

Draft

The Broadcasting Code of the Republic of Moldova

Confirming the adhesion of the Republic of Moldova to the European standards regarding the media's freedom of expression and of the public's access to audiovisual media services, grounding on art.66 let.d), art.72 paragraph (3) let.f), art.126 paragraph (2) let.a)-b) and art.132 paragraph (1) of the Constitution of the Republic of Moldova,

The Parliament passes this code.

The law creates the framework necessary to enforce Directive 2010/13/UE of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Directive on audiovisual media services), published in the Official Journal of the European Union no. L 95 of 15 April 2010.

CHAPTER I. General provisions

Articolul 1. Object of regulation

(1) This code has as object of regulation:

- a) the transmission of audiovisual media services by the providers of media services under the jurisdiction of the Republic of Moldova;
- b) the retransmission of linear audiovisual media services and the transmission of non-linear audiovisual media services by the services distributors under the jurisdiction of the Republic of Moldova.

(2) This code does not have as object of regulation:

- a) the audiovisual media services, which are not meant to be provided to the general public;
- b) the audiovisual media services exclusively meant to be received in third states and which are not received, directly or indirectly, with standard consumer equipment from one or more Member States to the European Convention on Transfrontier Television;
- c) the private sites and the services consisting in the provision or distribution of audiovisual content generated by private users pursuing to make it common and the exchange within communities of interest;
- d) the sites and services the main purpose of which is not providing programmes – the services in the case of any audiovisual content is only occasional and does not represent their main purpose;
- e) the work of radio amateur operators.

Articolul 2. Subjects of this code

(1) The subjects of this code are:

- a) the persons, who benefit by audiovisual media services offers of programme services of the subjects provided for at let.b) and c);
- b) the media services providers under the jurisdiction of the Republic of Moldova;
- c) the services distributors under the jurisdiction of the Republic of Moldova;
- d) the broadcasting regulating authority;

(2) the broadcasters under the jurisdiction of the Republic of Moldova, the programme services or/and the programmes of which are exclusively devoted to foreign countries are not subjects of this code.

Articolul 3. Terms employed

(1) For the purpose of this code, the terms and expressions hereinafter have the following meanings:

audiovisual media service – the service under the editorial responsibility of a media services provider, the main objective of which is the provision of programmes with informing, entertaining or educational purposes for the general public, through electronic communications networks. Such a media service is either a television/radio programme service, or an audiovisual media service on-demand and/or a media service, which represents an audiovisual commercial communication;

television/radio programme service (linear service) – an audiovisual media service provided by a broadcaster, in which the programmes are broadcast successively, regardless of the technical modality used, having preset content and schedule, for simultaneous viewing of/listening to programmes, on the basis of a programme schedule, under a certain name and identified through a sign, in the case of the television, or through a sonorous signal, in the case of the radio;

on-demand audiovisual media service (non-linear service) – an audiovisual media service, in which the listening to/viewing of programmes is done on a user's individual request and at the moment chosen by him/her, provided by a media services provider on the basis of catalogue of programmes selected and made available by the media services provider;

programme – an ensemble of moving images, with or without sound, in the case of a televised programme, or an ensemble of sounds, in the case of a sonorous programme, which represents a single element in the case of a schedule or of a catalogue produced by an audiovisual services provider.

generalist television or radio service – a service broadcasting, in a cumulated way and in balanced proportions, audiovisual programmes with informing, educational or entertaining content, in the main areas of interest and which are meant for the majority of the audience;

topical television or radio service – a service broadcasting audiovisual programmes preponderantly devoted to a certain area and which are meant for a segment of the audience;

teletext service – codified information, which may be accessed in a text form by the means of a standard decoder of the TV receiver;

videotext service – announcements in form of text or graphic signs, within a schedule or a catalogue, produced by a media services provider, having the form and the content of television services or being comparable as form and content with those;

transmission – broadcasting, by a terrestrial transmitter, cable, satellite, internet or other technical means, audiovisual media services meant to be received by the public;

retransmission – the simultaneous reception and transmission, by a services distributor, of linear audiovisual media services, provided by broadcasters and meant to be received by the public, through any technical means, preserving their integrity and not modifying the content;

editorial responsibility – exerting effective control over selecting programmes and over their organisation, either in a time schedule, in the case of TV/radio transmissions, or in a catalogue, in the case of the on-demand audiovisual media services;

media services provider – a natural or legal person having editorial responsibility for selecting the audiovisual content of the media service and establishing the mode of its organisation;

broadcaster – a media services provider in the area of television and/or radio programme services;

national broadcaster – a broadcaster, the programme service of which may be received by at least 2/3 of the population of the Republic of Moldova;

regional broadcaster – a broadcaster, the programme service of which may be received by at least 1/3 of the population of the Republic of Moldova;

local broadcaster – a broadcaster, the programme service of which may be received by less than 1/3 of the population of the Republic of Moldova;

services distributor – any entity, compiling and making the public an offer of retransmitted programme services, on the basis of contract relationships with broadcasters or with the entities authorised under law;

audiovisual commercial communication – sound or image announcements (with or without sound), which are meant to promote, directly or indirectly, the goods, services or the image of natural or legal person engaged in an economic activity;

surreptitious audiovisual commercial communication – the representation by words or images of the goods, services, name, trade mark or activities of a producer of goods or provider of services in programmes, in the case in which such a representation is meant by the media services provider for unstated advertising purposes and may mislead the public regarding its nature;

advertising – any form of an announcement broadcast either in return for payment, or for a similar consideration or broadcast for self-promotional purposes, by a legal person, public or private, or by a natural person, related to a commercial activity, area of activity, craft or profession, in order to promote the provision of goods and services, including real estate, rights and obligations;

subliminal announcement – any announcement using stimuli too weak to be perceived conscientiously, but which may influence the behaviour of the public;

sponsorship – any contribution of a legal person, public or private, or of a natural person unengaged in activities of providing media services or in producing audiovisual works, to financing audiovisual media programmes with the view to promote the name, trade mark, image, activity or products of that person;

teleshopping – direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations in return for payment;

product placement – any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, in return for payment or for similar consideration;

telepromotion – a form of advertising produced by inserting, into programmes, clips meant to promote, by programme presenters, one or several products and services, as the clips are separated from the other parts of the programme by optical and/or sound means;

interactive advertising – a technique of broadcasting televised advertising, which allows the viewer to choose the access to advertising through the means of a non-linear audiovisual media service, at the moment, for the duration and with the advertising content chosen by him/her;

split screen advertising – a technique of broadcasting televised advertising, including self-promotion, or the elements identifying the sponsor, which consists in splitting the screen for the simultaneous broadcasting of the editorial content and of the advertising content or of the announcement regarding the sponsor;

virtual advertising – a technique of broadcasting televised advertising, which consists in processing the image, in the case of broadcasting transmissions from events, by replacing the image of the billboards placed within the venue in which those events take place with advertising announcements inserted by the broadcaster or by covering such images with new announcements in any area of the transmitted image;

virtual sponsorship – a technique of broadcasting elements identifying the sponsor, which consists in processing the image, in the case of broadcasting transmissions from events, by replacing the image of the billboards placed within the venue in which those events take place with advertising announcements referring to sponsors, inserted by the broadcaster or by covering such images with new announcements in any area of the transmitted image;

programmed duration – a time period comprising the effective duration of the programme or of the part of the programme and the duration of the advertising broadcast, as is the case, within them;

exclusivity rights – rights obtained by a broadcaster, on the basis of a contract, from the organiser of an event and/or from the owner or, as is the case, the administrator of the venue where the event takes place, from authors and from other right holders, with the view of exclusive broadcasting by that broadcaster, within a preset geographical area;

event of major importance – any event which may be of interest for a significant part of the public and is in the list approved of by the Broadcasting Council;

audiovisual licence – the legal act issued by the Broadcasting Council, by which a broadcaster under the jurisdiction of the Republic of Moldova is entitled to broadcast a certain program service within an established area;

broadcasting licence – the legal act issued by the Broadcasting Council, by which a broadcaster under the jurisdiction of the Republic of Moldova was entitled to broadcast a certain program service within an established area;

retransmission licence – the legal act issued by the Broadcasting Council granting the right to

retransmit an offer of programme services on the territory of the Republic of Moldova;

technical licence – the legal act through which the specialized authority of the central public administration legalises the air telecommunication technical means (in analogue format) and through cable according to the preset parameters;

terrestrial digital system – the radio and/or television system in which the signals are transmitted from the transmitting stations to the end users by radio terrestrial way in form of multiplex, in accordance with an audio/video digital radio/television standard;

licence of using radio frequencies in terrestrial digital system – the legal act issued to a natural or legal person, authorised under law by the specialised authority of the central public administration to provide electronic communication networks and electronic communication services to the public, the right to use, for a preset period, radio frequencies, in a terrestrial digital system;

terrestrial digital multiplex – the group of services of radio and television programmes, additional multimedia services and other associated identifying data transmitted from the transmission stations towards end users by terrestrial radio way, using digital modulation within the boundaries of a standard television channel/frequency block, having national, regional or local coverage, as is the case;

radio/television multiplex operator – the natural or legal person, which holds a licence of using radio frequencies in a terrestrial digital system and has the right to operate a radio or television network/station, under law, pursuing to provide one or several groups of radio and TV programmes, additional multimedia services and associated identifying data multiplexed;

encoding – a means of presenting the information in an electronic format, which allows the access only by using a code;

encrypting – the modality of modifying a flow of information in an electronic format according to a preset algorithm, in order to protect it when transmitted through uncertain media, as the reconstitution of the initial information is possible only by using an adequate decrypting algorithm;

conditioned access system – any technical modality or means through the agency of which the access, in an intelligible form, to a protected service broadcasting radio or television programmes may be done in a restricted way, by subscription or by using other forms of preset individual authorisation;

prime time – a time period comprised between: 06.00-09.00 and 19.00-23.00 for the television programme services; 06.00-13.00 and 17.00-20.00 for the radio programme services;

information area – a spectrum of radio frequencies, meant or used to provide audiovisual media services in terrestrial digital or analogue systems;

European audiovisual works – creative works, the (co-) production of which is controlled by European natural or legal persons;

native programmes – programmes, the (co-) production of which is controlled by the providers of audiovisual media services under the jurisdiction of the Republic of Moldova and/or by independent programme producers from the Republic of Moldova;

own programmes – programmes, the (co-) production of which is controlled by the media services provider, under the jurisdiction of the Republic of Moldova, which broadcasts them;

programme services free to retransmit – programme services the retransmission of which is not financially or technically conditioned by their producers or by the legal representatives of the latter;

self-promotion announcements – the announcements about own programmes and the announcements regarding own products directly derived from them.

