a sign language, as in programmes with some kind of scenery that language may prove insufficient. Closed caption systems have been established following a gradual implementation scheme in the US 47 CFR § 79.1.-----

This is also reflected in item 64 of the UE Directive 65/2007 whereas clauses, and Article 3c which establishes: “Member States shall encourage media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability”.-----

Similarly, France approved Law 2005-102 (in February 2005) aiming at assuring equal opportunities and rights for people suffering from visual and hearing disabilities.-----

ARTICLE 67 – Screen Quotas for National Feature Films and Audiovisual Arts(81).-----
Audiovisual media services that broadcast television signals shall comply with the following screen quotas:-----

Licenseses of open television services shall screen, as a television premiere, in their respective coverage areas, each calendar year, eight (8) national feature films, and may elect to include in such screen quota up to three (3) national telefilms, in both cases produced –in a majority proportion- by independent national producers having their antenna rights been acquired prior to shooting.-----

All licenseses of subscription television services in the country and licenseses of open television services with a total coverage area equivalent to less than twenty percent (20%) of the country’s population, may elect to meet the screen quota by acquiring – prior to shooting, antenna rights over national feature films and telefilms produced by independent national producers, for an amount equivalent to zero point fifty percent (0.50%) of the previous year's gross turnover(82).-----

Non-national signals authorized to be retransmitted by subscription television services broadcasting fiction programmes equivalent to over fifty percent (50%) of their daily broadcasting contents, shall apply zero point fifty percent (0.50%) of previous year's gross turnover to acquire, prior to shooting, antenna rights over national films.-----

NOTE to Article 67

The French law regulating the exercise of the right to audiovisual communication freedom (Law 86-1067) establishes “...audiovisual media services broadcasting film works shall include, particularly during prime time, at least 60% of European works and 40% of original French works...”. French works contribute to complete the quota established for European works.-----

This comprises both open television and cable or satellite signals. Decree 90-66, which regulates such piece of legislation, established that statutory quotas must be fulfilled on an annual basis both in relation with the number of film works broadcast and the total amount of time allocated to broadcast audiovisual works (articles 7 and 8).-----

As regulatory background, Decree 1248/2001 on “Promotion of the National Filming Business”, established, under Article 9, that “Cinemas and other screening places in the country shall fulfil such screen quotas for national feature films and short movies established by the National Executive Branch in the regulations for this law, and in such rules to be issued by the National Institute for Film and Audiovisual Arts (INCAA)”.-----

Within said framework, it should be noted that, as per Article 1 of Resolution No. 1582/2006/INCAA, dated August 15, 2006, amending Resolution No. 2016/04, screen quota means “the minimum number of national films that companies broadcasting films through any media or system are required to broadcast during a given period”.---

ARTICLE 68 – Child Protection and Dedicated Contents(83). The contents of programming, previews and advertising must in all cases conform to the following:-----

- a) Contents shall be G-rated from 6:00 to 22:00;-----
- b) Programmes considered to be suitable for adults only, from 22:00 to 6:00.-----

Programmes subject to parental guidance shall show the relevant rating just at their beginning, as per the categories established in this article. The symbol to be

determined by the enforcement authority shall be shown over the first thirty (30) seconds of each block, so that the relevant rating is visibly shown.-----

If the standard time varies within the territory of Argentina, the enforcement authority will change the watershed established in this article for consistency over the whole territory.-----

Children under twelve (12) shall not participate in programmes broadcast from 22:00 to 8:00 unless such programmes shall have been recorded beyond those hours and a legend for the purpose shall be shown on the screen.-----

Regulations shall establish the minimum number of hours of production and broadcasting of audiovisual material for children on open television channels, at least fifty percent (50%) of which shall be of national origin, and shall require that a specific warning is shown in the event information (news programmes/ashes) potentially harmful to children were required to be broadcast during hours not reserved for adult audiences(84).-----

NOTE to Article 68

Both this article and the educational objectives foreseen in Article 3 and the relevant definitions contained in Article 4 have regard for the "Convention on the Rights of the Child" which has constitutional standing as per Article 75, Section 22, of the National Constitution.-----

The Convention, approved by our country by means of Law 23849, recognizes under Article 17 the important function performed by the mass media and urges States Parties to ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.-----

To this end, the States Parties shall:-----

- a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of Article 29;-----
- b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources; and-----
- c) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.-----

In Mexico, Peru, Venezuela and other countries, "watersheds" are in force for the protection of children.-----

ARTICLE 69 - Coding. Section a) of Article 68 shall not apply to subscription television services with coded broadcasts, where access to such coded programmes is only available through the deliberate action of the person hiring or requesting them.-----

ARTICLE 70 - The programming of the services foreseen in this law shall avoid including contents that promote or encourage discriminatory treatment on the basis of race, colour, sex, sexual orientation, language, religion, political or other views,

national or social origin, economic position, birth, physical appearance, disabilities, or that are harmful to human dignity or lead to detrimental behaviours against the environment or the human health and integrity of children or youth(85).-----

ARTICLE 71 – Those who produce, distribute, broadcast or otherwise obtain benefits from the transmission of programmes and/or advertising shall see to the compliance with the requirements established by Law 23344 on tobacco advertising, Law 24788 – National Law on Fight against Alcoholism, Law 25280, approving the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, Law 25926, establishing guidelines for the broadcasting of health-related issues, Law 26485 –for the integral protection in order to prevent, punish and eradicate violence against women in all places where women develop their interpersonal relations, and Law 26061, for the integral protection of the rights of children and youth, as such legislation may be supplemented and/or amended and any future legislation on health protection and anti-discriminatory practices(86).-----

CHAPTER VI

Duties of Licensees and Authorized Parties

ARTICLE 72 – Duties. Holders of licences and authorizations for audiovisual media services shall, in addition to other established duties:-----

a) Furnish all the information and provide all the assistance as may be requested by the enforcement authority and deemed necessary or advisable for the proper performance of their duties;-----

b) Provide to the enforcement authority, on a gratuitous basis, monitoring service in respect of their broadcasts, in such technical manner and at such places as determined by regulations;-----

c) Record programmes and keep them for the term and in the conditions established by the enforcement authority;-----

d) Keep records of broadcast productions, the contents of which must be available as public backup. To such end, broadcasters shall forward to the National General Archives any contents requested. The use of said files for commercial purposes is prohibited;-----

e) Make available, as easily accessible information, a folder jointly with a digital support available on the Internet. Said folder shall show:-----

(i) The names of licence or authorization holders,-----

(ii) Broadcasting commitments supporting the award of the licence, as applicable,-----

(iii) The members of the board,-----

(iv) Technical specifications approved upon award of the licence or authorization,-----

(v) The number of programmes aimed at children, of public interest, of educational interest,-----

- (vi) Information regularly sent to the enforcement authority pursuant to law,-----
- (vii) Any penalties as may have been imposed on the licensee or authorized party,-----
- (viii) Official advertising spot(s) received by the licensee from all national, provincial, municipal and Buenos Aires City jurisdictions, with a description of each of them.-----
- f) Post a warning pointing to previously recorded contents in news, topical programmes or programmes with public participation;-----
- g) Make available to the public, at least once a day, through overprinting, the name and domicile of the licence or authorization holder.-----

NOTE to Article 72

The first three sections are consistent with the duties envisaged in most regulations of the comparative law and do not introduce major changes. Now, section d) promotes social and community participation and control. Said provision stems from the Public Inspection File established by the US legislation under Section 47 CFR § 73.3527 (Code of Federal Regulations applicable to broadcasting and telecommunications. Said file shall contain:-----

- a) Terms under which the station operation was authorized.-----
- b) Applications and related material.-----
- c) Citizen agreements, where applicable.-----
- d) Contour maps.-----
- e) Ownership reports.-----
- f) Details of broadcasts by candidates for public office as per Section 73.1943 of the CFR.-----
- g) Equal employment opportunity policies.-----
- h) A link or copy, as applicable, of the FCC document entitled The Public and Broadcasting.-----
- i) Audience letters.-----
- j) Details of broadcasting contents, describing educational, cultural, children programmes or their general conditions.-----
- k) Donor or sponsor lists.-----
- I) Material relating to FCC investigation or complaint in connection with the station".---

ARTICLE 73 – Social Rate(87). Providers of pay subscription broadcasting services, shall offer a social rate to be implemented as per regulations, subject to a previous public hearing and through a public participation process.-----

The mix of signals determined for the provision of the service at a social rate, shall be offered to all providers at market price and on the same conditions all over the country(88).-----

NOTE to Article 73

The social rate is established because, in certain locations, pay subscription broadcasting services are the only service available to watch television. In the United States, competent authorities may take action in this respect (note that the FCC does not establish regulations for all aspects, but cities or counties have regulatory powers, among them, rate setting)(89).-----

The aim is that all inhabitants have access to broadcasting and audiovisual communication services. The social rate shall be established by the enforcement authority(90).-----

ARTICLE 74 – Political Advertising. Licensees of audiovisual media services shall comply with the requirements established in matters of political advertising and shall assign broadcasting spaces to political parties during electoral campaigns, as per the electoral law. Said spaces may not be subject to subdivisions or further assignments.- -

ARTICLE 75 – National or Provincial Simultaneous Broadcasting. The National Executive Branch and provincial executive branches may, under serious or exceptional circumstances or instances of institutional significance, instruct simultaneous broadcasting at national or provincial level, as the case may be, which shall be binding on all licensees.-----

ARTICLE 76 – Official and Public Interest Messages. The Federal Audiovisual Communication Services Authority may instruct the broadcasting of public interest messages. Holders of broadcasting licences shall broadcast those messages at no charge, at such times and intervals established by regulations.-----

Messages deemed of public interest shall not exceed one hundred and twenty (120) seconds and shall not be computed in the advertising broadcast time established in Article 82 of this law.-----

In the case of subscription services, said duty shall only apply to their own-production signal.-----

This article shall not apply to messages forming part of official advertising campaigns funded by budget allocations or broadcast through other social media funded by other public revenue sources.-----

Said broadcast time shall not be computed in determining the maximum advertising time allowed under this law.-----

The enforcement authority shall establish, upon consultation with the Federal Audiovisual Communication Council, the maximum official advertising as may be received by private for-profit or non-profit services, considering socioeconomic, demographic and market conditions prevailing in the different locations.-----

When investing in official advertising, the State shall adopt equitable and reasonable criteria for its distribution, taking into account the communicational objectives of the relevant message.-----

CHAPTER VII

Right to Access Contents of Relevant Interest

ARTICLE 77 - Right to Access. The right to universal access - through audiovisual media services - to information of relevant interest and sports events, football matches or other events is guaranteed.-----

Events of General Interest. The National Executive Branch will adopt regulations so that the exercise of exclusive rights to broadcast or retransmit on TV certain events of general interest of any nature, such as sports events, is not detrimental to the citizens' right to watch said events on a live and free basis, in the whole territory.-----

In compliance with these provisions, the Federal Audiovisual Communication Council shall prepare, each year, a list of general interest events for television broadcasting or retransmission; exclusive rights on such events shall be exercised on a fair, reasonable and non-discriminatory basis.-----

Said list shall be prepared after interested parties are allowed to hold a public hearing, with the participation of the Audiovisual Media Audience Protection Office.-----

The list shall be prepared each year, at least six (6) months in advance, and may be revised by the Federal Audiovisual Communication Council as established by regulations.-----

ARTICLE 78 - List. Criteria. General interest events to be included in the list shall meet, at least, the following criteria:-----

- a) The event must have been traditionally broadcast or retransmitted on open television;-----
- b) The event must call relevant attention from the television audience;-----
- c) The event must be an event of national importance or a relevant international event with the participation of Argentine citizens of significant quality or in a significant number.-----

ARTICLE 79 - Conditions. Relevant interest events shall be broadcast or retransmitted on the same technical conditions and broadcasting media established by Law 25342.---

ARTICLE 80 - Assignment of Rights. Exercise of the Right to Access.-----
No assignment of broadcasting or retransmission rights, whether on an exclusive basis or not, may limit or restrict the right to information.-----

Such restriction and the concentration of exclusive rights may not prevent the normal development of the competition or affect the clubs' financial stability or independence. To make those rights effective, radio or television broadcasters shall have free access to delimited premises where such events are to take place.-----

The exercise of the right to access referred to in the preceding paragraph, where news or images will be obtained for subsequent transmission on news programs of freely selected brief extracts, shall not be subject to any economic consideration if they are to be broadcast on television and are no more than three (3) minute long, each event, or sports competition, as the case may be, and may not be live transmitted.-----

Radio news programs will not be subject to the time and live limitations foreseen in the preceding paragraph.-----

The total or partial broadcasting or retransmission of sports events through radio stations shall not be on an exclusive basis.-----

NOTE to Articles 77, 78, 79, 80

Source material includes the principles and regulations established on the matter by the recent UE Directive 65/2007, as well as the Spain's Law 21/1997, dated July 3, 1997 on Broadcasts and Retransmissions of Sports Events and Competitions, as well as by anti-trust courts' resolutions, including Argentine CNDC's backgrounds.-----

The existence of exclusive rights agreed between private entities not only prevents part of the population from fully exercising their right to access, but also entails a potential market restriction by preventing the participation of other players, and therefore, unreasonably restricts the number of broadcasting and retransmission media for this type of events.-----

This type of events, particularly sports events, is highly relevant for the population. It is the State's duty to implement mechanisms so that this right to access does not affect the development of the event or is economically detrimental to the entities that must facilitate means for their broadcasting or retransmission. Consequently, priority is given in this Chapter not only to the right of information over any exclusive rights as may be claimed, but also guarantees are offered that certain types of transmissions will remain free.-----

Reference is made, in this respect, to the document "Competition problems in the distribution of television programs in Argentina", of 2007, prepared by the CNDC, as part of the grant program for research of competition problems in the distribution sector, funded by the International Development Research Center, IDRC). In particular, Chapter 5 which discusses compared examples.-----

CHAPTER VIII

Advertising

ARTICLE 81 – Broadcast of Advertising. Licensees or authorized parties providing audiovisual media services may broadcast advertising as per the following:-----

a) Advertising shall be of national production if it were to be broadcast by open broadcasting services or on channels or signals owned by subscription services or inserted in national signals;-----

b) In the case of subscription television services, advertising may only be inserted in the signal corresponding to their own-generation channel(91);-----