Articolul 4. Application purpose and scope

(1) The purpose of this code is to develop the Moldovan broadcasting on democratic principles.

(2) In the sense of this law, a media services provider is deemed to be under the jurisdiction of the Republic of Moldova, if it meets one of the following conditions:

a) has its headquarters in the Republic of Moldova, and the editorial decisions regarding the audiovisual media service are made in the Republic of Moldova;

b) has its headquarters in the Republic of Moldova, and a significant part of the workforce involved in the provision of audiovisual media services operates in the Republic of Moldova;

c) the editorial decisions regarding the audiovisual media services are made in the Republic of Moldova, and a significant part of the workforce involved in the provision of audiovisual media services operates in the Republic of Moldova or in a Member State of the European Union in

which the media services provider is quartered.

(3) The media services provider, which does not meet any of the conditions provided for in paragraph (2) and is not quartered in a state participating to the European Convention on Transfrontier Television is deemed to be under the jurisdiction of the Republic of Moldova, if it is in one of the following situations:

- a) uses a frequency issued by the competent public authority from the Republic of Moldova;
- b) uses a satellite link belonging to the Republic of Moldova;
- c) uses an up-link situated on the territory of the Republic of Moldova;
- d) uses an internet link situated on the territory of the Republic of Moldova with the view to provide an audiovisual media service.

(4) If, in establishing the applicable jurisdiction, the criteria provided for in paragraph (2) and (3) are not relevant, the media services provider will be deemed out of the jurisdiction of the Republic of Moldova.

(5) The transmission rights of any audiovisual media service of a media services provider under the jurisdiction of the Republic of Moldova are acknowledged and guaranteed under this code.

(6) In the sense of this code, a services distributor is deemed under the jurisdiction of the Republic of Moldova if meeting one of the following conditions:

- a) has its headquarters in the Republic of Moldova, and the decisions concerning the compilation of the offer of audiovisual media services are made in the Republic of Moldova;
- b) has its headquarters in the Republic of Moldova, and a significant part of the workforce involved in compiling and putting at the public's disposal of offers of audiovisual media services operates in the Republic of Moldova;
- c) the decisions concerning the compilation of the offers of audiovisual media services are made in the Republic of Moldova, and a significant part of the workforce involved in putting at the public's disposal of offers of audiovisual media services operates in the Republic of Moldova or in a Member State of the European Union in which the services distributor is quartered.

(7) The services distributor not meeting any of the conditions provided for in paragraph (6) and does not have its head office in other state participating in the European Convention on Transfrontier Television is deemed to be under the jurisdiction of the Republic of Moldova, if it is in one of the following situations:

- a) uses a frequency issued by the competent public authority from the Republic of Moldova;
- b) uses a satellite link belonging to the Republic of Moldova;
- c) uses an up-link situated on the territory of the Republic of Moldova;
- d) uses an internet link situated on the territory of the Republic of Moldova with the view to put at the public's disposal offers of audiovisual media services.

(8) If, in establishing the applicable jurisdiction, the criteria provided for in paragraph (6) and (7) are not relevant, the media services distributor shall be deemed out of the jurisdiction of the Republic of Moldova.

(9) The rights to retransmit audiovisual media services by the services distributors under the jurisdiction of the Republic of Moldova are acknowledged and guaranteed under this code.

Articolul 5. Audiovisual Legislation

(1) The audiovisual legislation is made up from the Constitution of the Republic of Moldova, the international treaties the Republic of Moldova is part to, this code, other legal acts and the decisions of the Broadcasting Council.

(2) If the international treaties the Republic of Moldova is part to establish other norms than the ones **provided for** by this code, other legal acts and the decisions of the Broadcasting Council, the provisions of the international treaties are applied.

(3) The Broadcasting Council, as the single regulation authority with the view of enforcing the audiovisual legislation, adopts decisions in the cases and within the boundaries provided for by this code and by the international treaties the Republic of Moldova is part to.

Articolul 6. European Audiovisual Works

(1) In the sense of this code, European audiovisual works are:

- a) the audiovisual works from the Republic of Moldova or from the Member States of the European Union;
- b) the audiovisual works from third European states participatory in the European Convention on Transfrontier Television of the Council of Europe meeting the conditions provided for in paragraph (3);
- c) the audiovisual works from other European states and meeting the conditions provided for in paragraph (4).

(2) The provisions of paragraph (1) let.b) and c) are applicable provided those states have not adopted any discriminatory measures against the audiovisual works from the Republic of Moldova or from the Member States of the European Union.

(3) The audiovisual works provided for in paragraph (1) let.a) and b) are audiovisual works produced in most part with the contribution of authors and personnel residing in one or several of the respective states, provided they meet one of the following requirements:

- a) are produced by one or more producers residing in one or more of the respective states;
- b) the production of these audiovisual works is effectively supervised and controlled by one or more producers established in one or more of the respective states;
- c) the contribution of the authors of these states to the total costs of co-production is preponderant, whereas the co-production is not controlled by one or more producers established outside the respective states.

(4) The audiovisual works mentioned in paragraph (1) let.c) are audiovisual works exclusively produced or co-produced with producers established in one or more European states with which the Republic of Moldova or the European Union has concluded agreements regarding the broadcasting sector, if they are mainly produced by authors and employees residing in one or more European states.

(5) The audiovisual works, which are not considered as European audiovisual works in the sense of paragraph (1), but are produced on the basis of bilateral co-production treaties concluded with third countries, shall be deemed as European audiovisual works, in order to apply the provisions of this code, if the co-producers from the Republic of Moldova or from the Member States of the European Union provide a major percentage in the total production costs, and it is not controlled by one or more producers established outside the Republic of Moldova and the Member States of the European Union.

(6) The audiovisual works, which are not European works in the sense of paragraphs (1) and (5), but are mainly produced by authors and employees residing in the Republic of Moldova or in Member States of the European Union, shall be deemed as European audiovisual works, with the view of applying this code, to the ratio corresponding to the percentage of the contribution of the co-producers from the Republic of Moldova or from the Member States of the European Union to the total production costs.

(7) The providers of linear audiovisual media services under the jurisdiction of the Republic of Moldova, which use radio frequencies for transmission in the terrestrial digital system or in analogue terrestrial system, as from 1 January 2013 shall reserve to the European audiovisual works not less than 75% from their broadcasting time, except for the time allotted to news programmes, sports events, entertaining programmes, advertising, teletext and teleshopping services.

(8) The provisions of this article shall not be applied to the television/radio programme services exclusively meant for advertising, teleshopping and self-promotion.

Articolul 7. Native Programmes

(1) In the sense of this code, native programmes are:

- a) the programmes from the Republic of Moldova, which meet the conditions provided for in paragraph (2);
- b) the programmes from the Republic of Moldova and other European states, which meet the conditions provided for in paragraph (3).

(2) The programmes provided for in paragraph (1) let.a) are the programmes produced mainly with the contribution of authors and employees residing in the Republic of Moldova, provided they meet one of the following conditions:

- a) are produced by one or more producers established in the Republic of Moldova;
- b) the production of these programmes is effectively supervised and controlled by one or more producers established in the Republic of Moldova;
- c) the contribution of the producer or co-producers from the Republic of Moldova to the total (co-) production costs is significant, and the (co-) production is not controlled by one or more producers established outside the Republic of Moldova.

(3) The programmes mention in paragraph (1) let.b) are the programmes produced in a co-production with producers established in one or more European states with which the Republic of Moldova or the European Union have concluded agreements regarding the broadcasting sector, if they are mainly produced by authors and employees residing in the Republic of Moldova.

(4) The programmes, which are not deemed as native programmes in the sense of paragraph (1), but are produced on the basis of bilateral co-production treaties concluded with third countries, shall be deemed as native programmes, with the view of applying the provisions of this code, if the co-producers from the Republic of Moldova provide a majority percentage from the total production costs, and it is not controlled by one or more producers established outside the Republic of Moldova and the Member States of the European Union.

(5) The programmes which are not native programmes in the sense of paragraphs (1) and (4), but a mainly produced by authors and employees residing in the Republic of Moldova, shall be deemed as native programmes, with the view of applying this code, in a ratio corresponding to the ratio of the contribution of the co-producers from the Republic of Moldova to the total production costs.

(6) The television/radio programme services under the jurisdiction of the Republic of Moldova, which use radio frequencies for transmission in terrestrial digital system or in analogue terrestrial system, as from 1 January 2013, shall reserve for the native programmes not less than 50% from their broadcasting time.

(7) The provisions of this article shall not be applied to the TV/radio programme services exclusively devoted to advertising, teleshopping, self-promotion.

Articolul 8. Own Programmes

(1) In the sense of this code, own programmes are:

- a) the programmes produced by a media services provider, under the jurisdiction of the Republic of Moldova, meeting the conditions provided for in paragraph (2);
- b) the programmes produced by the media services provider under the jurisdiction of the Republic of Moldova and other producers from European states meeting the conditions mentioned in paragraph (3).

(2) The programmes provided for in paragraph (1) let.a) are the programmes produced with the significant contribution of the employees of the media services provider, under the jurisdiction of the Republic of Moldova, provided they meet one of the following requirements:

- a) are exclusively produced by the media services provider, under the jurisdiction of the Republic of Moldova;
- b) the production of these programmes is effectively supervised and controlled by the media services provider, under the jurisdiction of the Republic of Moldova;
- c) the contribution of the media services provider, under the jurisdiction of the Republic of Moldova, to the total (co-) production costs is preponderant, and the (co-) production is not controlled by one or more other producers.

(3) The programmes mentioned in paragraph (1) let.b) are the programmes produced in co-production with producers residing in the Republic of Moldova or one or more European states, with which the Republic of Moldova or the European Union have concluded agreements regarding the broadcasting sector, if the programmes are mainly produced by the employees of the media services provider, under the jurisdiction of the Republic of Moldova.

(4) The programmes, which are not considered own programmes in the sense of paragraph (1), but are produced on the basis of bilateral co-production treaties concluded with third countries, shall be deemed as own programmes, with the view of applying this code, if the media services provider, under the jurisdiction of the Republic of Moldova, provides a majority percentage from the total production costs, and it is not controlled by one or more other producers.

(5) The programmes, which are not own programmes in the sense of paragraph (1) and (4), but which are mainly produced by the employees of the media services provider, under the jurisdiction of the Republic of Moldova, shall be deemed as own programmes, with the view of applying this code, in a ratio corresponding to the ratio of the contribution of the media services provider, under the jurisdiction of the Republic of Moldova, to the total production costs.

(6) The TV/radio programme services under the jurisdiction of the Republic of Moldova, which use radio frequencies for transmission in terrestrial digital system or in terrestrial analogue system, as from 1 January 2013 shall reserve for own programmes not less than 25% of their broadcasting time.

(7) The provisions of this article shall not be applied to the TV/radio programme services **devoted** exclusively to advertising, teleshopping and self-promotion.

CHAPTER II. Principles Audiovisual Communication

Articolul 9. Access to pluralist la audiovisual media services

(1) Anyone has the right to access pluralist audiovisual media services:

- a) provided by the public, private and community media services providers;
- b) which mirror society's ideological, political, religious and cultural diversity;
- c) provided in conditions of pluralism of information sources and content diversity;
- d) national, regional and local.

(2) With the view to guarantee the rights from paragraph (1), the Broadcasting Council sets up regulations, including as to insuring anyone's right to access:

- a) pluralist audiovisual media services, which do not need prior individual authorisation;
- b) generalist and topical TV and radio services;
- c) programme genres meeting the interests of diverse social layers;
- d) offers of programme services, compiled and set at the public's disposal under this article.

Articolul 10. Respecting human dignity and fundamental human rights

(1) The audiovisual media services, by their form and content, shall respect the human dignity and fundamental rights.

(2) It is forbidden to provide audiovisual media services, which are:

- a) susceptible of exhorting to hatred on reasons of sex, racial or ethnic origin, nationality, religion or confession, political beliefs, handicap or sexual orientation;
- b) disseminating child pornography;
- c) contrary to good morals;
- d) provided for in art.11 paragraph (2).

(3) The media services providers and the services distributors shall respect anyone's right to honour, dignity and professional reputation, as well as the right to the respect of private and family life in accordance with the Law on the freedom of expression.

Articolul 11. Protection of minors

(1) A minor, capable of wording opinions, has the right to express his/her opinions about the issued regarding him/her in audiovisual media services.

(2) It is forbidden to air the name, image and/or other data allowing to identify a minor:

- a) in the context of covering crimes, offences, regardless of his/her trial capacity;
- b) in the context of considering the issue regarding his/her adoption or instituting guardianship over him/her, his/her sisters and brothers.

(3) Airing the voice and/or the image of a minor in a difficulty without his/her agreement or the agreement of his/her legal representative is forbidden.

(4) In the TV and radio programme services without prior individual authorisation, it is forbidden to air programmes, which may seriously impair the minors' physical, mental or moral development, especially programmes, which:

- a) contain or promote pornography;
- b) unjustly highlight violence or contain exaggerated violence;

c) contain licentious language.

(5) The transmission, in TV and radio programme services without prior individual authorisation, of other programmes than the ones provided for in paragraph (4) susceptible of impairing the physical, mental or moral development of minors may be operated under the following circumstances:

- a) the transmission is operated between 24.00 and 6.00;
- b) the programme is preceded by a video/audio warning;
- c) the warning visual sign is kept during the broadcasting of the entire TV programme;
- d) by observing other requirements established by the Broadcasting Council.

(6) The Broadcasting Council shall set forth, for TV and radio services providers, additional requirements regarding the protection of minors:

- a) on Saturdays and Sundays, in minors' vacation periods, on official holidays;
- b) in the time period of protecting minors, which comprises 7-8 and 17-21 o'clock, whereas on the days and in the periods provided for in let.a) –8-12 and 17-22 o'clock;
- c) when airing programmes devoted to bets and gambling (except for lotteries), which may be operated only between 1.00 and 5.00 o'clock;
- d) in the area of providing audiovisual commercial communications;
- e) in other areas as provided for in the directives, resolutions and recommendations passed by the European Parliament, the Council of European Union and/or the Council of Europe.

(7) With the view to protect minors, the Broadcasting Council:

- a) shall promote, amongst media services providers, the need for co-regulation in the area of audiovisual commercial communication;
- b) shall set forth requirements regarding the protection of minors in the area of on-demand audiovisual media services;
- c) shall promote, on the basis of recommendations, the compilation and development of catalogues for minors and of catalogues with prior individual authorisation;
- d) shall contribute to the creation and revision, if needed, of the age rating of TV programme services, in accordance with the *Code of self-regulation of the content for children*;
- e) shall periodically monitor and shall penalise, correspondingly to the severity of the violations, the media services providers.

Articolul 12. Protection of handicapped persons

(1) The persons with sight and hearing handicap have the right of access to audiovisual media services, depending on technological possibilities.

(2) With the view to ensure the right to access to audiovisual media services for the people with hearing deficiency, in the TV programme services without prior individual authorisation, the national broadcasters using radio frequencies for transmission in terrestrial digital system and/or terrestrial analogue system:

- a) shall interpret in the sign language or by synchronous titling at least one newscast from the daily broadcasting time;
- b) shall interpret in the sign language or by synchronous titling the programmes of major importance entirely or their resumes;
- c) shall interpret in the sign language at least 60 minutes of the monthly air time of the programme service;
- d) shall priorly inform the public about the time of airing such programmes.

(3) With the view to ensure the right of access to audiovisual media services for the people with sight deficiencies, in the TV programme services without prior individual authorisation, the national broadcasters using radio frequencies for transmission in terrestrial digital system and/or terrestrial analogue system:

- a) shall ensure the self-description of the programmes with the duration of at least 60 **minutes** from the monthly air time of the programme service;
- b) shall priorly inform the public about the time of airing such programmes.

(4) The Broadcasting Council shall institute regulations as to:

- a) insuring the right of access to audiovisual media services for the people with sight or hearing handicap;

- b) creating good practices regarding non-discrimination, the propagation of the principle of equality of rights and the handicapped person's participation in social life;
- c) implementing programmes regarding the protection of the people with handicaps.

Articolul 13. Political and Social Balance and Pluralism

(1) Anyone has the right to full and truthful information, the right to free expression of opinions and the right to the free communication of information through the means of audiovisual media services.

(2) By transmitting and retransmitting TV and radio programmes political and social pluralism, the cultural, linguistic and religious diversity, informing, educating and entertaining the public are performed and ensured.

(3) TV and radio programme services are broadcast in circumstances of:

- a) access to the information about the events of general, regional local interest;
- b) obligation of diligence in verifying the truthfulness of the aired information by the media services provider;
- c) clearing differentiation of facts from opinions;
- d) broadcasters' favouring the conditions of free formation of opinions.

(4) In order to ensure, in the newscasts of the TV and radio programme services, the observance of the social and political balance, equidistance and objectivity, the broadcasters shall place every news story in such a way that:

- a) the information it contains be truthful;
- b) not to distort the meaning by montage tricks, comments, way of wording or title;
- c) in case of reports covering conflict-related issues, the principle of information from several sources shall be observed.

Articolul 14. Protection of Information Area

(1) The radio frequency spectrum, meant or used for the provision of audiovisual media services in terrestrial digital system or in analogue system, is national heritage.

(2) The area may be used under this code.

Articolul 15. Protection of Language and National-Cultural Heritage

(1) Anyone has the right to access to media services without prior individual authorisation mirroring the language and national-cultural heritage.

(2) In order to protect the language and national-cultural heritage, the Broadcasting Council grants, for the transmission of TV programmes in the state language, in the terrestrial digital system, at least:

- a) 75% of the national coverage frequency networks;
- b) 75% of the regional coverage frequency networks;
- c) 75% of the locale coverage frequencies.

(3) The Broadcasting Council shall grant, in accordance with paragraph (2) let.a)-c):

- a) radio frequencies for radio transmission in terrestrial digital system;
- b) radio frequencies for TV transmission in terrestrial analogue system;
- c) radio frequencies for radio transmission in terrestrial analogue system.

(4) The broadcasters using frequencies to transmit in the terrestrial digital system or in terrestrial analogue system, as from 1 January 2014 shall broadcast:

- a) own programmes – at least 25% from the total volume of any TV and radio programme service, half of which have been created for the last 5 years;
- b) native programmes – at least 50% from the total volume of any TV and radio programme service, half of which have been created for the last 5 years;
- c) European audiovisual works – at least 75% from the total volume of any TV and radio programme service.

(5) Own programmes, the native programmes and the European audiovisual works shall be aired in prime time, in accordance with the regulations of the Broadcasting Council.

(6) The broadcasters envisaged in paragraph (4) shall air, in the state language, own and native programmes containing news and current affairs in ratio of 80%.

(7) The TV and radio topical, cultural and/or music services shall broadcast, in prime time, native programmes in ratio of at least 60% from the weekly volume reserved for the transmission of that genre of programmes.

(8) The excerpts of programmes transmitted in other languages shall be accompanied by translations into the state language (dubbed or/and subtitled.) This provision shall not be applied to programmes on studying foreign languages and playing music clips.

(9) In case the broadcasters, provided for in paragraph (4), shall transmit a programme in another language than the state one, the language of the programme shall be shown in the published TV schedule.

(10) The feature and documentary movies, transmitted by the broadcasters provided for in paragraph (4), shall be dubbed or subtitled, keeping the original soundtrack, and the movies for children shall be dubbed in the state language.

(11) In compiling programme offers for retransmission, the services distributors shall grant priority to the programme services produced in the state language.

(12) In the localities where the representatives of a national minority represent the majority of the population, the local and regional broadcasters using radio frequencies for the transmission in terrestrial digital system or in terrestrial analogue system, shall ensure the broadcasting of programmes in the state language in ratio of not less than 20% from the programme service.

Articolul 16. Cultural and Language Diversity

(1) Anyone has the right of access to audiovisual media services without prior individual authorisation mirroring the cultural and language diversity of the state.

(2) The competent authorities of Gagauz Autonomy are entitled to adopt, in accordance with this code, additional norms as to promote programmes in Gagauz through the agency of the regional radio and TV public service.