- c) In the case of retransmission of open TV signals, no advertising may be inserted except in such subscription services located in a primary coverage area of the open signal;-----
- d) Signals transmitted by subscription services may only use such advertising broadcast time established in Article 82 by directly contracting it with each licensee and/or authorized party(92);-----
- e) Advertising shall be broadcast on the same audio volume and shall be separate from the rest of the programming(93);-----
- f) No subliminal advertising shall be broadcast, meaning such advertising capable of triggering unconscious stimuli presented beneath the absolute sensory threshold(94);-
- g) Language and child protection provisions shall be observed;-----
- h) Advertising directed at children shall not encourage them to buy products by taking advantage of their lack of experience and credulity(95);-----
- i) Advertising shall not entail any type of discrimination on the basis of race, ethnic group, sex, sexual orientation, ideology, socioeconomic position or nationality, among others; shall not impair the human dignity; shall not be offensive to moral or religious beliefs; shall not induce to behaviours or practices that are harmful to the environment or the physical and moral health of children and youth;-----
- j) Advertising encouraging the consumption of alcoholic beverages or tobacco or their manufacturers may only be broadcast as per the legal restrictions placed on these products(96);-----
- k) Programmes exclusively directed at promoting or selling products may only be broadcast on audiovisual media service signals expressly authorized to such end by the enforcement authority and as per relevant regulations;-----
- l) Ads, commercials and advertising messages promoting aesthetic treatments and/or professional health care related activities shall be previously approved by the competent authority and shall fully observe any legal restrictions placed on such products or services(97);-----
- m) Advertising of all forms of betting, gaming and lottery shall be previously approved by the competent authority;-----
- n) A systematic control mechanism should be implemented to help monitoring its actual broadcasting;-----
- ñ) Each television advertising lot shall begin and end with the channel or signal symbol, so as to distinguish it from the rest of the programming;-----
- o) Broadcast of advertising shall observe professional responsibilities(98);-----
- p) Programmes advertising products, infomercials and others of similar nature shall not be computed to determine fulfilment of own programming quotas and shall adjust to the guidelines established by the enforcement authority for their broadcasting(99).-----

Broadcasting of messages of public interest as determined by the Federal Audiovisual Communication Services Authority as well as display of distinctive signs, and legal conditions of sale or portion required by the consumer protection law, shall not be deemed advertising(100).-----

ARTICLE 82 – Advertising Broadcast Time. The advertising broadcast time shall be subject to the following conditions:-----

a) Audio broadcasts: up to fourteen (14) minutes per broadcast hour;-----

b) Open television: up to twelve (12) minutes per broadcast hour;-----

c) Subscription television: licensee may insert advertising in own-generation signal, up to eight (8) minutes per hour(101).-----

Holders of signal registry permits may insert up to six (6) minutes per hour. Advertising may only be inserted in signals comprised in the basic subscription package offered by subscription services. Holders of signals shall agree with the owners of subscription services the consideration for such advertising.-----

d) No advertising may be inserted in subscription audiovisual media services, in the case of signals reaching the public through devices requiring an additional payment not included in the rate paid for the basic subscription package(102);-----

e) The enforcement authority may determine the conditions for inserting advertising in audiovisual artistic works where the plot is a unity, respecting the integrality of the narrative unit (103);-----

f) Licensees and holders of rights over signals may accumulate the established hourly cap in blocks of up to four (4) hours per broadcast day.-----

The maximum authorized time for audiovisual media services does not include the promotion of their own programming. These contents shall not be computed to determine own-production percentages established in this law.-----

Programmes exclusively directed at telemarketing and promotion or advertising of goods and services shall be authorized to be broadcast by the enforcement authority.--

The conditions for insertion of promotions, sponsorships and advertising in programmes shall be established by regulations.-----

NOTE to Articles 81 and 82

Provisions relating to broadcasting of advertising are aimed at assuring the subsistence of open television stations in inland territory. Similarly, a tax has been envisaged on advertising inserted in non-national signals, as well as the impossibility to deduct investments made by Argentine advertisers in foreign advertising or non-national signals from income tax payables. This criterion is based on Article 19 of the Canadian Income Tax Act.-----

As regards time limits, they are supported by comparative law provisions, particularly the European Union, in which respect mention should be made that on last May 6, the European Union Commission sent Spain a reasoned opinion on account of their failure

to comply with the Television Without Frontiers directive in connection with television advertising rules. This infringement procedure, started in July 2007, is based on a monitoring report that the main TV channels in Spain, both publicly funded and commercial, failed regularly and by some margin to restrict advertising and teleshopping spots to 12 minutes per clock hour. The purpose of this limit, which is maintained in the new Directive on Audiovisual Media Services Without Frontiers, is to prevent audiences having their viewing interrupted by too much advertising and to promote quality television across Europe.-----

ARTICLE 83 – Any investment in advertising to be inserted in broadcasting services not meeting the condition of national signal, shall no be afforded the right to deduction established in Article 80 of the Income Tax Law (restated text, 1997) as amended.-----

TITLE IV

Technical Aspects

CHAPTER I

Commissioning and Regularity of Services

ARTICLE 84 – Broadcast Commencement. Licensees and authorized parties shall meet the technical requirements established within one hundred and eighty (180) running days from the date of the licence or authorization. Once said requirements have been fulfilled, the Federal Audiovisual Communication Services Authority, jointly with the relevant technical authority, shall technically commission the facilities and enact the resolution announcing the regular commencement of the service.-----

Until the administrative decision authorizing the commencement of regular broadcasts is issued, said broadcasts will be deemed to be testing and adjusting their technical parameters, and therefore, no advertising may be shown.-----

ARTICLE 85 - Regularity. Holders of audiovisual media services and holders of signal registry permits shall assure the regularity and continuity of broadcasts and compliance with programming schedules, which shall be communicated to the Federal Audiovisual Communication Services Authority.-----

ARTICLE 86 – Minimum Broadcast Time. Licensees of open audiovisual media services and holders of subscription audiovisual media services shall, on their own signals, at all times adjust their broadcasts to the following minimum time per day.-----

	Radio	TV
Primary service area with a population of SIX HUNDRED THOUSAND (600,000) or more inhabitants	SIXTEEN (16) hours	FOURTEEN (14) hours
Primary service area with a population between ONE HUNDRED THOUSAND (100,000) and SIX HUNDRED THOUSAND (600,000) inhabitants	FOURTEEN (14) hours	TEN (10) hours
Primary service area with a population between THIRTY THOUSAND (30,000) and ONE HUNDRED	TWELVE (12) hours	EIGHT (8) hours

THOUSAND (100,000) inhabitants		
Primary service area with a population between THREE THOUSAND (3,000) and THIRTY THOUSAND (30,000) inhabitants	TWELVE (12) hours	SIX (6) hours
Primary service area with a population of less than THREE THOUSAND (3,000) inhabitants	TEN (10) hours	SIX (6) hours

CHAPTER II

Technical Regulation of Services

ARTICLE 87 – Installation and Operation. Audiovisual media services, whether open or using the radio spectrum, shall be installed and operated subject to the technical parameters and service quality established by the National Service Standard prepared by the enforcement authority and all other entities having jurisdiction in the matter.---

The technical equipment and civil works relating to their facilities shall be in accordance with the technical project submitted.-----

ARTICLE 88 – National Service Standard. The Federal Audiovisual Communication Services Authority will prepare and revise, with the participation of the relevant technical authority, the National Service Standard subject to the following criteria:-----

- a) Technical rules and restrictions derived from applicable international treaties to which Argentina is a party;-----
- b) Requirements established in national, municipal and provincial communication policies;-----
- c) Utilization of the radio spectrum so as to promote the greatest number of broadcasters;-----
- d) Geomorphologic conditions in the area to be defined as service area(104).-----

Any radioelectric location not foreseen in the standard may be allocated at the request of any interested party, in accordance with the relevant procedure, if it is found to be feasible and radioelectrically compatible with the locations foreseen in the National Service Standard.-----

The Technical Frequency Plan and Technical Service Standards shall be deemed to contain positive information, and shall be available on the web site of the Federal Audiovisual Communication Services Authority.-----

ARTICLE 89 – Radio Spectrum Reservations. In preparing the Technical Frequency Plan, the Federal Audiovisual Communication Services Authority shall make the following frequency reservations, notwithstanding the possibility of enhancing such frequency reservations due to the emergence of new technologies allowing a greater utilization of the radio spectrum:-----

a) For the national State, such frequencies as required to reach the objectives of Radio y Televisión Argentina Sociedad del Estado, its operating relay stations, and such relay stations necessary to cover all the national territory;-----

b) For each provincial State and the Buenos Aires City, one (1) audio broadcasting frequency using amplitude modulation (AM), one (1) audio broadcasting frequency using frequency modulation (FM), and one (1) open television frequency, together with relay stations necessary in order to cover all of their territory;-----

c) For each municipal State, one (1) audio broadcasting frequency using frequency modulation (FM);-----

d) For national universities, at the location of their main premises, one (1) open television frequency, and one (1) audio broadcast frequency. The enforcement authority may approve, through a grounded resolution, the operation of additional frequencies for educational, scientific, cultural or research purposes as requested by national universities;-----

e) For Native Peoples, in localities where each such people are settled, one (1) AM frequency, one (1) FM frequency and one (1) television frequency;-----

f) For non-profit legal entities, thirty-three percent (33%) of planned radioelectric locations, in all terrestrial audio and television broadcast bands in all coverage areas (105).-----

Frequency reservations established in this article may not be annulled.-----

Based on the provisions of Article 160, the Federal Audiovisual Communication Services Authority will allocate any frequencies recovered as a result of expiry, revocation of licence or authorization, or reallocation of bands due to migration of technological standard, to fulfil the reservations established in this article, particularly, those listed in items e) and f).-----

NOTE to Article 89

The provisions related to radio spectrum reservations are supported on the need that there exist three bands of service operators, following the recommendations of the Rapporteur for Freedom of Expression, referred to above. Therefore, a percentage is reserved for non-profit entities allowing for their development, and also for the commercial private sector. As for those assigned to State-operated media in any of its jurisdictions, the aim is that the State be recognized as a complementary rather than a subsidiary player among audiovisual media services.-----

The idea is to seek a harmonic development in view of the future spaces to be created through digitisation, where plurality must be assured.-----

ARTICLE 90 – Change of Technical Parameters. The enforcement authority under this law may, pursuant to the National Service Standard, jointly with the regulatory authority and the enforcement authority in matters of Telecommunications, change the technical parameters applicable to broadcasting stations, without this affecting the competition conditions prevailing in the coverage area of the licence, or entitling licence holders to any type of compensation whatsoever.-----

The notice communicating the change of technical parameters shall determine the term granted, which in no event shall be less than one hundred and eighty (180) running days.-----

ARTICLE 91 - Transportation. The conditions for point-to-point transportation of signals shall be agreed between the signal provider and the licensee, in accordance with technical standards and regulations.-----

CHAPTER III

New Technologies and Services

ARTICLE 92 – New Technologies and Services. The adoption of new technologies and services that are not operational as of the effective date of this law, shall be determined by the National Executive Branch in accordance with the following guidelines:-----

a) Harmonization of the radio spectrum utilization and technical standards among the Mercosur and International Telecommunication Union (ITU) Region II member countries;-----

b) Determination of new radio spectrum segments and technical standards assuring sufficient capacity for locating or relocating all broadcasters installed, seeking that the technological development favours plurality and the entry of new operators. Licences will be granted on an equitable and non-discriminatory basis;-----

c) The Federal Audiovisual Communication Services Authority may, upon consultation with the technical authority, authorize experimental broadcasts for research and development of technological innovations, which will not create rights and for which the relevant permit will be granted. Allocated frequencies shall be subject to immediate return, upon the request of the enforcement authority;-----

d) The relocation of broadcasters may not affect competition conditions in the coverage area of the licence, notwithstanding the entry of new players as per section b) of this article;-----

e) New licences may be granted to new operators to provide services on open access or combined or hybrid conditions, simultaneously with open or subscription services.---

If a dominant position exists within the existing service market, the enforcement authority shall give priority to new players for the operation of the new services and markets.-----

NOTE to Article 92

The Rapporteur for Freedom of Expression states, in the Declaration on Diversity in Broadcasting of 2007: "Consideration of the impact on access to the media, and on different types of broadcasters, should be taken into account in planning for a transition from analogue to digital broadcasting. This requires a clear plan for switchover that promotes, rather than limits, public interest broadcasting. Measures

should be taken to ensure that digital transition costs do not limit the ability of community broadcasters to operate.-----

Where appropriate, consideration should be given to reserving part of the spectrum for analogue radio broadcasting for the medium-term. At least part of the spectrum released through the 'digital dividend' should be reserved for broadcasting uses".-----

Now then, in view of the need to incorporate new players, and the requested democratization and ownership deconcentration in communication and content media, as a result of the issues above described, this law adopts instances of competition protection such as those resolved by the European Commission, when it authorized – on a qualified basis – the merger of Stream and Telepiú106, as stated by Herbert Ungerer, Head of Division of the European Commission, Competition in Information, Communication and Multimedia, in his work "Impact of European Competition Policy on Media".-----

"As digitisation multiplies the number of available channel capacity by a figure of 5 - 10, the main concern under a competition perspective must be to transform this new multi-channel environment into a truly larger choice for the users. This implies, as the major goal of competition policy in the area, the maintenance, or creation, of a level playing field during the transition. In short, digitisation must lead to *more* market actors and *not to less*.-----

It must not lead to the traditional actors, in many instances already very powerful, to use the new channels to entrench their positions further, to the detriment of market entrants and the New Media that are developing such as the new Internet based media providers. Neither must it lead powerful actors in neighbouring market to leverage their dominant position unduly into the newly developing media markets. During the transition we must strengthen pluralism and a pro-competitive market structure"(106) (107).-----

ARTICLE 93 – Digital Switchover. During the transition to digital broadcasting services, the rights and duties of holders of licences obtained by invitation to tender bids and their relay stations for open analogue services, shall be maintained, assuring their effectiveness and coverage area, on the conditions established in the National Plan for Digital Audiovisual Media Services, provided such services are in operation through the date to be established by the National Executive Branch in accordance with the third paragraph of this article.-----

During such period in which licensee broadcasts analogue and digital signals simultaneously with identical contents, the additional signal shall not be computed in determining the concentration limits for licences established in Article 45.-----