Articolul 17. Access to Events of Major Importance

(1) Anyone has the right of access to events of major importance through the agency of TV programme services without prior individual authorisation.

(2) The events of major importance may be aired in exclusivity, in the TV programme services of the national broadcasters without prior individual authorisation, only if the transmission does not deprive a significant part of the Moldovan public of the possibility to watch them live or in off-set transmission.

(3) Events of major importance are:

- a) the Olympics;
- b) international music contests;
- c) European and world sports championship;
- d) other events provided for in *the List of events of major importance*.

(4) *The List of events of major importance* is approved of by the Broadcasting Council and will be communicated to the European Commission.

(5) The modification of *the List of events of major importance* is done in accordance with the procedure provided for in paragraph (4) and the Law on transparency in decision-making.

(6) In addition to the information provided for in paragraph (3), *the List of events of major importance* shall also establish:

- a) the percentage of the population representing a significant part of the public;
- b) the broadcaster's right to cover the event of major importance live or off-set, fully or partially.

(7) Exercising by the broadcasters under the Moldovan jurisdiction of their exclusive rights to cover events stated by a Member State of the European Union as being of major importance and which are on the list published in the Official Journal of the European Union may not deprive a significant part of the public from that state from the possibility to watch those events live or off-set, in conformity with the provisions established by that Member State.

(8) Any broadcaster under the jurisdiction of the Republic of Moldova or under the jurisdiction of a state of the European Union has the right of access to the event of major importance, in conformity

with the provisions from paragraph (10), with the purpose of producing short news reports (up to 90 seconds) and of airing them in newscasts.

(9) The broadcaster exclusively airing the event of major importance, on the demand of any broadcaster under the jurisdiction of the Republic of Moldova or under the jurisdiction of a State of the European Union, is bound to make public, in conformity with the provisions of paragraph (10), the requirements regarding the exercise of the right of access to the event of major importance.

(10) The Broadcasting Council shall draft, pass and periodically review regulations regarding the exercise of the right of access to the events of major importance, in which it shall also establish:

a) the insurance of making public the requirements regarding the exercise of the right of access to the event of major importance, established for other broadcasters by the broadcaster holding the exclusivity right;

b) the right of any broadcaster under the jurisdiction of the Republic of Moldova or under the jurisdiction of a State of the European Union to broadcast short clips from the transmissions from the events of major importance, ensured by the broadcaster holding the exclusivity right;

c) the payments that may be retrieved by the broadcaster holding the exclusivity right for airing short clips or for access to the venue of the event of major importance;

d) the usage of short clips in audiovisual media services on demand.

Articolul 18. Participation in Checking Observance of Audiovisual Legislation

Any natural or legal person is entitled to participate in checking up the observance of the audiovisual legislation, including requesting the Broadcasting Council:

a) general or topical checkups as to verify the observance of the provisions of this code, (co-) regulation acts by the media services providers and/or the services distributors;

b) to cease the transmission and/or retransmission of programme services, which severely violate the audiovisual legislation;

c) to abolish or draft and pass additional regulation acts with the view to apply the audiovisual legislation;

d) to abolish co-regulation acts or some of their provisions;

e) to ensure the access to the information of public interest, including about the owners of the audiovisual media services;

f) to ensure transparency in decision-making;

g) to penalise the media services providers and/or the services distributors, in conformity with the law and with the severity of the violation.

Articolul 19. Transparency of Broadcasters' Ownership

The providers of audiovisual media services are bound to **ensure** the simple, direct and permanent access of the public to at least the following categories of information:

a) name, legal status and head office;

b) the name of the legal representative and the structure of the shareholders down to the level of natural and legal persons, associate or shareholder holding a share bigger than 20% from the equity or voting rights of a stock venture holding an audiovisual licence;

c) the names of the persons responsible for the administration and of the ones assuming the editorial responsibility;

d) the contacts of the media services provider, including the e-mail address or the web site by which it can be contacted quickly, directly and effectively;

e) the list of published publications;

f) the list of the other programme services;

g) the competent regulation and/or supervision organisms.

Articolul 20. Freedom of Expression

(1) The providers and distributors of audiovisual media services put at the public's disposal offers of programme services in conformity with the provisions of this code and of the Law on the freedom of expression.

(2) The Broadcasting Council shall act, ex officio or on notification, in order to ensure the freedom

of expression.

Articolul 21. Editorial Independence and Freedom

(1) The media services providers are entitled to freely decide on the content of their audiovisual media services and programmes, in conformity with the audiovisual legislation and the conditions of the audiovisual/broadcasting licence.

(2) Censorship of any kind over the audiovisual media services is forbidden.

(3) Any interference into the content, form of ways of creating and presenting the programmes and of other elements of the audiovisual media services on behalf of the public authorities or of other entities is forbidden.

(4) The regulations of the Broadcasting Council regarding the enforcement of this code, issued in conformity with the law shall not be deemed as interference.

Articolul 22. Protection of Copyrights

(1) The transmission and retransmission of audiovisual media services is operated in conformity with the law on copyrights and neighbouring rights.

(2) The providers of media services and the services distributors are bound to conclude contracts, in conformity with the law, either with the holders of copyrights and neighbouring rights, or with their representatives or with the organisation administering, on collective principles, copyrights and neighbouring rights.

Articolul 23. Right of Reply

Anyone considering his/her/its rights impaired by broadcasting programmes or other elements of audiovisual media services has the right of reply in conformity with the Law on the freedom of expression.

Articolul 24. Protection of Journalists

(1) Competent public authorities ensure:

a) the protection of journalists in case they are subjected to pressing or menaces likely to effectively hinder or restrain the free exercise of their profession;

b) the protection of offices of media services providers, in case those are subjected to menaces likely to hinder or affect the free practice of their operation.

(2) The protection of journalists and of offices of media services providers, under paragraph (1), shall not serve as a pretext to jeopardise the free expression of journalists, to hinder or restrain the free exercise of their profession or the journalists' claiming their fundamental rights.

(3) Constraining or exerting pressure by intimidating the journalists shall be punished under law.

Articolul 25. Protection of Confidentiality of Information Sources

The confidentiality of the information sources is guaranteed in conformity with the Law on the freedom of expression.

Articolul 26. Airing Announcements about State of Emergency

(1) In case of severe danger for the public security or the constitutional order, the broadcasters are bound to transmit, quickly and for free, the official announcements of the Parliament of the Republic of Moldova, of the President of the Republic of Moldova and of the Government of the Republic of Moldova in all their programme services.

(2) The broadcasters transmit the information from the central public authorities necessary to protect the people's life, health and safety or to prevent damaging properties or the environment, without any delay and free of charge in all their programme services.

CHAPTER III. AUDIOVISUAL COMMERCIAL COMMUNICATION

Section 1. General provisions regarding the audiovisual commercial communications

Articolul 27. Right to provide audiovisual commercial communications

(1) The media services providers are entitled to provide audiovisual commercial communications, in return for a payment or a similar consideration or with the view of self-promotion, in conformity with the provisions of this code with the provisions of this code and of *the Code on audiovisual commercial communications*.

(2) The media services providers are entitled to broadcast the following forms of audiovisual commercial communications:

- a) sponsorship;
- b) advertising;
- c) teleshopping;
- d) placement of products;

e) other forms of audiovisual commercial communications, provided for in *the Code on audiovisual commercial communications*.

(3) The media services provider bears responsibility for the application of the provisions of this code in the area of audiovisual commercial communications.

(4) The broadcasters cover the advertising from the retransmitted TV and radio services.

Articolul 28. General Requirements on Airing Audiovisual Commercial Communications

(1) The surreptitious audiovisual commercial communications are forbidden.

(2) The audiovisual commercial communications broadcast by media services providers, shall meet the following requirements:

a) to be easily identified, in conformity with the provisions of this code and of *the Code on audiovisual commercial communications*;

b) not to use subliminal messages;

c) not to impair human dignity;

d) not to contain any form of discrimination susceptible to exhort to hatred on reasons of sex, racial or ethnic origin, nationality, religion or confession, political beliefs, handicap or sexual orientation;

e) not to contain a woman's image in situation of abuse and other danger;

f) not to bring offence to religious or political beliefs;

g) not to stimulate conducts damaging the people's health or safety;

h) not to promote violent, aggressive and/or anti-social conducts or attitudes;

i) not to stimulate conducts damaging the environment;

j) not to stimulate indecent or immoral conducts;

k) not to bring prejudice to the legal consumer rights.

Articolul 29. Protection of Minors in Area of Audiovisual Commercial Communications

(1) The media services providers broadcast audiovisual commercial communications in conformity with art.11.

(2) In the audiovisual media services, it is forbidden to broadcast audiovisual commercial communications, which:

a) represent a minor in situation of abuse and other danger;

b) cause moral, physical or mental damage to minors;

c) directly urge minors to buy a product or a service, by exploiting their lack of experience or credulity;

d) directly encourage minors to persuade their parents or other people to buy the goods and services advertised;

e) exploit the special trust the minors have in parents, teachers and other people;

f) envisage minors in audiovisual commercial communications for alcoholic beverages.

(3) The Broadcasting Council shall institute, in conformity with art.31, detailed regulations concerning the broadcasters' airing audiovisual commercial communications:

- a) which are included or accompany the programmes for minors;
- b) within the time limits of protecting minors.

Articolul 30. Audiovisual Commercial Communications Forbidden for Certain Products

Forbidden are any forms of audiovisual commercial communication for:

- a) cigarettes and other tobacco products;
- b) medical products and/or treatments, available only by medical prescription;
- c) alcoholic beverages stronger than 20 degrees;
- d) promoting occult practices in direct or indirect ways.

Articolul 31. Code on Audiovisual Commercial Communications

(1) The Broadcasting Council, as a broadcasting regulating authority, adopts *the Code on audiovisual commercial communications*.

(2) *The Code on audiovisual commercial communications* is reviewed by the Broadcasting Council, at its own initiative, at the initiative of a media services provider or of a public authority.

Articolul 32. Language of Broadcasting Audiovisual Commercial Communications

The audiovisual commercial communications are broadcast in the official language of the state, with the exceptions provided for in *the Code on audiovisual commercial communications*.

Section 2. Sponsorship

Articolul 33. General Provisions on Sponsoring Programmes

(1) A TV/radio programme services may not be sponsored integrally.

(2) The sponsored programme shall meet the following conditions:

- a) its content and programming shall not be influenced by a sponsor as to affect the editorial independence and the responsibility of media services provider in relation to that programme;
- b) the existence of a sponsorship agreement shall be announced, under art.34;
- c) it shall not directly urge to sell, buy or rent the products and/or services of the sponsor or of a third, especially by promotional or commercial references to those products or services, made during that programme.

Articolul 34. Announcements on Sponsorship of Programme

(1) Under art.33 paragraph (2) let.b), the media services provider is bound to make the announcement regarding the sponsorship of the programme in the signature video/tune in the beginning and at the end of that programme.

(2) The media services provider is entitled to broadcast the announcement about the sponsorship of the programme also during the programme, in conformity with paragraph (6), except for the sports transmissions.

(3) The announcement regarding the sponsorship of the programme, provided for in paragraph (1), may contain but the following information:

- a) the name or the name and surname (in case of natural persons) of the sponsor;
- b) the trademark, logo and/or any other distinguishing element of the sponsor;
- c) the name and/or the image of a representative product/service of the sponsor, except for the ones provided for in paragraph (4).

(4) By announcing the programme's being sponsored by natural or legal persons the activities of which imply manufacturing or selling medical products and/or treatments, no promotion may be done for:

- a) the name and/or the image of the medical products, which are available only by medical prescription;
- b) the name and/or the image of medical treatments, which are available only by medical prescription.

(5) The announcement about the sponsorship of the programme:

- a) is aired separated from advertising;
- b) shall not contain advertising announcement or any connection with the aired advertising referring to the sponsor's products or services.

(6) During the whole duration of the sponsored programme, the announcement about the sponsorship of the programme may be aired:

- a) in sponsored programmes with the duration of up to 30 **minutes** – during 30 seconds at most;
- b) in sponsored programmes with the duration over 30 **minutes** – during 60 seconds at most.

(7) The media services provider is entitled to air promotional announcements about the sponsored programme. The duration of every promotional announcement related to the sponsored programme may not exceed 2 seconds.

Articolul 35. Interdictions on Sponsoring Programmes

(1) It is forbidden to sponsor newscasts, programmes of analyses and debates on political, social and/economic current affairs.

(2) No programme may be sponsored by natural or legal persons, the main activity of which is:

- a) manufacturing and/or selling products provided for in art.30 let.a) and c);
- b) providing the services provided for in art.30 let.d).

(3) Within the time limits on protecting minors, the broadcasters are not entitled to air programmes sponsored by companies, the name or the trade mark of which is identical with the name or the trade mark of the products provided for in art. 30 let.a) and c).

(4) The audiovisual media services providers are not entitled to broadcast images of the products of alcoholic beverages, as sponsors of sports events held on the territory of the Republic of Moldova.

Articolul 36. Sponsoring Programmes for Minors

(1) The programmes for minors may not be sponsored by natural or legal persons the activities of which imply:

- a) manufacturing and/or selling medical products;
- b) providing medical treatments;
- c) organising games and contests, which are forbidden or are not recommended to minors;
- d) providing other services provided for in *the Code on audiovisual commercial communications*.

(2) In the case of sponsoring programmes for minors no connection shall be perceived between the name, trade mark or the image of the sponsor and the name of the sponsored programme.

Section 3. General Provisions Regarding Advertising and Teleshopping

Articolul 37. Separation of Advertising and Teleshopping from Editorial Content

(1) The advertising or teleshopping announcement or programme may be aired, observing the following general requirements:

- a) it is easily identifiable;
- b) it is separated from the editorial content.

(2) Without bringing prejudice to the utilisation of new advertising techniques, a separation through optical and/or acoustic and/or spatial means between the advertising, teleshopping and, respectively, the other parts of the programmes is ensured.

(3) Isolated advertising and teleshopping spots, others than the ones provided for in art.42 and 43, represent an exception and may be aired only in the cases expressly established in this code or in *the Code on audiovisual commercial communications*.

Articolul 38. Insertion of Advertising and Teleshopping in TV and Radio Programme Services

(1) The advertising spots, including the self-promotion and teleshopping ones, with the exceptions provided for in paragraph (3)-(4), art.42 and art.43, may be inserted only between programmes.

(2) The advertising spots may be also inserted into programmes, observing the following requirements:

- a) the integrity and value of that programme are not impaired, taking into account its natural breaks, its duration and nature;
- b) the copyrights are not infringed.

(3) The advertising spots may be inserted only between the parts of the programme or into breaks in the following cases:

- a) in the programmes compiled from autonomous parts;

b) in the programmes broadcasting sports events or programmes structured alike and containing breaks.

(4) Feature and TV movies (except for serials, documentaries and entertainment programmes) longer than 30 minutes may be interrupted for advertising spots once in every 30 minutes.

(5) The advertising spots may be inserted once during a programme longer than 30 minutes in:

a) newscasts;

b) programmes for minors.

(6) The advertising spots may not be inserted in the following cases:

a) the programmes provided for in paragraph (4), the programmed duration of which is shorter than 30 minutes;

b) immediately before the programmes broadcasting a religious service, while it is being broadcast or immediately after it.

(7) In the electoral debates programmes, the advertising spots, including the self-promotional ones, are inserted in conformity with the electoral law.

(8) In the TV and radio programme services, the public broadcasters are entitled to insert advertising and/or teleshopping spots only between programmes.

(9) The provisions of this article are not applied in the case of TV/radio programme services exclusively **devoted** to advertising and teleshopping.

Articolul 39. Duration of Advertising and Teleshopping

(1) The cumulated duration of teleshopping spots, of advertising spots and/or programmes, inserted by the private broadcasters into a programme service during a clock hour, may not exceed 12 minutes.

(2) The cumulated duration of teleshopping spots, of advertising spots and/or programmes, inserted by the public broadcasters into a programme service during a clock hour, may not exceed 8 minutes. The public broadcasters contract and broadcast the teleshopping spots, of advertising spots and/or programmes in accordance with the principle „first come – first served.”

(3) The provisions of paragraph (1)-(2) are not applied in the case of:

a) self-promotional announcements;

b) sponsorship announcements;

c) placement of products;

d) the announcements broadcast for free in the public interest;

e) appeals to charities;

f) spots supporting national communication campaigns promoting social messages, broadcast free.

(4) The duration of the announcements provided for in paragraph (3), broadcast by a TV/radio programmes service during a clock hour, may not exceed 3 minutes.

(5) The provisions of this article are not applied in the case of the TV/radio programme services exclusively devoted to advertising and teleshopping.

Articolul 40. Teleshopping Programmes

(1) The teleshopping programme is separated from other programmes by sonorous and/or visual signals.

(2) The broadcasters air teleshopping programmes with the programmed duration (uninterrupted) of at least 15 minutes.

(3) No advertising announcements may be broadcast in the teleshopping programmes.

(4) The provisions of paragraphs (1)-(2) shall not apply to the TV/radio programme services exclusively devoted to the teleshopping.

(5) Personalised goods and/or services, which can be identified by the public by trade mark and/or producer, and/or modalities of selling/providing, may be presented only in teleshopping programmes.

(6) The provisions of paragraph (5) shall not be applied in the case of the programmes:

a) in which only the name of the company producing goods or providing services and/or its trade mark is presented, without presenting its personalised goods or services;

b) in which reference is made to cultural or educational products and services;

- c) in which reference is made to IT or motor products, provided more products of the same kind or class are presented for information purposes.

Articolul 41. Broadcasting Advertising Spots

(1) The advertising spots are broadcast in a group, being separated from programme(s) by sound and/or optical signals.

(2) The providers of TV programmes broadcast groupings of advertising spots, as provided for in paragraph (1), accompanied by their own logotype.

(3) The providers of radio programmes broadcast groupings of advertising spots, as provided for in paragraph (1), accompanied by the information about the identity of the broadcaster.

(4) A single grouping of self-promotional announcements may be broadcast in a grouping of advertising spots.

(5) Broadcasting advertising spots presenting characters, scenery or situations from the broadcast programmes is accompanied during the whole airing by the mention „Advertising” .

(6) The advertising spots are inserted into the programme services in conformity with the provisions of this article, art.38, art.42 and art.43.

(7) The advertising spots groupings are broadcast separately from the isolated teleshopping spots.

Articolul 42. Insertion of Advertising in Sports Transmissions

(1) The media services providers are entitled, during sports transmissions, to broadcast advertising minispots, by cumulatively observing the following conditions:

- a) the duration of the minispot shall not exceed 10 seconds;
- b) at most two minispots are broadcast by half-time;
- c) they are inserted in the moments of natural break of the game;
- d) they are accompanied for the whole duration of airing by a mostly visible sign consisting in capital „P” within a transparent circle, placed in the down-right part of the screen.

(2) During the transmission of a sports event, the media services providers are entitled to insert logos, by cumulatively observing the following conditions:

- a) the duration of an insertion shall not exceed 10 seconds;
- b) the total duration of insertions, during the whole transmission, shall not exceed 2 minutes;
- c) the logo is placed in conformity with the requirements of *the Code on audiovisual commercial communications*.

(3) During the transmission of a sports contest, the media services providers are entitled to broadcast isolated advertising spots in conformity with art.43.

Articolul 43. Insertion of Isolated Advertising Spots

(1) The media services providers are entitled to air isolated advertising spots, in the case in which the isolated advertising spot:

- a) is shorter than 30 seconds;
- b) is accompanied for the whole duration of airing by a mostly visible sign consisting in capital „P” within a transparent circle, placed in the down-right part of the screen;
- c) is broadcast under paragraph (2) or other cases expressly provided for in *the Code on audiovisual commercial communications*.

(2) The media services providers are entitled to broadcast isolated advertising spots in sports transmissions, observing the following conditions:

- a) the isolated advertising spots are inserted into the planned breaks of the sports events;
- b) the breaks last for less than 5 minutes.

(3) The media services providers are not entitled to broadcast isolated advertising spots in case the integrity of that transmission is affected.

Articolul 44. Forbidden Advertising and Teleshopping

(1) The media services providers are not entitled to broadcast advertising and teleshopping:

- a) by which they violate the requirements provided for in art.28 and art.29;
- b) for the products and/or services provided for in art.30 paragraph (1);

- c) in which the voices and and/or images of news presenters, of the presenters or commentators from the programmes devoted to political current affairs are used;
- d) for the promotion of products or services, which suggest or urge the public to renounce other identical or similar products or services;
- e) by which the public is suggested to renounce consuming fruits, vegetables or other natural elements;
- f) for consumer goods, by invoking medical prescriptions or recommendations, except for the products devoted to hygiene;
- g) for hygiene products, presenting medics or medical offices the identity of which is mentioned or is easily recognisable.