Broadcast conditions during the transition period shall be regulated under the National Plan for Digital Audiovisual Media Services, to be approved by the National Executive Branch within one hundred and eighty (180) days of the effective date of this law.-----

The National Executive Branch shall establish the expiry date of the transition period for each service.-----

Said Plan shall establish that licensees or authorized parties operating non-satellite digital services, whether stationary or mobile, shall reserve a portion of the total transportation capacity of the allocated radioelectric channel, to broadcast "universal"

contents as defined in the regulations to be enacted by the National Executive Branch. The transition conditions applicable to broadcasters owned by the State, universities, Native Peoples and the Catholic Church shall also be established.-----

In order to assure citizen participation, universal access to new technologies and the satisfaction of the objectives foreseen in this law, a public participation process and a public hearing shall be conducted prior to any decision-making, as per the relevant rules and principles.-----

Upon completion of the digital switchover period on the conditions to be established following the processes referred to in the preceding paragraph, the frequency bands originally allocated to licensees and authorized parties for analogue services, shall be available for allocation by the National Executive Branch for the fulfilment of the objectives established in section e) of Article 3 of this law.-----

To such end, future regulatory and technical rules of service shall aim at an appropriate utilization of the radio spectrum, in line with the international guidelines for the utilization of the digital dividend upon completion of the switchover period.-----

TITLE V

Taxes

ARTICLE 94 - Taxes. Holders of audiovisual media services shall pay a tax proportional to their gross revenues from traditional and non-traditional advertising, programmes, signals, contents, subscription fees and other revenues from the operation of these services.-----

Tax rates levied on revenues from contests, draws and other similar activities or practices broadcast through audiovisual media, other than those offered by official entities, shall be those shown in the category "Other Services".-----

Holders of signal registry permits shall pay a tax proportional to their gross revenues from spaces and advertising of any type, broadcast through any of the services regulated by this law.-----

Only market discounts and rebates actually billed and accounted for will be deductible from gross revenues.-----

ARTICLE 95 - Invoicing. The supervision and control of the tax established in this Title or such tax rates eventually imposed on permits granted, shall be under the responsibility of the enforcement authority via the Federal Revenue Administration (AFIP) subject to Law 11683 (restated text, 1998 as amended) and Law 24769.-----

Banco de la Nación Argentina will transfer each day the amounts foreseen in Article 97.

Actions to determine and demand payment of the tax, interest thereon and any adjustment established by this law, as well as the action for recovery of such tax, shall be time-barred after five (5) years counted as from January 1 following such year in which liabilities are due or the tax is to be paid.-----

ARTICLE 96 - The tax established in the preceding articles shall be determined and paid in accordance with the following categories and percentages:-----

I.

Category A: services to be supplied in the Buenos Aires City.-----

Category B: services to be supplied in cities with six hundred thousand (600,000) or more inhabitants.-----

Category C: services to be supplied in cities with less than six hundred thousand (600,000) inhabitants.-----

Category D: services to be supplied in cities with less than one hundred thousand (100,000) inhabitants.-----

II.

a) Open television.-----

Mid and high power Category A 5%-----

Mid and high power Category B 3.5%-----

Mid and high power Category C 2.5%-----

Mid and high power Category D 2%-----

b) Audio broadcasting.-----

AM Category A 2.5%-----

AM Category B 1.5%-----

AM Category C 1%-----

AM Category D 0.5%-----

FM Category A 2.5%-----

FM Category B 2%-----

FM Category C 1.5%-----

FM Category D 1%-----

c) Open television and low power AM/FM radio.-----

Category A & B 2%-----

Category C & D 1%-----

d) Satellite subscription service 5%.-----

e) Non-satellite subscription services.-----

Category A 5%-----

Category B 3.5%-----

Category C 2.5%-----

Category D 2%-----

f) Signals-----

Foreign 5%-----

Domestic 3%-----

g) Other products and services-----

Category A & B 3%-----

Category C & D 1.5%-----

ARTICLE 97 – Allocation of Tax Revenues. The Federal Revenue Administration will allocate tax revenues as follows:-----

a) Twenty-five percent (25%) of all tax revenues shall be allocated to Instituto Nacional de Cine y Artes Audiovisuales (National Institute of Cinema and Audiovisual Arts). Said amount shall be at least forty percent (40%) of all revenues under Article 96, Section II, items a), d) and e). Revenues to be allocated to Instituto Nacional de Cine y Artes Audiovisuales shall be at least equivalent to those received as of the date of promulgation of this law under Decree 2278/2002;-----

b) Ten percent (10%) to Instituto Nacional del Teatro (National Theatre Institute). Revenues to be allocated to Instituto Nacional del Teatro shall be at least equivalent to those received as of the date of promulgation of this law under Decree 2278/2002;-----

c) Twenty percent (20%) shall be allocated to Radio y Televisión Argentina Sociedad del Estado created under this law;-----

d) Twenty-eight percent (28%) shall be allocated to the Federal Audiovisual Communication Services Authority, including funds for the operation of the Federal Audiovisual Communication Council;-----

e) Five percent (5%) shall be allocated for the operation of the Audiovisual Communication Audience Protection Office;-----

f) Ten percent (10%) shall be allocated to special audiovisual media projects and support to community, frontier and Native Peoples' audiovisual media services, with a particular focus on cooperation in digitisation projects(107).-----

g) Two percent (2%) shall be allocated to Instituto Nacional de Música (National Music Institute).-----

NOTE to Article 97 and subsequent articles. Taxes

A weighted criterion has been adopted, with fixed tax rates in accordance with the coverage and nature of the taxable service or activity. The variables used have been derived from the Spanish legislation, though with a simplified approach so that the taxpayer may easily determine his liabilities.-----

The Spanish example periodically includes radio spectrum utilization fees in the general budget appropriation law. Article 75 of such law was approved in 2007, as follows:-----

Article 75. Determination of the Radio Spectrum Reservation Fee.-----

1. The Radio Spectrum Reservation Fee established in the General Communications Law 32/2003, dated November 3, 2003, shall be determined as per the following formula:-----

$$T = [N \times V] / 166,386 = [S \text{ (km}^2\text{)} \times B\text{(kHz)} \times F \text{ (C1, C2, C3, C4, C5)}] / 166,386\text{-----}$$

Where:-----

T = annual radio spectrum reservation fee.-----

N = number of radio spectrum units reserved.-----

(URR) is the product of S x B, i.e., service area in square kilometres by band width in kHz.-----

V = value of URR, determined on the basis of the five Ci coefficients, established in the General Telecommunications Law, the quantification of which, in accordance with said law, shall be as established in the General Budget Appropriation Law.-----

F (C1, C2, C3, C4, C5) = function that connects all FIVE (5) Ci coefficients. Ci. This function is the product of the FIVE (5) coefficients above indicated.-----

The amount, in euros, to be paid on account of this annual fee shall be the product of the number of radio spectrum units reserved by the value assigned to the unit, divided by the exchange rate foreseen in Law 46/1998, dated December 17, 1998, on Euro Adoption:-----

$$T = [N \times V] / 166,386 = [S \text{ (km}^2\text{)} \times B\text{(kHz)} \times (C1 \times C2 \times C3 \times C4 \times C5)] / 166,386\text{.---}$$

For reservations of radio spectrum affected to the whole national territory, the area to be considered for fee determination shall be such territory which, according to the National Statistics Institute (Instituto Nacional de Estadística), is 505,990 square kilometres.-----

For radiocommunication services, the area to be considered may include Spain's territorial sea.-----

The determination of value for parameters C1 to C5 in each radiocommunication service, was based on the meaning established in the General Telecommunications Law 32/2003, dated November 3, 2003, and regulations thereunder.-----

Such FIVE (5) parameters are as follows:-----

First coefficient C1: Extent of utilization and congestion of the various bands in the various geographic areas.-----

The following is considered:-----

Number of frequencies by concession or authorization.-----

Urban or rural area.-----

Service area.-----

Second coefficient C2: Type of service intended to be provided and, in particular, whether such service imposes on provider any public utility duties established in Title III of the General Telecommunications Law.-----

The following is considered:-----

Support to other networks (infrastructure).-----

Service to third parties.-----

Self-service.-----

Exclusive telephone services.-----

Broadcasting services.-----

Third coefficient C3: Spectrum band or sub-band.-----

The following is considered:-----

Radioelectric characteristics of the band (band suitability for the requested service).-----

Anticipated band utilization.-----

Exclusive or shared sub-band utilization.-----

Fourth coefficient C4: Equipment and Technologies Used.-----

The following is considered:-----

Conventional networks.-----

Random allocation networks.-----

Modulation for radiolinks.-----

Radiation diagram.-----

Fifth coefficient C5: Revenues from the utilization of the reserved radio spectrum.-----

The following is considered:-----

Non-commercial experiences.-----

Service profitability.-----

Public interest of the band.-----

Uses derived from market demand.-----

Coefficient C5: this coefficient considers the aspects of social relevance of a given service as compared to other similar services from the radioelectric viewpoint. It also considers the relative profitability derived from the rendered service, with a higher tax on bandwidth units being levied on such services of high interest and profitability than other services which, even if similar from the radioelectric viewpoint, offer a very different profitability and have a different role from the standpoint of social relevance.-

A key factor to determine a given radio spectrum reservation fee, considering the particular characteristics of the broadcasting service, has been the population density in the service area covered by the relevant broadcaster.-----

Determination of the radio spectrum reservation fee.-----

Radioelectric services and modalities considered.-----

The following groups or classes are considered:-----

1. Mobile services.-----

1.1 Terrestrial mobile and other associated services.-----

1.2 Terrestrial mobile service with national coverage.-----

1.3 Automatic mobile telephone systems (AMT).-----

1.4 Maritime mobile service.-----

1.5 Aeronautical mobile service.-----

1.6 Satellite mobile service.-----

2. Stationary service.-----

2.1 Stationary point-to-point service.-----

2.2 Stationary point-to-multipoint service.-----

2.3 Stationary satellite service (FSS).-----

3. Broadcasting service-----

3.1 Audio broadcasting.-----

Long wave and medium wave audio broadcasting (LW/MW).-----

Short wave audio broadcasting (SW).-----

Audio broadcasting with frequency modulation (FM).-----

Terrestrial digital audio broadcasting (T-DAB).-----

3.2 Television.-----

Television (analogue).-----

Digital video broadcasting - terrestrial (DVB-T).-----

3.3 Ancillary broadcasting services.-----

4. Other services.-----

4.1 Radionavigation.-----

4.2 Radiodetermination.-----

4.3 Radiolocalization.-----

4.4 Satellite services, such as space research, space operations and other.-----

4.5 Services not foreseen in above items.-----

ARTICLE 98 – Federal Promotion. The enforcement authority may establish temporary exemptions or reductions in the taxes levied by this law, as follows:-----

a) Holders of licences or authorizations for television services located outside the Buenos Aires Metropolitan Area (AMBA) directly producing or locally acquiring fiction works or audiovisual arts of any genre, format or duration, may deduct the tax established by this law in an amount equivalent up to thirty percent (30%) of such tax payable during the fiscal period corresponding to the time the work is released on the service operated by such holders;-----

b) Holders of licences for audiovisual media services located in border areas shall be exempted from the tax during the first five (5) years counted as from commencement of their broadcast services;-----

c) Holders of radio broadcasting licences located in provincial or municipal 'disaster' areas, provided the benefit were required for the service continuity. Under exceptional circumstances, i.e. for duly supported economic or social reasons, the enforcement authority may agree on a reduction of up to fifty percent (50%) of the total tax charge over given periods of up to twelve (12) months;-----

d) Holders of licences and/or authorizations for open audiovisual media services with a service area comprised by localities with a population of less than three thousand (3,000) inhabitants(108);-----

e) Broadcasters owned by the national State, provincial or municipal States, national universities, university institutes, Native Peoples and those foreseen in Article 149 of this law;-----

f) A twenty percent (20%) tax reduction is established for licensees of open audiovisual media services, which:-----

1) have only one licence;-----

2) have been assigned a primary service area with a population of no more than three hundred thousand (300,000) inhabitants;-----

3) have been assigned a category which coverage area is of no more than forty (40) kilometres;-----

4) have more than ten (10) employees.-----

g) A ten percent (10%) tax reduction is established for licensees of subscription audiovisual media services, which:-----

1) have only one licence.-----

2) have been assigned a primary service area with a population of no more than twenty-five thousand (25,000) inhabitants.-----

3) have more than ten (10) employees.-----

ARTICLE 99 – Exemption Requirements. The exemptions foreseen in sections a), b), g) and f) of the preceding article shall be granted provided clearance certificates are obtained from social security entities, copyright management entities and professional and union organizations and health insurance companies as entities responsible for collecting and supervising payment of social security charges and employment contributions in respect of all employees involved in the production of contents or programmes broadcast or created by broadcasting licensees and programme producers.-----

ARTICLE 100 – Revenues derived from the provisions of Article 97 shall not be applied other than to fund the entities foreseen or created by this law or to fund the objectives herein established.-----

TITLE VI

Penalties

ARTICLE 101 - Liability. Holders of licences or authorizations for audiovisual media services shall be liable for the technical quality of the signal and broadcast continuity and shall be subject to the penalties established in this Title. Where relevant, these penalties shall also apply to content producers or companies generating and/or marketing signals or screening rights.-----

A service holder who retransmits a third party signal in full on a regular basis, excluding own production or advertising, shall be deemed a bona fide holder provided

registered signals and producers are involved. Where infringement derives from non-registered signals and producers, liability shall rest on the party retransmitting them.- -

As for production and/or broadcasting of contents and development of programming, the parties responsible for such broadcasts will be subject to civil, criminal, labour or commercial liabilities derived from the general legislation, and the provisions of this law.-----

NOTE to Article 101 and subsequent articles

A typification of conducts and penalties has been proposed, adopting matters related to the transparency of resolutions and their disclosure to the public, from the Spanish legislation. Similarly, a bona fide presumption is established so that operators with no decision-making powers over contents, but who just retransmit third-party contents, provided such operators are duly registered, are not penalized.-----

ARTICLE 102 - Procedure. The initial procedure and enforcement of penalties for breach under this law shall be in charge of the enforcement authority. Administrative proceedings in force in the national public administration shall be applicable.-----