(2) The duration of the advertising spot, of the teleshopping spot and/or programme does not serve as a motive to ignore the obligations of honestly informing the public about the promoted goods and services.

Articolul 45. General Requirements Concerning Protection of Consumers

(1) The information presented in the advertising spots or in the teleshopping programmes shall not mislead the public, directly or by omission, as to:

- a) the features of the product and, especially, its nature, identity, properties, composition, quantity, durability, origin or provenience, as well as the methods of manufacturing or production;
- b) attributing effects or properties that the product does not have;
- c) the price or tariffs, as those are to be presented integrally, including the Value Added Tax and all the additional taxes;
- d) the conditions in which the products are distributed or the services are provided;
- e) suggesting that the product has special features, when actually all the similar products have such features.

(2) Any information or announcement presented as videotext shall be presented:

- a) static, readable for a sufficient period, so that it is clearly perceived by viewers;
- b) in conformity with other requirements provided for in *the Code on audiovisual commercial communications*.

Articolul 46. Offers of Delivery of Products or Services

(1) The advertising or the teleshopping, which refer to a special offer shall indicate, clearly and univocally, the date when the offer ceases or, if is the case, the fact that the special offer refers to the goods and services available in store, and if the special offer has not started yet, the starting date of the period during which the special price and other peculiar conditions are applied.

(2) The offers of direct sale concerning the paid delivery of goods, which may be acquired only through a remote contract, in the TV programme services may be broadcast only in teleshopping programmes.

(3) In the sense of this code, by remote contract one means a contract on delivering products and services, concluded between a merchandiser and a consumer, within a sale system organised by the merchandiser, which exclusively uses, before and at the moment of concluding that contract, one or more remote communication techniques.

(4) The offers of remote delivering goods or services are broadcast in conformity with the provisions of *the Code on audiovisual commercial communications*.

Section 4. Placement of Goods and Services

Articolul 47. The Right to Place Goods and Services

(1) The media services providers are entitled to operate placements of products and/or services only in the cases expressly provided for in this article.

(2) Placing products and/or services is permitted:

- a) In cinema works, movies and serials produced to be aired within audiovisual media services, sports and entertainment programmes;
- b) In case no payment is made, but only free goods and services are delivered, as producing props or prizes, with the purpose to include them into the programme.

(3) The provision from paragraph (2) let.a) shall not be applied in the case of the programmes for minors.

Articolul 48. Programmes Not Liable for Placement of Products and Services

(1) The programmes in which products and/or services are placed shall cumulatively meet the following conditions:

- a) the content and, in the case of TV programmes, the time period devoted to them shall not be, under any circumstances, influenced in a way that affects the editorial responsibility and independence of the media services provider;
- b) not to directly urge the purchase of the rent of products and services, especially by express promotional mentions to those products and services;
- c) not to give prominence in an exaggerated way those products and/or services;
- d) the provisions of art.49 are observed;
- e) are broadcast in conformity with other requirements concerning the programmes in which products and services are placed, as provided for in *the Code on audiovisual commercial communications*.

Articolul 49. Announcements Concerning Placement of Products and Services

(1) The media services providers are bound to broadcast the announcement concerning the placement of products and/or services:

- a) at the beginning and the end of the programme in which products and/or services are placed;
- b) at the resumption, after an advertising break, of the programme in which products and/or services are placed.

(2) The provisions of paragraph (1) shall not apply in the case of the programmes which have been neither produced, nor commissioned the media services provider or by an entity affiliated to it.

Articolul 50. Interdiction Concerning Placement of Products and Services

(1) It is forbidden to place the following goods and services:

- a) cigarettes or other tobacco products;
- b) products and/or services of natural and legal persons, having as main activity the manufacture or sale of cigarettes or other tobacco products;
- c) medical treatments available only by medical prescription;
- d) products and/or services of political parties and/or of other social-political organizations.

(2) The Broadcasting Council shall establish in *the Code on audiovisual commercial communications* the full list of products and services for which the placement of products is forbidden.

Articolul 51. Onerous Character of Placement of Products and Services

(1) The media services providers are entitled to place products and services in the programmes provided for:

- a) in art.47 paragraph (2) let.a) – only in return for payment;
- b) in art.47 paragraph (2) let.b) – only free of charge and only in the case in which the material value of the goods and/or services offered is significant and not less than the one provided for in *the Code on audiovisual commercial communications*.

Section 5. Advertising and Teleshopping for Alcoholic Beverages

Articolul 52. Right to Broadcast Advertising and Teleshopping for Alcoholic Beverages

The media services providers are entitled to broadcast advertising and teleshopping for alcoholic beverages in conformity with the provisions of this code and *the Code on audiovisual commercial communications*.

Articolul 53. General Requirements Regarding Advertising and Teleshopping for Alcoholic Beverages

The media services providers are entitled to broadcast advertising and teleshopping for alcoholic beverages, which meet the following conditions:

- a) are not addressed to minors;
- b) do not represent minors consuming alcoholic beverages;

- c) do not present characters, scenery or situations from aired programmes or that are to be aired;
- d) do not establish a link between the consumption of alcohol and the improvement of physical, psychical qualities or of the ability to drive vehicles;
- e) do not suggest that by consuming alcohol one can attain social or sexual performances;
- f) do suggest that the alcohol has therapeutic qualities or that it is a stimulant, sedative or means of solving personal problems;
- g) do not encourage exaggerated alcohol consumption and do not impair moderate consumption or abstinence from consuming alcoholic beverages;
- h) do not present as a quality the enhanced alcoholic content in beverages.

Articolul 54. Forbidden Advertising and Teleshopping for Alcoholic Beverages

(1) The media services providers are not entitled to broadcast:

- a) advertising and/or teleshopping for alcoholic beverages with a level above 20 degrees;
- b) advertising for contests or promotional announcements concerning such contests, which contain references to the name of the trade mark of an alcoholic beverage, provided for in let.a).

(2) In the time period of protection of minors, the broadcasters are not entitled to broadcast:

- a) advertising and teleshopping for alcoholic beverages with a level of or less than 20 degrees;
- b) promotional announcements and contests, which contain references to the name of the trade mark of an alcoholic beverage;
- c) information about prize awarding in contests sponsored by manufacturers of alcoholic beverages or offering alcoholic beverages as prizes therein.

Articolul 55. Announcement Concerning Danger of Excessive Consumption of Alcohol

(1) The media services providers shall broadcast, at the end of every advertising spot for alcoholic beverages, the following sonorous and/or visual warning: „Excessive alcohol consumption severely harms health.”

(2) The media services providers shall broadcast the warning, provided for in paragraph (1), in other cases, too, in conformity with the provisions of *the Code on audiovisual commercial communications*.

Section 6. Advertising and Teleshopping for Food

Articolul 56. General Requirements Concerning Advertising and Teleshopping for Food

(1) The media services providers are entitled to broadcast advertising and teleshopping for food in conformity with this code and with *the Code on audiovisual commercial communications*.

(2) The media services providers are not entitled to broadcast advertising and teleshopping for food:

- a) encouraging excessive consumption of food;
- b) which attribute, to food, qualities it does not have;
- c) in which food and food supplements are attributed properties to prevent, treat or cure diseases or reference is made to such properties;
- d) creating misleading impressions regarding the nutritious or health benefits of that food.

Articolul 57. Advertising and Teleshopping for Juices and Soft Drinks

In case the advertising or the teleshopping for juices and soft drinks are illustrated with fruits and/or vegetables, the percentage quantity of fruits and/or vegetables shall be specified.

Articolul 58. Advertising and Teleshopping for Food with Fruit and Vegetable Flavours

(1) In case of using, in manufacturing food, only fruit and vegetable flavours, it is forbidden to illustrate, draw or represent in any other way the fruits and/or the vegetable portions.

(2) In case of exclusive usage of flavours, this fact shall be mentioned in the advertising spots, in written form and verbally, by the phrase „with taste of...” or, if is the case, „with flavour of ...”.

Articolul 59. Protection of Minors

(1) The media services providers shall broadcast advertising and teleshopping, observing the provisions of art.29 and art.60.

(2) It is forbidden to broadcast advertising and teleshopping for food meant for minors of up to 12 years, containing:

- a) images of parents, teachers, celebrities, public personalities and/or doctors;
- b) the association of the food with non-food products devoted to minors (toys, stickers, etc.), if there is no information, either written or in images, about some qualities and features of the food product.

Articolul 60. Informing and Educating in Health and Healthy Feeding

(1) In order to ensure the education for health and healthy feeding of the population, the broadcasters shall air, in conformity with paragraph (2)-(4), the following warning announcements:

- a) „For a healthy live, eat fruits and vegetables daily”;
- b) „For a healthy live, make exercises at least 30 minutes daily”;
- c) „For a healthy live, daily consume at least 2 litres of liquids”;
- d) „For a healthy live, observe the main meals of the day”;
- e) „For your health, avoid the excess of salt, sugar and fats.”

(2) The warning announcements, provided for in paragraph (1) let.a)-d), are alternatively broadcast in conformity with the provisions of *the Code on audiovisual commercial communications*.

(3) The warning announcement, provided for in paragraph (1) let.e), is inserted in the end of every advertising grouping broadcast within programmes devoted to minors.

(4) In the sense of this code, by advertising addressed to minors aged up to 12 years one means the advertising aired within a programme the audience of which is formed from minors aged up to 12 years.

Section 7. Advertising and Teleshopping for Medicines and Medical Treatments

Articolul 61. Right to Broadcast Advertising and Teleshopping for Medicines and Medical Treatments

(1) The media services providers are entitled to air advertising and teleshopping for medicines and medical treatments which don't need medical prescription, with the exceptions provided for in paragraph (2) and paragraph (3).

(2) Forbidden is the advertising and the teleshopping for:

- a) medical drugs containing psychotropic substances or narcotics;
- b) medical products and treatments obtainable without medical prescription and containing substances harmful to health;

(3) The Broadcasting Council shall approve of, as an appendix to *the Code on audiovisual commercial communications*, and will periodically review the list of medical products and treatments provided for in paragraph (2).

Articolul 62. Content of Advertising and Teleshopping for Medical Products

(1) The advertising and the teleshopping for every medical product shall cumulatively contain the following information:

- a) the name of the product;
- b) the common name, if the product contains a single active ingredient;
- c) the therapeutic indication (the affections for which the medical product is used);
- d) the warning „This medicine is released without medical prescription. Carefully read the prospect”;
- e) other information provided for in *the Code on audiovisual commercial communications*.

(2) It is forbidden to broadcast advertising and teleshopping:

- a) in which medics and pharmacists present or recommend medical products and treatments, vitamins, food supplements, nutrients and nutrient supplements;
- b) for medical products, vitamins, food supplements, nutrients, nutrient supplements and medical treatments, if the presentation contain recommendations or notifications of medical associations;
- c) for the medical products, whereby their irrational usage is promoted or their therapeutic qualities are exaggerated;
- d) for medical products, vitamins, food supplements, nutrients, nutrient supplements and medical treatments, presented or recommended by public, cultural, scientific, sports personalities, or by

- other people, who, given their celebrity, may encourage the consumption of those products and treatments;
- e) presenting cases of curing severe diseases with the help of conventional or unconventional treatments, if the testifying a diagnosis and medical acts have not been certified under law.

(3) Derogating from the provisions of paragraph (1) let.d), the advertising for medical product, broadcast as a reminder by a media services provider, may include the warning: „It is recommended to carefully read the prospect.”

(4) In the sense of this code, by reminder one means the advertising spot, which cumulatively meets the following conditions:

- a) it is part, continuation and/or addition to the same advertising campaign for a certain medical product, carried out within the same programme service;
- b) reminds the public of elements from the message broadcast in the main spot of the advertising campaign;
- c) lasts for 10 seconds at most.

(5) The warnings provided for in paragraph (1) let.d) and paragraph (3) shall be aired in the following circumstances:

- a) in the main spot, the text shall be presented at the end of the advertising spot, either sonorous or visual, for at least 6 seconds;
- b) in the reminder, the text shall be presented during the broadcasting of the advertising spot, ensuring the clear perception of the message.

Articolul 63. Protection of Minors

(1) Within the time period of protection of minors, the broadcasters are not entitled to broadcast:

- a) advertising and teleshopping for medical products and treatments, addressed to the minors;
- b) advertising and teleshopping for medical products, vitamins, food supplements, nutrients, nutrient supplements and medical treatments in the programmes for minors or in the advertising breaks preceding or following such programmes;
- c) programmes devoted to minors, sponsored by producers and/or distributors of medical products, vitamins, food supplements, nutrients, nutrient supplements and medical treatments.

(2) The broadcasters are entitled to broadcast advertising and teleshopping for products and treatments for sexual dysfunctions or sexual problems or for breast enhancement by cumulatively observing the following conditions:

- a) the advertising and the teleshopping are aired from 23.00 to 6.00;
- b) the advertising and the teleshopping are accompanied by the warning that these products are not devoted to minors.

Articolul 64. Advertising and Teleshopping for Forbidden Medical Products and Treatments

(1) The broadcasters are not entitled to broadcast advertising and teleshopping:

- a) for products treating alcoholism;
- b) for clinical treatments curing hair loss;
- c) for hypnosis, hypnosis therapy, psychology, psychoanalysis or psychiatry;
- d) for cost-compensated medical products;
- e) for products and treatments not having been certified under law.

(2) The media services providers are not entitled to broadcast advertising and/or teleshopping, wherein mentions are made as to the therapeutic indication referring to the following diseases:

- a) tuberculosis;
- b) sexually transmitted diseases;
- c) other severe infectious diseases;
- d) cancer and other tumours;
- e) chronic insomnia;
- f) diabetes and other methabolic diseases;
- g) other diseases provided for in *the Code on audiovisual commercial communications*.

Articolul 65. Content of Advertising for Medical Products

The advertising for medical products shall contain no mention:

- a) creating the impression that no medical consultation, neither surgical intervention is necessary, especially by offering remote suggestions of diagnosis of treatment;
- b) suggesting the effect of the treatment with that medical product is guaranteed, has no side effects or is better or equivalent to other treatment or medical product;
- c) suggesting that the normal state of health of the public could be improved by consuming that product;
- d) suggesting that the normal state of health of the public could be affected unless consuming that product; this interdiction shall not apply to vaccination campaigns approved of by the Health Ministry;
- e) suggesting that that medical product is a food product, a cosmetic product or other consumer good;
- f) suggesting that the safety or the efficiency of the medical product is due to the fact that it is natural;
- g) suggesting that it could, by detailed description or representation of symptoms or clinical cases, lead to erroneous self-diagnosis;
- h) referring to curing, in improper and incorrect terms;
- i) using, in improper, alarming or incorrect terms, images, schemes or pictures depicting modifications of the human body caused by diseases or lesions or by the action of medical products over the human body or parts of it;
- j) excessively accentuate that that medical product is authorised under law.

Articolul 66. Advertising and Teleshopping for Naturist Products and Treatments

(1) The media services providers are entitled to broadcast advertising and teleshopping for naturist products and treatments, provided they accompanied by sonorous and/or written warning „Product not attested medically” or, if is the case, „Method not attested medically.”

(2) The provisions of paragraph (1) shall not apply in the case wherein the naturist products or treatments have been medically verified and attested, under law.

(3) The warning provided in paragraph (1) shall be aired in the end of the advertising spot.

Articolul 67. Advertising and Teleshopping for Food Supplements, Nutrient Supplements, Vitamins and Nutrients

(1) It is forbidden to broadcast advertising and teleshopping suggesting that everybody shall supplement his/her diet with vitamins and minerals or that such supplements may improve one’s physical and mental functions.

(2) The advertising and teleshopping for food supplements, nutrient supplements, vitamins and nutrients, broadcast in the TV/radio programme services, shall obligatorily include the warning „This is a food supplement. Carefully read the prospect.”

(3) The warning provided for in paragraph (2) shall last for at least 3 seconds and shall be aired at the end of the advertising spot.

(4) In the reminder, the warning provided for in paragraph (2) shall be presented for the duration of broadcasting the advertising spot, ensuring the clear perception of the message.

(5) In the time period of protecting minors, the broadcasters are not entitled to broadcast advertising and teleshopping for foods and drinks containing substances with nutritional or physiological effects rich in fats, fat acids, salt and sugar, not recommended in a balanced dietary regime, and which are provided in *the Code on audiovisual commercial communications*.

Articolul 68. Advertising and Teleshopping for Weight-Losing Products and Treatments

(1) The media services providers are entitled to broadcast, in conformity with the provisions of this code and the provisions of *the Code on audiovisual commercial communications*, information meant to promote weight-losing products and treatments and keeping one’s body weight only in:

- a) advertising or teleshopping spots;
- b) teleshopping programmes;
- c) sponsored programmes, except for programmes for minors.

(2) The advertising and the teleshopping for any type of weight-losing product or treatment or of keeping one’s corporeal weight shall observe the following conditions:

- a) shall not address people under 18 and shall warn the public about this aspect by a written and/or sonorous insertion;
- b) shall not be aired in programmes minors or in advertising breaks, which precede or follow such programmes;
- c) shall not directly address the obese people;
- d) shall not suggest or shall not assert that being underweight is adequate or desirable.

(3) The media services providers are entitled to broadcast sponsored programmes, advertising and teleshopping devoted to products and treatments to lose one's weight or to keep one's body weight, without therapeutic indications, provided the following requirements are observed:

- a) there are medical proofs for every assertion, regarding the beneficial effects of those products or treatments;
- b) when asserting that someone's weight decreased by a certain degree, the period in which this decrease has occurred is indicated;
- c) the lost weight and the period in which it has been attained shall be compatible with the medical and dietary practices generally accepted and shall not highlight non-representative features of the medical product or treatment offered;
- d) in the case of food and beverages with low caloric quantities, if they are presented as a part of the weight-losing regime, the fact that that product may lead to weight losing only as part of a diet controlling calories/energy shall be shown;
- e) in the case if products purposely developed to be used in diets with caloric restrictions, which, according to the manufacturer's instructions, totally or partially replace the daily feeding, those shall be promoted under the name „full weight-losing food substitute” or „partial weight-losing food substitute”;
- f) in case of food products and beverages with low caloric quantities, no reference shall be made to the rate or the measure of weight-loss resulting from using those products or to the restraint of the hunger feeling or to the growth of satiety feeling.

(4) Within the time period of protection of minors, the broadcasters are not entitled to insert advertising and teleshopping about the promotion of the body cult and/or of rejecting the image of one's own body, including the ones related to:

- a) weight-losing products;
- b) surgical interventions or cosmetic treatments;
- c) one's social success or rejection because of one's physical condition, weight or esthetical features;
- d) total diet;
- e) other requirements provided for in *the Code on audiovisual commercial communications*.

Articolul 69. Advertising and Teleshopping for Products and Treatment for Diets

The spots and programmes dealing with diet shall be broadcast by observing the following requirements:

- a) they include the warning „Consult a doctor before following the diet”, sonorous and/or written, lasting for at least 5 seconds;
- b) the diet is presented or promoted as a short-term measure;
- c) they shall not include testimonies or stories about private cases to justify the pursuit of that diet.

Section 8. Advertising and Teleshopping Concerning Exercise of Certain Professions

Articolul 70. Advertising and Teleshopping Concerning Exercise of Certain Professions

(1) The media services providers are not entitled to broadcast advertising and teleshopping of any forms of exercising (as bureau, office, association etc.) of the following professions:

- a) notary;
- b) lawyer;
- c) bailiff;
- d) legal expert;
- e) medic;
- f) other professions, the full list of which is provided for in *the Code on audiovisual commercial communications*.

(2) The media services providers:

- a) are not entitled to broadcast programmes produced or moderated by representatives of the professions provided for in paragraph (1);
- b) are entitled to broadcast programmes, except for teleshopping, with the participation of the representatives of the professions provided for in paragraph (1).

Section 9. Political Advertising

Articolul 71. Political Advertising

The political advertising is broadcast in conformity with the Election Code.