ARTICLE 103 - Penalties. The breach of the duties established in this law, regulations thereunder or conditions for award will result in the imposition of the following minimum and maximum penalties:-----

1) For profit or non-profit private providers, non-state authorized providers and holders of registries regulated by this law:-----

a) Notice;-----

b) Warning;-----

c) Fine from zero point one percent (0.1%) to ten percent (10%) of advertising revenues in the month preceding the date of the infringement. The instrument determining the fine shall be immediately enforceable;-----

d) Suspension of advertising;-----

e) Revocation of licence or registry.-----

In the case of legal entities, members of their management boards may be held liable and penalized under this article.-----

2) For State-owned broadcasters' managers:-----

a) Notice;-----

b) Warning;-----

c) Fine, to be imposed directly on the officer who incurred in the infringement. The instrument determining the fine shall be immediately enforceable;-----

d) Disqualification.-----

These penalties do not exclude those applicable in their capacity as public servants.-----

The penalties foreseen in this article shall apply notwithstanding other penalties otherwise applicable under the civil and criminal legislation in force.-----

ARTICLE 104 – Minor Fault. Notices, warnings and/or fines, as the case may be, shall apply in the following events of minor fault:-----

- a) Occasional breach of technical standards insofar as such breach impairs the service quality or service areas established for other broadcasters;-----
- b) Breach of the provisions relative to percentages of national, own, local and/or independent production and advertising broadcast;-----
- c) Occasional breach of the guidelines established in the award terms of the licence;---
- d) Breach of the standards foreseen for network broadcasting;-----
- e) Advertising in excess of the maximum time allowed by Article 82;-----
- f) Other events of minor fault established by this law.-----

ARTICLE 105 - Recurrence. The recurrent commission within a calendar year of the faults established in Article 104 shall be deemed a gross misconduct(109).-----

ARTICLE 106 – Gross misconduct. Fines, suspension of advertising and/or revocation of the licence, as the case may be, shall apply in the following events of gross misconduct.-----

- a) Recurrent breach of technical standards insofar as such breach impairs the service quality or service areas established for other broadcasters;-----
- b) Recurrent breach of the provisions about contents relative to the percentages of national, own, local and/or independent production and advertising broadcast;-----
- c) Recurrent breach of the guidelines established in the award terms of the licence;----
- d) Creation of broadcast networks without the enforcement authority’s prior consent;--
- e) Events foreseen in Article 44 concerning assignment;-----
- f) Recurrent minor faults;-----
- g) Misrepresentation by the licensee in respect of the ownership of the assets affected to service;-----
- h) Lack of data or failure to update data in the public access folder;-----
- i) Events of gross misconduct as defined in this law.-----

ARTICLE 107 – Penalties Related to Broadcast Schedules. Screening the following material within hours classified as G-Rated shall be deemed a gross misconduct and penalized with suspension of advertising:-----

- a) Messages encouraging the consumption of psychoactive substances;-----
- b) Scenes containing unwarranted verbal and/or physical violence;-----
- c) Previously edited materials highlighting horrifying, gruesome or sordid scenes;-----
- d) Explicit representations of sexual intercourse other than for educational purposes. -- Out-of-context adult language and nudity;-----
- e) Systematic use of obscene language without a supporting narrative end;-----
- f) Film works with a rating given by the competent governmental authority, which does not fall within the time bands established in this law.-----

ARTICLE 108 – Revocation of License or Registry. The licence or registry shall be revoked in the following events:-----

- a) Acts threatening the national constitutional order or utilization of Audiovisual Media Services to urge or encourage those acts;-----
- b) Gross or recurrent breach under this law, the National Telecommunications Law or regulations thereunder, as well as under bidding terms and conditions and bids;-----
- c) Recurrent alteration of technical parameters leading to interference with frequencies allocated for public ends;-----
- d) Unjustified failure to set up broadcaster upon award in due time and manner;-----
- e) Fraudulent ownership of licence or registry;-----
- f) Unauthorized transfers or approval by the competent authority of transfers of interests, quotas or shares prohibited under this law;-----
- g) Misrepresentation by licensee or authorized party in respect of the ownership of the assets affected to service;-----
- h) Assignment of service operation;-----
- i) Criminal conviction of licensee or authorized entity of any of the partners, directors or managers of licensees, for fraudulent offences from which a benefit was derived;-----
- j) Recurrent commission of infringements classified as gross misconduct under this law.-----

ARTICLE 109 - Responsibility. Holders of audiovisual media services, members of their management bodies and managers of State-owned audiovisual media services shall be responsible for compliance with the duties established by this law, regulations hereunder and the commitments assumed upon award of the licenses or authorizations.-----

ARTICLE 110 – Grading of Penalties. The penalties imposed within the limits established shall be in accordance with the following criteria:-----

- a) the seriousness of previous infringements;-----
- b) the social effect of infringements, considering the impact on the audience;-----
- c) the benefit derived by infringer from the infringement in question.-----

ARTICLE 111 – Publicity of Penalties. The penalties shall be made public; the impact of the infringement could result in the disclosure of the resolution imposing the penalties and its insertion in the public access folder foreseen in this law.-----

ARTICLE 112 - Jurisdiction. Once administrative proceedings have been exhausted, the penalties applied may be appealed before the Federal Courts of First Instance having jurisdiction in contentious-administrative matters, sitting in the jurisdiction of the broadcaster’s domicile.-----

The filing of administrative appeals and court actions foreseen in this article shall not stay the proceedings except in the case of revocation of the licence where the circumstances surrounding each case shall be examined.-----

ARTICLE 113 – Revocation of the License. Upon revocation of the licence, the enforcement authority will call a new invitation to tender bids within thirty (30) days of the final resolution. Broadcasters shall be managed by the enforcement authority until a new licence is awarded. If the invitation is declared vacant, the station shall cease broadcasts. In the meantime, the equipment involved in the operation must continue to be used in the provision of the service.-----

ARTICLE 114 - Disqualification. Upon revocation, both the penalized station and members of its management board shall be prevented from becoming holders of licences or partners or managers of licensees for a term of five (5) years.-----

ARTICLE 115 – Time-barring. Actions to determine the existence of infringements under this law shall be time-barred after five (5) years of their commission.-----

ARTICLE 116 – Illegal Broadcasters. The installation of broadcasters and the broadcast of signals not authorized under this law shall be deemed illegal.-----

Such illegality shall be declared by the Federal Audiovisual Communication Services Authority, which will require the owner of the so declared illegal station to immediately cease broadcasts and to dismantle broadcasting facilities.-----

ARTICLE 117 – Such stations comprised in Article 116 as shall not have complied with the instructions given by the Federal Audiovisual Communication Services Authority shall be subject to seizure and dismantling of broadcasting facilities under a competent court order.-----

ARTICLE 118 - Disqualification. Parties found liable for the action typified in Article 116 shall be disqualified for a term of five (5) years counted as from the illegality declaration date, to become holders of licences or partners or managers or to be members of the management boards of a licensee of the services foreseen in this law.-

TITLE VII

Broadcasting Services owned by the National State

CHAPTER I

Creation. Objectives.

ARTICLE 119 - Creation. Radio y Televisión Argentina Sociedad del Estado (RTA S.E.), responsible for managing, operating and developing audio and television broadcasting services owned by the national State is hereby created under the jurisdiction of the National Executive Branch.-----

NOTE to Article 119 and subsequent articles

The guidelines of the organization structure of Chilean National Television are followed in the constitution of the authority to head the management of State-owned media. The structure of the selected example is praised in comparative studies on public media in Latin America.-----

Several regulatory alternatives have been considered in this respect, ruling out the approach of having numerous direction boards on account of operating costs and diligence in the decision making process.-----

Special attention has been given to providing for the assignment of proprietary and non-proprietary rights held by current service providers.-----

In terms of the Advisory Council, though in a smaller number, the participative model adopted by the German and French public television has been taken into consideration.

For comparison purposes, the following examples are mentioned: the legislation governing the Australian Broadcasting Corporation is the Australian Broadcasting Corporation Act (1983), as amended on March 29, 2000. Moreover, its Article 6 – Charter of the Corporation provides that the functions of the Corporation are:-----

To provide within Australia innovative and comprehensive broadcasting services of a high standard as part of the Australian broadcasting system consisting of private and public sectors.-----

Broadcasting programmes that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity.-----

Broadcasting programs of an educational nature.-----

To transmit to countries outside Australia broadcasting programmes of news and current affairs that will enable an international understanding of Australian attitudes on the world affairs.-----

Pursuant to this act, the ABC is governed by a Board of Directors with a Managing Director appointed by the Board to hold office for a period of five (5) years.-----

Additionally, the Board of Directors has a Staff Director, who forms part of the journalistic staff of the broadcaster, among other Directors (not fewer than 5 or more than 7) who may or may not be Executive Directors and are appointed by the Governor-General.-----

The Board of Directors must assure compliance with the purposes entrusted by law to the Corporation and the editorial independence, despite the government’s jurisdiction over it.-----

In Canada, the Broadcasting Act establishes that the Board of Directors of the Canadian Broadcasting Corporation (CBC) will be made up of twelve (12) members, including a President and a Chairman, all of which must be of renown standing in different fields of knowledge and representatives of the various regions existing in the country, who are appointed by the Governor in Council (similar to federal cabinets).----

Within the Board, there is a standing committee of directors on English language broadcasting and a standing committee of directors on French language broadcasting.-

France Televisión has an Advisory Council on programming made up of twenty (20) members who hold office for a term of three (3) years, and are appointed by lot among those paying a fee. Said Council meets twice (2) a year and issues recommendations on broadcast contents.-----

The Board of Directors of France Television is made up of twelve (12) members to hold office for a term of five (5) years.-----

Two (2) members of Parliament designated by each the National Assembly and the Senate, i.e. four (4) State representatives.-----

Four (4) qualified persons appointed by the Higher Audiovisual Council, of which one (1) shall come from the associative movement, and at least another one, from the audiovisual or film creation or production industry.-----

Two (2) staff representatives.-----

The chairman of France Television board of directors shall also be the president of France 2, France 3, and the Cinqueme. This Board designates the general directors of the mentioned entities. Their boards of directors shall comprise a chairman and two (2) members of Parliament.-----

Two (2) State representatives, one (1) of which is from France Television board. One qualified person appointed by the Higher Audiovisual Council of France Television.-----

Two (2) staff representatives.-----

The boards of directors of each of Reseau France, Outre Mer, and Radio France Internationale, shall be made up of twelve (12) members to hold office for a term of FIVE (5) years.-----

Two (2) members of Parliament.-----

Four (4) State representatives.-----

Four (4) qualified persons.-----

Two (2) staff representatives.-----

Their general directors are designated by the Higher Audiovisual Council.-----

Radiotelevisión Española (RTVE) is a Public Entity –administratively attached to Sociedad Estatal de Participaciones Industriales from January 1, 2001 - ultimately supervised and managed by a Board of Directors and General Management.-----

RTVE Board of Directors –which meetings are attended by RTVE General Director – is made up of twelve (12) members, half of which are designated by the House of Representatives and the other half by the Senate, to hold office for the same term as the Legislature in office at the time of their appointment.-----

The General Management is the executive body of Grupo RadioTelevisión Española and its head is appointed by the Government, based on the opinion of the Board of Directors, to hold office for a term of four (4) years, unless in the event of early dissolution of the General Courts.-----

The General Management has a Management Committee, presided over by the General Manager, made up of the heads of the divisions that play a strategic role in RTVE management.-----

Radiotelevisión Española and its State Companies are directly and permanently monitored by a Parliamentary Commission from the House of Representatives.-----

ARTICLE 120 – Applicable Legislation. Radio y Televisión Argentina Sociedad del Estado (RTA S.E.) is governed by Law 20705, this law and supplementary provisions. Its external legal relations, acquisitions and contracts are governed by general private law regimes.-----

ARTICLE 121 - Objectives. Radio y Televisión Argentina Sociedad del Estado has the following objectives:-----

a) Promote and develop respect for human rights vested in the National Constitution and Declarations and Conventions made a part thereof;-----

b) Respect and promote political, religious, social, cultural, linguistic and ethnic plurality;-----

c) Guarantee the right to information for all Argentine inhabitants;-----

d) Contribute to formal and non-formal education of population, through programmes directed at the different social sectors;-----

e) Promote the development and protection of the national identity within the multicultural framework of all regions comprising the Argentine Republic;-----

f) Allocate spaces to programming contents directed at children, as well as population sectors not covered by the commercial sector;-----

g) Promote the production of own audiovisual contents and contribute to the dissemination of regional, national and Latin American audiovisual production;-----

h) Promote the cultural development of Argentine inhabitants as part of the Latin American regional integration;-----

i) Assure coverage of audiovisual media services in the whole national territory.-----

ARTICLE 122 - Duties. For the fulfilment of the objective above established, Radio y Televisión Argentina Sociedad del Estado shall:-----

1) Broadcast, as part of its programming, educational, cultural and scientific contents that promote and strengthen the education and training of all social sectors;-----

2) Produce and distribute contents through different technological supports in order to fulfil its communication objectives directed at audiences within and without national territory;-----

3) Have at all times regard for the social role played by the media as the basis for their creation and existence;-----

4) Assure information and communication with an adequate coverage of issues of national, regional and international interest;-----

5) Promote artistic, cultural and educational productions from all regions in the country;-----

6) Promote the activity of the branches of government at national, provincial, municipal and Buenos Aires City levels;-----

7) Install relay stations in the whole national territory and set up national or regional networks;-----

8) Execute cooperation, exchange and mutual assistance agreements with public or private, national or international entities, particularly with Mercosur member countries;

9) Offer global access, through the participation of significant social groups, as sources and carriers of information and opinion, as part of the programming of Radio y Televisión Argentina Sociedad del Estado.-----

ARTICLE 123 - Programming. Radio y Televisión Argentina Sociedad del Estado shall broadcast at least sixty percent (60%) of own production, and twenty percent (20%) of independent production through all media operated by it.-----

CHAPTER II

Organic Provisions. Advisory Council.

ARTICLE 124 - Honorary Advisory Council for Public Media. Creation.-----

The Honorary Advisory Council for Public Media is hereby created, which will be responsible for supervising the fulfilment of the objectives of this law by Radio y Televisión Argentina Sociedad del Estado, acting as the entity's honorary advisory body.-----

Notwithstanding any additional members as may join the Council as provided in Article 126, the Honorary Advisory Council for Public Media shall be made up of members of renowned standing in the fields of culture, education or communication in the country.-

Its members shall be designated by the National Executive Branch in accordance with the following procedure:-----

a) Two (2) members will be nominated by Schools or courses on Social Communication or Audiovisual Communication or Journalism, pertaining to national universities;-----

b) Three (3) members will be nominated by relevant trade unions having, upon their designation, the greatest number of members employed with Radio y Televisión Argentina Sociedad del Estado;-----

c) Two (2) members will be nominated by non-governmental human rights organizations or entities representing the public or audience;-----

d) Six (6) members will be nominated by jurisdictional governments of the following geographic areas in Argentina: northwest (NOA), northeast (NEA), Cuyo, mid-region, Patagonia; Buenos Aires Province and Buenos Aires City;-----

e) One (1) member will be nominated by the Federal Education Council;-----

f) Two (2) members will be nominated by the Advisory Council on Audiovisual Communication and Childhood, from entities or organizations grouping producers of TV educational, child or documentary contents;-----

g) One (1) member will be nominated by the Native Peoples.-----

ARTICLE 125 - Term of Office. The members of the Honorary Advisory Council for Public Media will hold office for two (2) years, and may be re-elected by their respective entities. Members will perform their duties on an honorary basis, i.e. they will receive no compensation for their services.-----

ARTICLE 126 - Rules. The members of the Honorary Advisory Council for Public Media will enact their rules, to be approved by the majority vote of designated members, from which the authorities will be appointed.-----

The Honorary Advisory Council for Public Media may propose to the National Executive Branch the designation of additional members through a special majority vote.-----

ARTICLE 127 - Meetings. The Honorary Advisory Council for Public Media will meet at least every two months or else, at the request of at least twenty-five percent (25%) of its members. The quorum, whether at ordinary or extraordinary meetings, will be constituted by the absolute majority of all its members.-----

ARTICLE 128 - Publicity of Meetings. The meetings of the Honorary Advisory Council for Public Media will be open to the public. A report covering the issues discussed shall be prepared and disclosed through the broadcasters comprised in Radio y Televisión Argentina Sociedad del Estado.-----

ARTICLE 129 - Resources. In order to assure that the Honorary Advisory Council for Public Media is adequately managed, the board of Radio y Televisión Argentina Sociedad del Estado will allocate such physical, financial and human resources as it deems fit.-----

ARTICLE 130 – Powers of the Honorary Advisory Council for Public Media.-----
The Council will:-----

a) Call public hearings to evaluate the programming, contents and operation of Radio y Televisión Argentina Sociedad del Estado;-----

b) Submit proposals intended to improve the operation of Radio y Televisión Argentina Sociedad del Estado;-----

c) Open direct communication channels with citizens irrespective of their geographic location and socioeconomic condition;-----

d) See to the fulfilment of the objectives of this law and report any non-compliance with the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication;-----

e) Call the members of the board of Radio y Televisión Argentina Sociedad del Estado, every six months, to receive a management report;-----

f) Submit its conclusions about the management report received from the board to the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication.-----

CHAPTER III

Board

ARTICLE 131 - Composition. Radio y Televisión Argentina Sociedad del Estado will be managed by a Board made up of seven (7) members.-----

Board members shall be highly qualified professionals in matters of communication and shall have a well-established democratic background. The board composition shall assure due plurality in the broadcaster's operation.-----

ARTICLE 132 – Designation. Term of Office. Removal.-----
The Board will be made up of:-----

- One (1) Chairman designated by the National Executive Branch,-----

- One (1) Director designated by the National Executive Branch,-----

- Three (3) directors nominated by the Bicameral Committee on Promotion and Follow-up of Audiovisual Communication, from among candidates proposed by the parliamentary blocks of political parties, as follows: one (1) by the first minority, one (1) by the second minority, and one (1) by the third minority.-----

- Two (2) directors among candidates proposed by the Federal Audiovisual Communication Council, of which one shall be an academic from schools of or courses

on information sciences, communication sciences or journalism pertaining to national universities.-----

The Chairman is the legal representative of Radio y Televisión Argentina Sociedad del Estado, and shall chair and call Board meetings, as per its rules.-----

Board members will hold office for a term of four (4) years and may be re-elected for one additional period.-----

The Board shall be set up within the two (2) years prior to the end of the term of office of the National Executive Branch incumbent, since there must be a two-year period between the beginning of the directors' term of office and that of the national Executive Power.-----

Removal from office will be in accordance with the bylaws.-----

ARTICLE 133 – Conflicts of Interest. Notwithstanding the conflicts of interest or ineligibility established for the public service, the chairman and directors of Radio y Televisión Argentina Sociedad del Estado shall not hold any partisan political office, whether managerial and/or elective, or have any other form of corporate relation with news agencies and/or electronic social media created or to be created and/or entities engaged in the provision of services related to those to be provided by Radio y Televisión Argentina Sociedad del Estado.-----

ARTICLE 134 – Powers and Duties. The board of Radio y Televisión Argentina Sociedad del Estado will have the following powers and duties:-----

a) Administer and manage the company and take all such actions inherent to its corporate purpose subject only to the limitations established in this law; -----

b) Enact rules and regulations for its operation and those required for the exercise of its powers;-----

c) Promote the approval of a code of ethics and establish control mechanisms to monitor compliance with such code;-----

d) Designate and remove employees of Radio y Televisión Argentina Sociedad del Estado in accordance with objective selection guidelines and procedures that assure the best professional and technical qualification, on the basis of open and public competitive examinations of backgrounds or projects;-----

e) Prepare, each year, a revenue and expenditure plan, in accordance with the revenues established in this law and current operating, personnel and technological development and enhancement expenses;-----

f) Approve programming contents, production contracts, co-production contracts and broadcast agreements;-----

g) Undertake internal reviews and audits and supervise the performance of hierarchical staff;-----

h) Disclose its decisions in matters of expenses, appointment of personnel and contracts for the sake of transparency;-----

i) Appear, every six months, before the Honorary Advisory Council for Public Media, and once a year, before the Bicameral Committee created by this law, to submit a management report;-----

j) Instruct that the activities and reports of the Advisory Council be disclosed through the media in charge of Radio y Televisión Argentina Sociedad del Estado;-----

k) Prepare a bimonthly report with a statement of budget execution and accountability, to be submitted to the Honorary Advisory Council for Public Media and Radio y Televisión Argentina Sociedad del Estado.-----

ARTICLE 135 - Consultants. The board of Radio y Televisión Argentina Sociedad del Estado may hire third parties to undertake consultancy work or special studies, giving priority to national universities.-----

CHAPTER IV

Funding

ARTICLE 136 – Funding Sources. The operations of Radio y Televisión Argentina Sociedad del Estado will be funded by:-----

a) Twenty percent (20%) of the tax created by this law, on the allocation conditions herein established;-----

b) Budget appropriations under the National Budget Law;-----

c) Advertising revenues;-----

d) Revenues from the sale of its production of audiovisual contents;-----

e) Sponsorships;-----

f) Gifts, bequests and any other sources of funding derived from transactions conducted in accordance with the objectives of Radio y Televisión Argentina Sociedad del Estado and its legal status.-----

Banco de la Nación Argentina will automatically transfer each day to Radio y Televisión Argentina Sociedad del Estado its share of the tax revenues.-----

Collected funds will be intangible, except in connection with labour claims which have been admitted under a final judgment on a res judicata basis.-----

ARTICLE 137 - Exemption. Radio y Televisión Argentina Sociedad del Estado broadcasts will be exempted from payment of the taxes and/or fees established under this law.-----

ARTICLE 138 – Disposition of Assets. The disposition of real property as well as of such documentary audio, videographic and cinematographic records, forming part of the assets of Radio y Televisión Argentina Sociedad del Estado, as may have been declared of historic and/or cultural value by the competent authority may only be authorized by law.-----

ARTICLE 139 – Supervision. The operations of Radio y Televisión Argentina Sociedad del Estado will be supervised by the National General Accounting Office and the National General Auditing Office. The board shall at all times make its decisions regarding revenues, expenditures, appointment of personnel and contracts both public and transparent, notwithstanding compliance with the provisions of Law 24156 as amended.

CHAPTER V

Supplementary Provisions

ARTICLE 140 - Transition. Radio y Televisión Argentina Sociedad del Estado will succeed Sistema Nacional de Medios Públicos Sociedad del Estado created by Decree 94/2001 as amended, in all steps relating to award of frequencies and broadcasting services.-----

ARTICLE 141 – Transfer of Frequencies. Audio and video broadcasting frequencies owned by Sistema Nacional de Medios Públicos Sociedad del Estado, created by Decree 94/2001, as amended, pertaining to Radiodifusión Argentina al Exterior (Argentina’s Broadcasting Abroad) and the following broadcasting stations are hereby transferred to Radio y Televisión Argentina Sociedad del Estado: LS82 TV CANAL 7; LRA1 RADIO NACIONAL BUENOS AIRES, LRA2 RADIO NACIONAL VIEDMA; LRA3 RADIO NACIONAL SANTA ROSA; LRA4 RADIO NACIONAL SALTA; LRA5 RADIO NACIONAL ROSARIO; LRA6 RADIO NACIONAL MENDOZA; LRA7 RADIO NACIONAL CORDOBA; LRA8 RADIO NACIONAL FORMOSA; LRA9 RADIO NACIONAL ESQUEL; LRA10 RADIO NACIONAL USHUAIA; LRA11 RADIO NACIONAL COMODORO RIVADAVIA; LRA12 RADIO NACIONAL SANTO TOME; LRA13 RADIO NACIONAL BAHIA BLANCA; LRA14 RADIO NACIONAL SANTA FE; LRA15 RADIO NACIONAL SAN MIGUEL DE TUCUMAN; LRA16 RADIO NACIONAL LA QUIACA; LRA17 RADIO NACIONAL ZAPALA; LRA18 RADIO NACIONAL RIO TURBIO; LRA19 RADIO NACIONAL PUERTO IGUAZU; LRA20 RADIO NACIONAL LAS LOMITAS; LRA21 RADIO NACIONAL SANTIAGO DEL ESTERO; LRA22 RADIO NACIONAL SAN SALVADOR DE JUJUY; LRA23 RADIO NACIONAL SAN JUAN; LRA24 RADIO NACIONAL RIO GRANDE; LRA25 RADIO NACIONAL TARTAGAL; LRA26 RADIO NACIONAL RESISTENCIA; LRA27 RADIO NACIONAL CATAMARCA; LRA28 RADIO NACIONAL LA RIOJA; LRA29 RADIO NACIONAL SAN LUIS; LRA30 RADIO NACIONAL SAN CARLOS DE BARILOCHE; LRA42 RADIO NACIONAL GUALEGUAYCHU; LRA51 RADIO NACIONAL JACHAL; LRA52 RADIO NACIONAL CHOS MALAL; LRA53 RADIO NACIONAL SAN MARTIN DE LOS ANDES; LRA54 RADIO NACIONAL INGENIERO JACOBACCI; LRA55 RADIO NACIONAL ALTO RIO SENGUERR; LRA56 RADIO NACIONAL PERITO MORENO; LRA57 RADIO NACIONAL EL BOLSON; LRA58 RADIO NACIONAL RIO MAYO; LRA59 RADIO NACIONAL GOBERNADOR GREGORES; LRA 36 RADIO NACIONAL ARCANGEL SAN GABRIEL -ANTARTIDA ARGENTINA- adding the following commercial broadcasting companies: LV19 RADIO MALARGÜE; LU23 RADIO LAGO ARGENTINO; LU4 RADIO PATAGONIA ARGENTINA; LT11 RADIO GENERAL FRANCISCO RAMIREZ; LT12 RADIO GENERAL MADARIAGA; LU91 TV CANAL 12; LT14 RADIO GENERAL URQUIZA; LV8 RADIO LIBERTADOR GENERAL SAN MARTIN and LV4 RADIO SAN RAFAEL.-----

ARTICLE 142 – Staff. Staff employed and working with Sistema Nacional de Medios Públicos Sociedad del Estado, created by Decree 94/01, as amended, will be transferred to Radio y Televisión Argentina Sociedad del Estado on the terms and

conditions established in Article 229 of Law 20744 (restated text, 1976), as amended, and Article 44 of Law 12908.-----

This law shall be construed in a manner so as to preserve the rights of the employees working with the broadcasters listed in the preceding article.-----

ARTICLE 143 – Rules and Corporate Bylaws. The National Executive Branch will, within a term of sixty (60) days as from the date of enactment of this law, issue the decree instructing the creation of Radio y Televisión Argentina Sociedad del Estado and its corporate bylaws so as to allow compliance with the objectives and duties herein established.-----

ARTICLE 144 – Transfer of Assets. Such assets, whatever their nature, owned by Sistema Nacional de Medios Públicos Sociedad del Estado, created by Decree 94/01, as amended, such as real property, together with all their equipment and furniture and fittings, documentary, videographic and cinematographic records, as well as the goods and rights currently owned, are hereby transferred to Radio y Televisión Argentina Sociedad del Estado.-----

Non-current liabilities of Canal 7 and Radio Nacional will not be transferred to Radio y Televisión Argentina Sociedad del Estado, but to the National Treasury.-----

Upon request by Radio y Televisión Argentina Sociedad del Estado, any encumbrance or lien levied on the assets transferred under this law shall be released by the pertinent registries.-----

TITLE VIII

University and Educational Audiovisual Media

ARTICLE 145 - Authorizations. National universities and university institutes may be authorized to install and operate broadcasting services.-----

Such authorization may be granted directly by the enforcement authority.-----

ARTICLE 146 – Funding Sources. The services foreseen in this title will be funded with revenues derived from:-----

- a) Budget appropriations under the national budget law and the relevant university budget;-----
- b) Advertising revenues;-----
- c) Revenues from the National Inter-university Council or Department of Education;----
- d) Gifts and bequests and any other funding sources derived from transactions as per the objectives of the university broadcasting station and its legal status;-----
- e) Revenues from the sale of own production contents;-----
- f) Sponsorships.-----

ARTICLE 147 - University Broadcast Networks. Broadcasters owned by national universities may set up permanent broadcast networks among themselves or with State-run broadcasters, in order to properly fulfil their objectives.-----

ARTICLE 148 - Programming. University broadcasters shall allocate a relevant amount of their programming to the disclosure of scientific knowledge, university outreach and artistic and cultural development and experimentation.-----