Section 10. Other Forms of Commercial Communications

Articolul 72. Right to Broadcast Other Forms of Commercial Communications

(1) The media services providers are entitled to broadcast other forms of commercial communications, including:

- a) telepromotion;
- b) interactive advertising;
- c) split screen advertising;
- d) virtual advertising;
- e) virtual sponsorship.

(2) The media services providers are entitled to broadcast audiovisual commercial communications, provided in paragraph (1), in conformity with the provisions of this code and the provisions of *the Code on audiovisual commercial communications*.

(3) The lack of certain regulations in *the Code on audiovisual commercial communications* is not viewed as a restraint in exercising the right provided for in paragraph (1).

CHAPTER IV. The Broadcasting Council

Articolul 73. The Mission of the Broadcasting Council

The Broadcasting Council is the guarantor of the public interest in the area of broadcasting and has the mission to contribute to the development of broadcasting in conformity with the principles of audiovisual communications provided for in this code, with the international norms and recommendations concerning this area.

Articolul 74. Statute of Broadcasting Council

(1) The Broadcasting Council is an autonomous public authority, the only responsible for regulation with the view to implement the provisions of this code.

(2) The Broadcasting Council has the status of a legal person of public right.

(3) The Broadcasting Council is consulted as to the draft normative acts regulating the activities in the audiovisual area or related to it.

(4) The Broadcasting Council is an authority responsible for enforcing the international conventions and treaties concerning the broadcasting the Republic of Moldova is part whereof. The Broadcasting Council is consulted in defining the position of the Republic of Moldova and may attend, through representatives, international negotiations regarding the broadcasting area.

Articolul 75. Competences of Broadcasting Council

(1) The Broadcasting Council:

- a) regulates the work of media services providers and of services distributors;
- b) establishes the conditions, criteria and procedure of issuing, prolonging, modifying, cession, suspension and revoking of broadcasting and audiovisual licences;
- c) establishes the conditions and the procedure of issuing, modifying, suspension and revoking of re-transmission licences;
- d) issues, prolongs, modifies, suspends and revokes audiovisual and retransmission licences;
- e) exercises the control over the way in which the broadcasters and services distributors carry out their obligations assumed in the broadcasting licence, audiovisual licence or retransmission licence;

- f) exercises the control over the way in which the content of the programme services corresponds to the provisions of the audiovisual law, only after being broadcast;
- g) exercises the control over the observance of the norms of audiovisual commercial communication;
- h) examines and solves the notifications and complaints regarding the activity of the media services providers and/or of the services distributors;
- i) ensure the protection of persons in their relations with the media services providers and the services distributors, especially by the access to simple procedures of solving the litigations;
- j) keeps the registry of contracts concerning copyrights and neighbouring rights, concluded between media services providers or services distributors with the holders of copyrights and neighbouring rights or with the organisations of collective management of property rights;
- k) compiles and updates on trimestral basis the list of programme services enjoying free retransmission on the basis of the declarations submitted by broadcasters and publishes it on the site of the Broadcasting Council;
- l) applies penalties in conformity with this code;
- m) cooperates with other broadcasting regulating authorities, as well as with the European institutions regarding the implementation of the European standards in broadcasting.
- n) Cooperates with other public authorities and competent institutions concerning the enforcement of the audiovisual law in conformity with the provisions of art.86;
- o) protects free competition in broadcasting;
- p) exercises its powers provided for in the Election Code and other legislative acts;
- q) notifies courts with the view of solving litigations;
- r) requests from the media services providers and the services distributors the necessary information, indicating the legal reason, the goal of the request and the period of delivering it;
- s) starts and organises researches in the broadcasting area, market researches, polls, audience researches etc. with the view to enforce the legal provisions in the field and thus contracts out specialised institutions, under the Law on public acquisitions;
- t) ensures the transparency of property, organisations, functioning and financing of the media services providers and the services distributors under the jurisdiction of the Republic of Moldova;
- u) ensures the transparency of tariffs and conditions for the utilisation of the audiovisual media services;
- v) ensures the transparency of its own activity;
- w) exercises its powers and obligations provided for in this code, independently, free from any interference in making decisions;
- x) ensures the pluralism of the media services providers and the diversity of audiovisual programme services;
- y) ensures a balanced relation between the TV programme services and radio programme services enjoying national coverage and the local, regional services;
- z) guarantees the observance of the principles of audiovisual communication.

Articolul 76. Structure of Broadcasting Council

- (1) The Broadcasting Council is composed of 5 members, whereof 4 are appointed by the Parliament and 1 member is appointed by the President of the Republic of Moldova.
- (2) 60 before the end of the term of a member of the Broadcasting Council, the chairperson of the parliamentary specialised committee issues a public invitation to the candidates to the position of a member of the Broadcasting Council, making public the conditions and the criteria of selecting the candidates and the dead-line of applying for the contest. Before issuing the invitation, the parliamentary specialised committee adopts a regulation on organising and holding the contest for the position of a member of the Broadcasting Council in conformity with the Law on transparency in making decisions.
- (3) Within 15 days from the dead-line of submitting the files, the candidates to the position of member of the Broadcasting Council participate in TV public debates organized on the basis of a regulation

developed by the public broadcaster and approved of by its Observers Council. The failure to attend the debates leads to losing one's capacity of a candidate.

(4) Following the evaluation of the contest files and the candidates' performance in the TV debates, the parliamentary specialised committee organises public hearings, if needed, and selects by a candidate for every vacant position.

(5) In case no candidate is selected for one or several vacancies, within 10 days from the contest sitting, a new contest is organised for them under paragraphs (2)-(4).

(6) After the selection of the candidates to the positions of member of the Broadcasting Council, the parliamentary specialised committee presents a report in a plenary sitting of the Parliament, and the juridical committee for appointments and immunities presents a notification as to meeting the requirements stipulated in paragraph (8).

(7) The members of the Broadcasting Council are appointed by parliamentary decision. In case a candidate to the position of a member of the Broadcasting Council fails to garner the required number of votes, a new contest is announced, at the plenary sitting of the Parliament, under this article.

(8) The candidates to the position of member of the Broadcasting Council shall meet the following requirements:

- a) be at least 25 years of age;
- b) have higher education and experience of at least 5 years in one of the following fields: audiovisual, information technology, law;
- c) be aware of the European and national legal provisions related to broadcasting, IT, advertising, copyrights and neighbouring rights;
- d) be a Moldovan citizen and resident;
- e) speak the state language and, at least, one widely-used modern language;
- f) not be of the retiring age;
- g) not have penal antecedents and enjoy unimpeachable reputation;
- h) not be deprived, by final court sentence, of the right to occupy public offices.

Articolul 77. Members of the Broadcasting Council

(1) The members of the Broadcasting Council are guarantors of the public interest and shall not represent the authority having appointed them.

(2) The office term of a member of the Broadcasting Council is 7 years.

(3) While serving their term, the members of the Broadcasting Council are irremovable, except for the period reserved to renounce the incompatibilities specified in this code and with the exception provided for in art. 79 paragraph (4) let. 1).

(4) None may consecutively serve two terms as a member of the Broadcasting Council.

(5) The vacancy of the position of member of the Broadcasting Council intervenes de jure in case of:

- a) end of mandate;
- b) honourable resignation;
- c) resignation;
- d) penal condemnation by final court verdict;
- e) loss of the Moldovan citizenship;
- f) impossibility to exert one's function for an uninterrupted period longer than 4 months, duly proved;
- g) absence, reasoned or not, from at least 7 consecutive sittings;
- h) incompatibility with the position of a member of the Broadcasting Council;
- i) death.

(6) In the cases provided for in paragraph (5) let. b) - h), the end of term and vacancy of position are stated by an act by the chairperson of the Broadcasting Council. In all the cases of function vacancies, the chairperson of the Broadcasting Council notifies the parliamentary specialised committee, within 5 working days from the day when the function vacancy intervened, as the latter shall announce a contest to fill up the function of member of the Broadcasting Council.

(7) In the case provided for in paragraph (5) let.a), the member of the Broadcasting Council continues to serve his/her mandate until his/her successor occupies the function, but no longer than 6 months. In

other cases, the function of member of the Broadcasting Council remains vacant from the date when the act was issued by the chairperson of the Broadcasting Council.

(8) The members of the Broadcasting Council exercise functions of public dignity.

(9) While serving the term, the members of the Broadcasting Council may not make political statements or undertake actions susceptible of impairing the independence of their position and may not profit from the position they occupy in order to gain political, economic and other kind of advantages.

Articolul 78. Incompatibilities with Function of Member of Broadcasting Council

(1) The function of a member of the Broadcasting Council is incompatible with any other public or private function, except for the didactic and scientific ones, unless they generate conflicts of interest.

(2) While exercising the mandate, the members of the Broadcasting Council may not be members of political parties or of other social-political organisations.

(3) The members of the Broadcasting Council, as well as their relatives in the sense of art. 2 from the Law on conflict of interests, are not entitled to hold, directly or indirectly, shares or parts in companies acting in areas in which they may be in conflict of interests with the capacity of a member of the Broadcasting Council.

(4) The members of the Broadcasting Council may not be members in the boards or management bodies of audiovisual media services providers and of services distributors, neither may they hold offices or shares or parts in companies holding an audiovisual licence or a retransmission licence.

(5) In order to enforce the provisions of paragraphs (3), (4), the members of the Broadcasting Council shall submit a statement of conformity on own responsibility, in a public sitting.

(6) The member of the Broadcasting Council, who, when appointed, was in one of the situations provided for in paragraphs (1) - (4), enjoys a period of 30 days at most to remove the reason of being incompatible, as he/she does not have the right to vote within the Broadcasting Council.

Articolul 79. Administration of Broadcasting Council

(1) The Broadcasting Council is managed by a chairperson appointed by the President of the Republic of Moldova for a 7-year term.

(2) The provisions of art. 77 paragraph (5) are applicable to the chairperson. In any of those cases, within a 5-day period, the vice chairperson of the Broadcasting Council notifies the President of the Republic of Moldova on the lawful appearance of the vacancy of chairperson of the Broadcasting Council, who shall appoint a new chairperson within 30 days.

(3) The chairperson of the Broadcasting Council is responsible for the activity of the Broadcasting Council and of the good exercise of its functions.

(4) The chairperson of the Broadcasting Council:

- a) is assimilated to the position of a vice minister;
- b) shall not represent the public authority having appointed him/her and is independent from it in exerting his/her functions;
- c) manages the Broadcasting