University radios shall allocate at least sixty percent (60%) of their programming to own production.-----

ARTICLE 149 - Audio Broadcasting Services using Frequency Modulation owned by the Educational System. The enforcement authority may directly grant, for duly supported reasons, authorizations for the operation of broadcasting services to State-run educational establishments. The authorization will be held by the relevant jurisdictional educational authority which will select, for each locality, such establishments that could operate the audiovisual media service so authorized.-----

ARTICLE 150 - Contents. The audiovisual media services authorized by Article 149 shall have a programming according to the teaching and institutional project of the relevant educational establishment and shall contain at least sixty percent (60%) of own production. These educational establishments may freely retransmit programs broadcast by Radio y Televisión Argentina Sociedad del Estado stations.-----

TITLE IX

Audiovisual Media Services owned by Native Peoples

ARTICLE 151 - Authorization. Native Peoples may be authorized to install and operate audio broadcasting services using amplitude modulation (AM) and frequency modulation (FM), as well as open television broadcasting services on the terms and conditions established in this law.-----

The rights foreseen in this law will be exercised on the terms and with the scope set forth in Law 24071.-----

ARTICLE 152 - Funding Sources. The services referred to in this title will be funded with the following revenues:-----

- a) Budget appropriations under the National Budget;-----
- b) Advertising revenues;-----
- c) Gifts, bequests and any other sources of funding derived from transactions in accordance with the objectives of the media service and with their legal capacity;-----
- d) Revenues from the sale of own production;-----
- e) Sponsorships;-----
- f) Specific revenues allocated by the National Institute for Indigenous Affairs.-----

TITLE X

Determination of Public Policies

ARTICLE 153 – The National Executive Branch is hereby empowered to implement strategic public policies for promoting and protecting the national audiovisual industry in accordance with Article 75, Section 19, of the National Constitution. To such end, the National Executive Branch shall adopt measures aimed at promoting the creation and development of conglomerates for the production of national audiovisual contents for all formats and supports, facilitating the dialogue, cooperation and business organization among economic actors and public, private and academic institutions, in the interest of competitiveness. Consequently, frameworks will be established in order to:

- a) Make involved sectors aware of the importance of value adding in the field not only in industrial terms but also as a way to promote cultural diversity and expressions;-----
- b) Promote the development of the activity with a federal approach, having regard for and encouraging the production from the country's provinces and regions;-----
- c) Encourage newly arrived producers;-----
- d) Develop lines of action aimed at supporting the sustainable development of the audiovisual sector;-----
- e) Implement measures aimed at identifying businesses and markets for inserting audiovisual production abroad;-----
- f) Facilitate access to information, technology and the institutional spheres existing to such end;-----
- g) Develop international strategies and co-productions to enable the production of more educational, cultural and children's television and radio programmes. To such end, the creation of a Grant Promotion Fund for the Production of Quality Television for Children and Youth shall be provided.-----

TITLE XI

Supplementary Provisions

ARTICLE 154 – High Institute of Radio Studies (Instituto Superior de Enseñanza Radiofónica – ISER). The ISER, an institute devoted to develop and promote studies, research, training and education of human resources in audiovisual media services, either directly or through third-party agreements, is hereby transferred to the Federal Audiovisual Communication Services Authority.-----

The ISER is hereby put on a level with high education institutes foreseen in Law 24521, as amended.-----

The ISER will report to the enforcement authority which will appoint its principal.-----

ARTICLE 155 - Qualification. In order to be qualified to work as announcer, operator and hold other technical positions currently requiring express authorization from the enforcement authority, the pertinent degree from ISER or other university or tertiary

institutes authorized to such end by the Department of Education, and registration with the enforcement authority shall be required.-----

ARTICLE 156 – Regulations. Terms. The Federal Audiovisual Communication Services Authority shall prepare the following regulations within the terms below set forth, counted as from its organization date:-----

a) Internal regulations of the Board, thirty (30) days;-----

b) Draft regulations for this law, including the penalty regime, for approval under a National Executive Branch decree, sixty (60) days;-----

c) Technical standards for the installation and operation of broadcasting services, and the National Service Standard, one hundred and eighty (180) days.-----

The enforcement authority will, until the regulations listed in this article have been prepared and approved, apply the regulations in force as of the date of enactment of this law insofar as not inconsistent therewith.-----

Federal Audiovisual Communication Council. The National Executive Branch will, within a term of thirty (30) days as from the effective date of this law, call all such sectors referred to in sections c, d, e, f, g and h of Article 16, so as to establish the procedure for designating their initial representatives to the Federal Audiovisual Communication Council.-----

The Council shall be set up within a term of ninety (90) days as from the effective date of this law.-----

ARTICLE 157 – Transfer of Assets. Such assets, whatever their nature, currently owned by the Federal Broadcasting Committee, an autarchic entity reporting to the Media Secretary within the Cabinet of Ministries, created by articles 92 and 96 of the Broadcasting Law 22285, such as real property, together with all their equipment and furniture and fittings, documentary records, in whatever form of support, as well as the goods and rights currently owned, are hereby transferred to the Federal Audiovisual Communication Services Authority.-----

Such staff currently employed and working with the Federal Broadcasting Committee, are hereby transferred to the Federal Audiovisual Communication Services Authority, on the same category, seniority and remuneration conditions.-----

ARTICLE 158 – Current Licence Regime. Current holders of licences lawfully granted for the operation of the services regulated by this law, who shall have their licences renewed or extended, may not apply for a new extension of term under any title, but will be expressly authorized to participate in invitations to tender bids and/or licence award proceedings.-----

ARTICLE 159 – Frequency Reservation. The Technical Plan shall reserve frequencies for allocation to broadcasters authorized by the registry created by Decree 1357/1989, having obtained an interim authorization, who shall have applied for re-registration as provided in COMFER resolution 341/1993, who shall have participated in the normalization process called by Decree 310/1998 or subsequent processes, and who as of the date of enactment of this law, are effectively operational. The reservation herein

foreseen is for an effective radiated power of up to one (1) Kw or such lesser effective radiated power established by regulations.-----

This reservation will be maintained through completion of the relevant normalization processes.-----

ARTICLE 160 – Settlement of Conflicts. The enforcement authority will have powers to call all such parties operating non-categorized broadcasting services using frequency modulation, having interim administrative authorizations or rights acquired under court orders, and are in operational conflict for using isochannel or adjacent channel, in order to find a solution that allows such broadcasters to operate during the period remaining through completion of the radio spectrum normalization process, ex officio or ex parte. To such end, the enforcement authority may enact the relevant administrative decisions establishing the technical parameters to be used during such period, jointly with the regulatory authority and the enforcement authority in matters of telecommunications.-----

ARTICLE 161 - Compliance. Holders of service licences and registries regulated by this law which, as of the date of enactment hereof, do not meet the requirements herein established, or such legal entities which as of the effective date of this law, were the holders of a greater number of licenses or having a corporate composition different than the one allowed, shall comply with the provisions of this law within a term of one (1) year after the enforcement authority has established the transition mechanism.-----

Thereafter, the relevant measures shall be applied to such non-compliance.-----

Transfers of licences will be allowed solely for the purposes of the compliance foreseen in this article.-----

The last paragraph of Article 41 shall apply.-----

ARTICLE 162 – Illegal Broadcasters. While spectrum normalization procedures are in progress, the enforcement authority shall, prior to the declaration of illegality, request from the relevant broadcaster evidence of all procedures initiated towards legalization, and from the regulatory authority and the enforcement authority in matters of telecommunications, reports on whether the relevant broadcaster causes any interference and whether the radioelectric location in question is feasible under the Technical Plan. If the broadcaster is found to be in a condition to have applied for its legalization, the enforcement authority shall issue a report thereon as a condition to enact the administrative decision.-----

TITLE XII

Final Provisions

ARTICLE 163 - Limitations. The provinces, the Buenos Aires City and municipalities may not impose operation limitations and special taxes hindering the provision of the services governed by this law, notwithstanding their powers in that respect.-----

ARTICLE 164 – Repeal. Upon expiration of the terms established by Article 156, Law 22285, any subsequent legislation accordingly enacted, Article 65 of Law 23696, decrees 1656/92, 1062/98 and 1005/99, articles 4, 6, 7, 8 and 9 of Decree 94/01,

articles 10 and 11 of Decree 614/01 and decrees 2368/02, 1214/03 and any other legislation inconsistent herewith are hereby repealed.-----

ARTICLE 165 – The provisions of this law are declared of public interest. Actions contrary to the provisions of this law will be null and void by operation of law.-----

ARTICLE 166 – Notice hereof be given to the National Executive Branch.-----

1 Subsecretaría de Defensa al Consumidor (Consumers Protection Undersecretariat).---

2 Pluralismo como derecho y rol del Estado (Pluralism as the State’s right and role) - Sergio Soto, CTA Union Secretary.-----

3 Coalición por una Radiodifusión Democrática (Coalition for a Democratic Broadcasting); Julio Busteros, CTA Brown; Sofía Rodríguez, San Javier School; Néstor Busso, Fundación Alternativa Popular (Popular Alternative Foundation), Episcopate.----

4 Participación en la Sociedad de la información y el conocimiento (Participation in the Information and Knowledge Society); - Néstor Busso, Fundación Alternativa Popular (Popular Alternative Foundation) -Radio Encuentro.-----
Participación en la Sociedad de la información y el conocimiento (Participation in the Information and Knowledge Society) – Coalición por una Radiodifusión Democrática (Coalition for a Democratic Broadcasting).-----

5 CTA (*Argentine Workers Confederation*), AMSAFE (*Association of Teachers of Santa Fe*), ATE (*State Workers Association*).-----

6 COSITMECOS (*Labor Confederation of Media and Communication Workers of the Argentine Republic*)-----

7 Foro Misiones Sol Producciones (Misiones Sol Producciones Forum).-----

8 Red Par, Consejo Nacional de la Mujer (National Women’s Council), INADI, Centro Cultural de la Memoria H. Conti (H. Conti Cultural Centre), journalists, ADEM, MenEngage Alliance, Red Nacional de Jóvenes y Adolescentes para la Salud Sexual y Reproductiva (National Youth and Adolescents Network for Sexual and Reproductive Health), Social Science students, Feministas en Acción (Feminists in Action), ATEM and Red No a la Trata (Anti-human trafficking Network), ONG Mentas Activas (Active Minds NGO), FEIM, Fundación Mujeres en Igualdad (MEI) (Gender Equality Foundation), Grupo de Estudios Sociales (Social Studies Group), Féminas Digital Magazine, AMUNRA, congress women, Grupos Vulnerables (Vulnerable Groups), Unidad para la Erradicación de la Explotación Sexual Infantil (Unit for the Eradication of Sexual Exploitation of Children) Secretaría de Derechos Humanos (Secretary of Human Rights), Consejo Federal de Derechos Humanos (Federal Council of Human Rights), FM Azoteas, AMARC, Secretaría de DDHH de la Nación (National Secretary of Human Rights), Programa Juana Azurduy (Juana Azurduy Programme), Comunicación del Archivo Nacional de la Memoria (National Recollection Archive Communication).-----

9 Block of Entre Ríos *Justicialist* Senators; Federación Argentina de Instituciones de Ciegos y Amblíopes (Argentine Federation of Institutions for the Blind and Partially Sighted), INADI, CO.NA.DIS, Organización Invisibles de Bariloche (Bariloche Organization of Invisible Groups).-----

10 Assembly of native peoples organizations: OCASTAFE, ASAMBLEA PUEBLO GUARANI (GUARANI PEOPLE ASSEMBLY), CONSEJO DE CACIQUE GUARANI (CACIQUE GUARANI COUNCIL), FEDERACION PILAGA (PILAGA FEDERATION), PUEBLO KOLLA DE LA PUNA (LA PUNA KOLLA PEOPLE), INTERTOBA, CONSEJO DE LA NACION TONOCOTE LLUTQUI (TONOCOTE LLUTQUI COUNCIL), KEREIMBA IYAMBAE, UNION DE LOS PUEBLOS DE LA NACION DIAGUITA (DIAGUITA PEOPLES UNION), CONFEDERACION MAPUCHE NEUQUINA (NEUQUEN MAPUCHE CONFEDERATION), ONPIA, COORDINADORA PARLAMENTO MAPUCHE RIO NEGRO (RIO NEGRO MAPUCHE PARLIAMENT COORDINATOR), MESA DE ORGANIZACIÓN DE PUEBLOS ORIGINARIOS DE ALTE. BROWN (ALTE. BROWN NATIVE PEOPLES ORGANIZATION COMMITTEE), MALALPINCHEIRA DE MENDOZA, COMUNIDAD HUARPE GUENTOTA (HUARPE GUENTOTA COMMUNITY), ORGANIZACION TERRITORIAL MAPUCHE TEHUELCHÉ DE PUEBLOS ORIGINARIOS SANTA CRUZ (MAPUCHE TEHUELCHÉ TERRITORIAL ORGANIZATION OF SANTA CRUZ NATIVE PEOPLES), ORGANIZACION RANQUEL MAPUCHE DE LA PAMPA (LA PAMPA RANQUEL MAPUCHE ORGANIZATION), ORGANIZACION DEL PUEBLO GUARANÍ (GUARANI PEOPLE ORGANIZATION).-----

11 See "Roadmaps towards an Information Society in Latin America and the Caribbean" United Nations - CEPAL Santiago de Chile, July, 2003. CEPAL Books. No. 72. Annex, Pages 119 and subsequent ones.-----

12 The Church and Native Peoples.-----

13 SAT (*Argentine Televisión Union*).-----

14 AMARC; FARCO; Red Nacional de Medios Alternativos (National Network for Alternative Media), Asociación de Frecuencia Modulada (Frequency Modulation Association), Entre Ríos, Noticiero Popular, UTN Radio Station.-----

15 COSITMECOS (*Labor Confederation of Media and Communication Workers of the Argentine Republic*).-----

16 CAPIT (*Argentine Association of Independent Televisión Producers*).-----

17 COSITMECOS (*Labor Confederation of Media and Communication Workers of the Argentine Republic*), Subsecretario de Planificación de la Municipalidad de San Fernando (Planning Undersecretary of San Fernando Municipality).-----

18 CAPIT (*Argentine Association of Independent Televisión Producers*).-----

19 CAPIT (*Argentine Association of Independent Televisión Producers*).-----

20 Reduce unbalances existing within the country that affect media, particularly in terms of infrastructure, technical resources and development of human capabilities, taking advantage of the benefit offered by Information and Communication Technologies (ICT's). Foro Misiones - SOL PRODUCCIONES (Forum).-----

21 Confederación Mapuche de Neuquén (Neuquén Mapuche Confederation), Assembly of native peoples organizations: OCASTAFE, ASAMBLEA PUEBLO GUARANI (GUARANI PEOPLE ASSEMBLY), CONSEJO DE CACIQUE GUARANI (CACIQUE GUARANI COUNCIL), FEDERACION PILAGA (PILAGA FEDERATION), PUEBLO KOLLA DE LA PUNA (LA PUNA KOLLA PEOPLE), INTERTOBA, CONSEJO DE LA NACION TONOCOTE LLUTQUI

(TONOCOTE LLUTQUI COUNCIL), KEREIMBA IYAMBAE, UNION DE LOS PUEBLOS DE LA NACION DIAGUITA (DIAGUITA PEOPLES UNION), CONFEDERACION MAPUCHE NEUQUINA (NEUQUEN MAPUCHE CONFEDERATION), ONPIA, COORDINADORA PARLAMENTO MAPUCHE RIO NEGRO (RIO NEGRO MAPUCHE PARLIAMENT COORDINATOR), MESA DE ORGANIZACIÓN DE PUEBLOS ORIGINARIOS DE ALTE. BROWN (ALTE. BROWN NATIVE PEOPLES ORGANIZATION COMMITTEE), MALALPINCHEIRA DE MENDOZA, COMUNIDAD HUARPE GUENTOTA (HUARPE GUENTOTA COMMUNITY), ORGANIZACION TERRITORIAL MAPUCHE TEHUELCHÉ DE PUEBLOS ORIGINARIOS SANTA CRUZ (MAPUCHE TEHUELCHÉ TERRITORIAL ORGANIZATION OF SANTA CRUZ NATIVE PEOPLES), ORGANIZACION RANQUEL MAPUCHE DE LA PAMPA (LA PAMPA RANQUEL MAPUCHE ORGANIZATION), ORGANIZACION DEL PUEBLO GUARANÍ (GUARANI PEOPLE ORGANIZATION).-----

22 Lic. Javier Torres Molina; AMARC (*World Association of Community Radio Broadcasters*).-----

23 In answer to several requests to federalize the Protection Office, Liliana Córdoba, CEA, Córdoba; Alejandro Claudis, UNER; Edgardo Massarotti, Paraná; Block of *Justicialists* Senators, Entre Ríos; Dr. Ernesto Salas López, General Assistant Secretary of Government, Tucumán; Néstor Banega, Entre Ríos; among others.-----

24 In answer to several requests to federalize the Protection Office, Liliana Córdoba, CEA, Córdoba; Alejandro Claudis, UNER; Edgardo Massarotti, Paraná; Block of *Justicialists* Senators, Entre Ríos; Dr. Ernesto Salas López, General Assistant Secretary of Government, Tucumán; Néstor Banega, Entre Ríos; among others.-----

25 UPCN (*Union of Civilian Personnel of the Nation*).-----

26 Sections 25 and subsequent ones have been included in view that the powers of the Enforcement Authority as regards its own operation were omitted in the original proposal.-----

27 Mercedes Viegas, SAAVIA (Audiovisual Society for Argentine Children and Youth).---

28 At the request of those proposing the creation of other committees. Red Par, Consejo Nacional de la Mujer (National Women's Council), INADI, Centro Cultural de la Memoria H. Conti (H. Conti Cultural Centre), journalists, ADEM, MenEngage Alliance, Red Nacional de Jóvenes y Adolescentes para la Salud Sexual y Reproductiva (National Youth and Adolescents Network for Sexual and Reproductive Health), Social Science students, Feministas en Acción (Feminists in Action), ATEM and Red No a la Trata (Anti-human trafficking Network), ONG Mentes Activas (Active Minds NGO), FEIM, Fundación Mujeres en Igualdad (MEI) (Gender Equality Foundation), Grupo de Estudios Sociales (Social Studies Group), Féminas Digital Magazine, AMUNRA, congress women, Grupos Vulnerables (Vulnerable Groups), Unidad para la Erradicación de la Explotación Sexual Infantil (Unit for the Eradication of Sexual Exploitation of Children) Secretaría de Derechos Humanos (Secretary of Human Rights), Consejo Federal de Derechos Humanos (Federal Council of Human Rights), FM Azoteas, AMARC, Secretaría de DDHH de la Nación (National Secretary of Human Rights), Programa Juana Azurduy (Juana Azurduy Programme), Comunicación del Archivo Nacional de la Memoria (National Recollection Archive Communication); CO.NA.DIS; AMARC.-----

29 AATECO Asociación Argentina de teledifusoras Pymes y comunitarias (Argentine Association of Small and Mid-Sized and Community TV Broadcasters).-----

30 SAT (*Argentine Television Union*).-----

31 ARGENTORES.-----

32 Assembly of native peoples organizations: OCASTAFE, ASAMBLEA PUEBLO GUARANI (GUARANI PEOPLE ASSEMBLY), CONSEJO DE CACIQUE GUARANI (CACIQUE GUARANI COUNCIL), FEDERACION PILAGA (PILAGA FEDERATION), PUEBLO KOLLA DE LA PUNA (LA PUNA KOLLA PEOPLE), INTERTOBA, CONSEJO DE LA NACION TONOCOTE LLUTQUI (TONOCOTE LLUTQUI COUNCIL), KEREIMBA IYAMBAE, UNION DE LOS PUEBLOS DE LA NACION DIAGUITA (DIAGUITA PEOPLES UNION), CONFEDERACION MAPUCHE NEUQUINA (NEUQUEN MAPUCHE CONFEDERATION), ONPIA, COORDINADORA PARLAMENTO MAPUCHE RIO NEGRO (RIO NEGRO MAPUCHE PARLIAMENT COORDINATOR), MESA DE ORGANIZACIÓN DE PUEBLOS ORIGINARIOS DE ALTE. BROWN (ALTE. BROWN NATIVE PEOPLES ORGANIZATION COMMITTEE), MALALPINCHEIRA DE MENDOZA, COMUNIDAD HUARPE GUENTOTA (HUARPE GUENTOTA COMMUNITY), ORGANIZACION TERRITORIAL MAPUCHE TEHUELCHÉ DE PUEBLOS ORIGINARIOS SANTA CRUZ (MAPUCHE TEHUELCHÉ TERRITORIAL ORGANIZATION OF SANTA CRUZ NATIVE PEOPLES), ORGANIZACION RANQUEL MAPUCHE DE LA PAMPA (LA PAMPA RANQUEL MAPUCHE ORGANIZATION), ORGANIZACION DEL PUEBLO GUARANÍ (GUARANI PEOPLE ORGANIZATION).-----

33 Sol Producciones.-----

34 CO.NA.DIS.-----

35 Signed by Asociación Civil las Otras Voces (Otras Voces Civil Association), Asociación Civil Nueva Mirada (Nueva Mirada Civil Association); Fund TV, Signis Argentina; SAVIAA Sociedad Audiovisual para la Infancia y la Adolescencia Argentinas (Audiovisual Society for Argentine Children and Youth); CASACIDN, PERIODISMO SOCIAL (SOCIAL JOURNALISM).-----

36 Red Par, Consejo Nacional de la Mujer (National Women's Council), INADI, Centro Cultural de la Memoria H. Conti (H. Conti Cultural Centre), journalists, ADEM, MenEngage Alliance, Red Nacional de Jóvenes y Adolescentes para la Salud Sexual y Reproductiva (National Youth and Adolescents Network for Sexual and Reproductive Health), Social Science students, Feministas en Acción (Feminists in Action), ATEM and Red No a la Trata (Anti-human trafficking Network), ONG Mentes Activas (Active Minds NGO), FEIM, Fundación Mujeres en Igualdad (MEI) (Gender Equality Foundation), Grupo de Estudios Sociales (Social Studies Group), Fémimas Digital Magazine, AMUNRA, congress women, Grupos Vulnerables (Vulnerable Groups), Unidad para la Erradicación de la Explotación Sexual Infantil (Unit for the Eradication of Sexual Exploitation of Children) Secretaría de Derechos Humanos (Secretary of Human Rights), Consejo Federal de Derechos Humanos (Federal Council of Human Rights), FM Azoteas, AMARC, Secretaría de DDHH de la Nación (National Secretary of Human Rights), Programa Juana Azurduy (Juana Azurduy Programme), Comunicación del Archivo Nacional de la Memoria (National Recollection Archive Communication).-----

37 Red Par, Consejo Nacional de la Mujer (National Women's Council), INADI, Centro Cultural de la Memoria H. Conti (H. Conti Cultural Centre), journalists, ADEM, MenEngage Alliance, Red Nacional de Jóvenes y Adolescentes para la Salud Sexual y Reproductiva (National Youth and Adolescents Network for Sexual and Reproductive Health), Social Science students, Feministas en Acción (Feminists in Action), ATEM and

Red No a la Trata (Anti-human trafficking Network), ONG Mentas Activas (Active Minds NGO), FEIM, Fundación Mujeres en Igualdad (MEI) (Gender Equality Foundation), Grupo de Estudios Sociales (Social Studies Group), Féminas Digital Magazine, AMUNRA, congress women, Grupos Vulnerables (Vulnerable Groups), Unidad para la Erradicación de la Explotación Sexual Infantil (Unit for the Eradication of Sexual Exploitation of Children) Secretaría de Derechos Humanos (Secretary of Human Rights), Consejo Federal de Derechos Humanos (Federal Council of Human Rights), FM Azoteas, AMARC, Secretaría de DDHH de la Nación (National Secretary of Human Rights), Programa Juana Azurduy (Juana Azurduy Programme), Comunicación del Archivo Nacional de la Memoria (National Recollection Archive Communication).-----

38 In answer to several requests to federalize the Protection Office, Liliana Córdoba, CEA, Córdoba; Alejandro Claudis, UNER; Edgardo Massarotti, Paraná; Block of *Justicialists* Senators, Entre Ríos; Dr. Ernesto Salas López, General Assistant Secretary of Government, Tucumán; Néstor Banega, Entre Ríos; among others.-----

39 Document prepared at the European Parliament by the Directorate General for Internal Policies of the Union. Policy Department Structural and Cohesion Policies. Culture and Education. September, 2007. Author: CERN European Affaire (KEA) Belgium. Responsible Official: M. Gonçalo Macedo. Brussels, European Parliament, 2007. This study is available at Internet: <http://www.europarl.europa.eu/activities/expert/eStudies.do?language=EN>.-----

40 Episcopate, Native Peoples.-----

41 The concept of competence and experience as a requirement to become a licensee has been questioned as detrimental to the new players proposed by the law.-----

42 ARGENTORES.-----

43 César Baldoni, FM La Posta; FARCO, Pascual Calicchio, Barrios de Pie, Soledad Palomino, Agrupación La Vallese (La Vallese Association), Alan Arias, Santiago Pampillón, Federación Juvenil Comunista (Communist Youth Federation), Edgardo Perez, Agrupación Comandante Andresito (Comandante Andresito Association), Analía Rodríguez, Red Eco (Eco Network).-----

44 Coalición por Una Radiodifusión Democrática (Coalition for a Democratic Broadcasting).-----

45 Coalición por una Radiodifusión Democrática (Coalition for a Democratic Broadcasting); Alejandro Caudis, School of Education Sciences, Entre Ríos National University.-----

46 Replaces background and experience requirements to allow the entry new players.-

47 Broadcasting, Voice, and Accountability: A Public Interest Approach to Policy, Law, and Regulation Steve Buckley • Kreszentia Duer, Toby Mendel • Seán O Siochrú, with Monroe E. Price • Mark Raboy (Copyright © 2008 by The International Bank for Reconstruction and Development, The World Bank Group. All rights reserved. Published in the United States of America by The World Bank Group. Manufactured in the United States of America cISBN-13: 978-0-8213-7295-1 (cloth : alk. paper).-----

48 Cooperatives have pointed to the need to reword said article as they consider that the requirement to have the previous binding opinion of the National Anti-trust Committee was discriminatory.-----

49 Cooperativa Río Tercero de Obras y Servicios Públicos (Rio Tercero Cooperative for Public Works and Services).-----

50 El espectro radioeléctrico. Una perspectiva multidisciplinar (I): Presente y ordenación jurídica del espectro radioeléctrico (The Radio Spectrum. A multidisciplinary perspective (I): The Radio Spectrum Present Status and Legal System). By: David Couso Saiz Date: September, 2007, Source: Noticias Jurídicas, available at http://noticias.juridicas.com/articulos/15-Derecho%20Administrativo/2007092563899_8711254235235.html-----

51 MINISTERIO DE FOMENTO (DEPARTMENT OF PROMOTION). RESOLUTION dated March 10, 2000 [Official Gazette 061/2000. Published on March 11, 2000. Re. 2000/04765. Pages 10256 to 10257]. RESOLUTION dated March 10, 2000 of the General Communications Secretary (Secretaría General de Comunicaciones), disclosing the Ministerial Council Agreement dated March 10, 2000, whereby a decision is made in connection with the public invitation to tender bids for the award, under an open proceeding, of 10 concessions for the operation of the terrestrial digital audio broadcasting utility service.-----

52 The authorization for the installation and operation of open TV broadcasting services, requires that a concession is granted through a public invitation to tender bids, by means of a Council resolution, upon consultation with Chile's Contraloría General (General Accounting Office) (Article 15 of Law 18838 of 1989).-----

53 Spectrum Management* Ryszard Struzak Member of the Radio Regulations Board (RRB) and Co-Chairman of the E1 Working Group of the International Union of Radio Sciences (URSI) Available at <http://www.itu.int/itu-news/issue/1999/05/perspectives.html>.-----

54 Coalición por una Radiodifusión Democrática (Coalition for a Democratic Broadcasting), Red Nacional de Medios Alternativos (National Network for Alternative Media), Asociación Civil Grupo Pro Derechos de los Niños (Civil Association for the Protection of Children's Rights) and Radio Comunitaria FM del Chenque (Chenque FM Community Radio), Lic. Javier Torres Molina, Pablo Antonini, Radio comunitaria Estación SUR (Estación Sur Community Radio), FARCO, Pascual Calicchio, Barrios de Pie.-----

55 Multiple views have been received requesting the disclosure of criteria for the bidding terms and conditions, with a focus on the economic aspect of bids, yet being the social function and cultural aspects the determinants factors.-----

56 Coalición por una Radiodifusión Democrática (Coalition for a Democratic Broadcasting), Red Nacional de Medios Alternativos (National Network for Alternative Media).-----

57 Pedro Oitana, Radiodifusores Independientes Asociados (Independent Broadcasters Association).-----

58 Native Peoples, Episcopate.-----

59 As foreseen in Spain and Canada.-----

60 United States: CFR 73 Section 1020: Initial licenses for broadcast stations will ordinarily be issued for a period running until the date specified in this section for the State or Territory in which the station is located. If issued after such date, it will run to the next renewal date determined in accordance with this section. Both radio and TV broadcasting stations will ordinarily be renewed for 8 years. However, if the FCC finds that the public interest, convenience and necessity will be served thereby, it may issue either an initial license or a renewal thereof for a lesser term... and thereafter at 8-year intervals.-----

Therefore, the licence is granted for a term of up to EIGHT (8) years, renewable for equal terms on repeated occasions, in the understanding that the regulatory entity may change the terms of licenses and permits if it finds that it serves the public interest, convenient and necessity, or favours compliance with the law and treaties.----

61 Participate in public hearings.-----
The US regulations establish that the Localism Task Force (LTF) will conduct hearings in six different cities around the country. The schedule and location of these hearings is available at the LTF's Web site www.fcc.gov/localism.-----

The purpose of these hearings is to solicit input from citizens, civic organizations, and industry on broadcasting and localism. Although the format may change from hearing to hearing, the LTF expects that each hearing will provide citizens an opportunity to participate through an open microphone. The LTF will announce details about each hearing in advance of the date scheduled for the hearing, and will post this information on its Web site for members of the public interested in participating in a hearing. Listeners and viewers with general comments about broadcasting and localism are invited to register their views at these hearings.-----

These field hearings are not suited to resolving concerns or disputes relating to a particular station. That is best achieved through the complaint and renewal process described above. Nonetheless, listeners and viewers are welcome to make remarks at the hearing about the performance of a specific station or stations licensed to communities in the area of the hearing's location. Such remarks may help the LTF identify broader trends about broadcasting and localism.-----

62 Coalición por una Radiodifusión Democrática (Coalition for a Democratic Broadcasting).-----

63 This provision is relevant to preserve licensee's assets, considering that the disposition of assets assigned to the service would allow eluding the concept of "non assignment of licences" established in the bill.-----

64 SAT.-----

65 Coalición por Una Radiodifusión Democrática (Coalition for a Democratic Broadcasting), Centro Socialista Zona Sur (Socialist Centre for the South Area), Santa Rosa, Episcopate, among others, requested a more specific wording about the biannual review issue.-----

66 <http://www.fcc.gov/ogc/documents/opinions/2004/03-3388-062404.pdf>.-----

67 Sergio Soto, CTA Union Secretary.-----

68 Dr. Ernesto Salas Lopez, General Assistant Secretary, Government of Tucumán.-----

69 Cristian Jensen.-----

70 CTA Brown, Cristian Jensen.-----

71 Intended so that a community or union radio may broadcast, for example, a football match.-----

72 Diego Boris, Unión de Músicos Independientes (Union of Independent Musicians).---

73 Sol Producciones, Schmucler, film maker.-----

74 Jorge Curle, Canal 6 Misiones (TV Channel).-----

75 Alfredo Carrizo, Catamarca.-----

76 SAT.-----

77 Agrupación Comandante Andresito (Comandante Andresito Association).-----

78 The keystone of the Canadian broadcasting system is the Canadian content. Section 3 of the Broadcasting Act establishes that the Canadian broadcasting system should aim at:-----

Encouraging the development and displaying Canadian talent.-----

Making maximum use of Canadian creative resources.-----

Including a significant contribution from the Canadian independent production sector.--

The Canadian Broadcasting Corp., as a public broadcasting system, must actively contribute to the flow and exchange of cultural expression.-----

Section 10 of the Broadcasting Act empowered the CRTC to make regulations prescribing what constitutes a Canadian program and the proportion of time that shall be devoted to the broadcasting of Canadian programs.-----

The CRTC has established quotas to regulate the amount of Canadian programs in a context of US predominance. The CRTC uses a scoring system to determine the quality of Canadian TV and AM radio (including music) programs based on the number of Canadians participating in the production of a song, album, film or program. Section 7 of the TV Broadcasting Regulations requires public licensees (CBC — Televisión de Québec, etc) to broadcast at least sixty percent (60%) and private licensees to broadcast at least fifty percent (50%) of Canadian programs during prime time.-----

The CRTC has, since 1998 increased the percentage of Canadian contents in audio broadcasting (both AM and FM) to thirty-five (35%). It also established minimum Canadian contents for specialty channels.-----

79 CHAPTER III. Promotion of distribution and production of television programmes
Article 4:1. Member States shall ensure where practicable and by appropriate means, that broadcasters reserve for European works, within the meaning of Article 6, a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising and teletext services. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment

responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria.-----

80 Block of *Justicialist* Senators, Area Inclusión CO.NA.DIS (Inclusion Area), Federación Argentina de Instituciones de Ciegos y Amblíopes (Argentine Federation of Institutions for the Blind and Partially Sighted), Cristian Rossi, INADI, Organización Invisibles de Bariloche (Bariloche Organization of Invisible Groups).-----

81 INCAA, Asoc. Arg. de Actores (Argentine Association of Actors), Asoc. Argentina de Directores de Cine (Argentine Association of Film Directors), Asoc. Bonaerense de Cinematografistas (Buenos Aires Association of Film Makers), Asoc. de Directores Productores de Cine Documental Independiente de Argentina (Argentine Association of Directors and Producers of Independent Documentary Films), Asoc. de Productores de Cine Infantil (Association of Children Film Producers), Asoc. de Productores Independientes (Association of Independent Producers), Asoc. Argentina de Productores de Cine y Medios Audiovisuales (Argentine Association of Film and Audiovisual Media Producers), Sociedad General de Autores de la Argentina (Argentina's General Society of Authors and Writers), Asoc. de Realizadores y Productores de Artes Audiovisuales (Association of Makers and Producers of Audiovisual Arts), Asoc. Gral. Independiente de Medios Audiovisuales (Independent General Association of Audiovisual Media), Cámara Argentina de la Industria Cinematográfica (Argentine Association for the Filming Industry), Directores Argentinos Cinematográficos (Argentine Film Directors), Directores Independientes de Cine (Independent Film Directors), Federación Argentina de Cooperativas de Trabajo Cinematográfico (Argentine Federation of Film Making Cooperatives), Federación Arg. de Prods. Cinematográficos y Audiovisuales (Argentine Federation of Film and Audiovisual Products), Proyecto Cine Independiente (Independent Film Making Project), Sindicato de la Industria Cinematográfica Argentina (Argentine Film Making Union), Unión de la Ind. Cinematográfica (Film Making Association), Unión de Prods. Independientes de Medios Audiovisuales (Association of Independent Audiovisual Producers).-----

82 Sol Producciones.-----

83 INADI.-----

84 Sol Producciones.-----

85 Periodistas de Argentina en Red por una Comunicación No Sexista (Argentine Network of Journalists for No Sex Discrimination in Communication)-PAR, Red Par, Consejo Nacional de la Mujer (National Women's Council), INADI, Centro Cultural de la Memoria H. Conti (H. Conti Cultural Centre), journalists, ADEM, MenEngage Alliance, Red Nacional de Jóvenes y Adolescentes para la Salud Sexual y Reproductiva (National Youth and Adolescents Network for Sexual and Reproductive Health), Social Science students, Feministas en Acción (Feminists in Action), ATEM and Red No a la Trata (Anti-human trafficking Network), ONG Mentes Activas (Active Minds NGO), FEIM, Fundación Mujeres en Igualdad (MEI) (Gender Equality Foundation), Grupo de Estudios Sociales (Social Studies Group), Féminas Digital Magazine, AMUNRA, congress women, Grupos Vulnerables (Vulnerable Groups), Unidad para la Erradicación de la Explotación Sexual Infantil (Unit for the Eradication of Sexual Exploitation of Children) Secretaría de Derechos Humanos (Secretary of Human Rights), Consejo Federal de Derechos Humanos (Federal Council of Human Rights), FM Azoteas, AMARC, Secretaría de DDHH de la Nación (National Secretary of Human Rights), Programa Juana Azurduy (Juana

Azurduy Programme), Comunicación del Archivo Nacional de la Memoria (National Recollection Archive Communication).-----

86 Periodistas de Argentina en Red por una Comunicación No Sexista (Argentine Network of Journalists for No Sex Discrimination in Communication)–PAR, Red Par, Consejo Nacional de la Mujer (National Women’s Council), INADI, Centro Cultural de la Memoria H. Conti (H. Conti Cultural Centre), journalists, ADEM, MenEngage Alliance, Red Nacional de Jóvenes y Adolescentes para la Salud Sexual y Reproductiva (National Youth and Adolescents Network for Sexual and Reproductive Health), Social Science students, Feministas en Acción (Feminists in Action), ATEM and Red No a la Trata (Anti-human trafficking Network), ONG Mentes Activas (Active Minds NGO), FEIM, Fundación Mujeres en Igualdad (MEI) (Gender Equality Foundation), Grupo de Estudios Sociales (Social Studies Group), Féminas Digital Magazine, AMUNRA, congress women, Grupos Vulnerables (Vulnerable Groups), Unidad para la Erradicación de la Explotación Sexual Infantil (Unit for the Eradication of Sexual Exploitation of Children) Secretaría de Derechos Humanos (Secretary of Human Rights), Consejo Federal de Derechos Humanos (Federal Council of Human Rights), FM Azoteas, AMARC, Secretaría de DDHH de la Nación (National Secretary of Human Rights), Programa Juana Azurduy (Juana Azurduy Programme), Comunicación del Archivo Nacional de la Memoria (National Recollection Archive Communication).-----

87 Satellite providers Cooperativa de Provisión y Comercialización de Servicios de Radiodifusión, COLSECOR (Cooperative for the Provision and Marketing of Broadcasting Services) to be included in the basic subscription rate.-----

88 Lorena Soledad Polachine, Canal 5 La Leonesa (TV Channel).-----

89 On FCC web site <http://www.fcc.gov/cgb/consumerfacts/spanish/cablerates.html> you may find the following definition: How Cable TV Rates are Regulated?-----

Background. Your local franchising authority (LFA) regulates the rate your cable company can charge for basic services programming and your cable company determines the rate you pay for other cable programming and services, such as premium movie channels and pay-per-view sports events.-----

Your Local Franchising Authority (LFA) -- the city, county, or other governmental organization authorized by your state to regulate cable television service -- may regulate the rates your cable company charges for the basic services tier. The basic services tier must include most local broadcast stations, as well as the public, educational, and governmental channels required by the franchise agreement between the LFA and your cable company. If the FCC finds that a local cable company is subject to “effective competition” (as defined by Federal law), the LFA may not regulate the rates it charges for the basic services tier. The rates charged by certain small cable companies are not subject to regulation. They are determined by the companies.-----

Your LFA also enforces FCC regulations that determine whether a cable operator’s basic services tier rates are reasonable. The LFA reviews rate justification forms filed by cable operators. Contact your LFA if you have any questions about basic service tier rates.-----

90 See FCC regulation for rate determination at <http://www.fcc.gov/cgb/consumerfacts/spanish/cablerates.html>se.-----

91 Juan Ponce, Radio Uno, Néstor Busso, Fundación Alternativa Popular (Popular Alternative Foundation), Coalición por una Radiodifusión Democrática (Coalition for a

Democratic Broadcasting), Governor Jorge Capitanich on behalf of Cámara de Cableoperadores del Norte (Association of Northern Cable Operators).-----

92 Cámara de Cableoperadores del Norte (Association of Northern Cable Operators).---

93 Agustín Azzara.-----

94 María Cristina Rosales, social communicator, CTA Brown.-----

95 Coalición por una Radiodifusión Democrática (Coalition for a Democratic Broadcasting).-----

96 Francisco A. D' Onofrio, physician and journalist, Tucumán.-----

97 Raúl Marti, Alicia Tabarés de González Hueso.-----

98 Sindicato Argentino de Locutores (Argentine Announcers' Union). Argentores.-----

99 Foro Nacional de las Tecnologías de la Información y las Comunicaciones (National Forum on Information and Communication Technologies).-----

100 Secretaría de Defensa al Consumidor (Consumers Protection Secretary).-----

101 CTA Brown.-----

102 Jonatan Colombino.-----

103 Argentores.-----

104 Asoc. Misionera de Radios (Misiones Radio Association).-----

105 AMARC.-----

106 See report at: <http://europa.eu/rapid/pressReleasesAction.do?reference=1P/03/478&format=PDF&aged=1&language=ES&guiLanguage=en>-----

107 CTA Brown, La Ranchada, Córdoba, Farco, Daniel Ríos, FM Chalet, Javier De Pascuale, Diario Cooperativo Comercio y Justicia, Córdoba, Fernando Vicente, Colectivo Prensa de Frente, Buenos Aires, Agrupación Estudiantil El Andamio (Student Association), Coalición para una Radiodifusión Democrática (Coalition for a Democratic Broadcasting), Centro de Producciones Radiofónicas del CEPPAS (CEPPAS Radio Production Centre), Red Nacional de Medios Alternativos RNMA National Network for Alternative Media), Edgardo Massarotti, Nicolás Ruiz Peiré, Noticiero Popular.-----

108 Coalición por una Radiodifusión Democrática (Coalition for a Democratic Broadcasting), Alfredo Carrizo.-----

109 Dr. Ernesto Salas Lopez, General Assistant Secretary, Government of Tucumán.---

GIVEN AT THE ARGENTINE CONGRESS SESSION ROOM, IN BUENOS AIRES ON THE TENTH DAY OF OCTOBER OF TWO THOUSAND AND NINE. RECORDED UNDER No. 26522 - JULIO C. C. COBOS. - EDUARDO A. FELLNER. - Enrique Hidalgo. - Juan H. Estrada.-----

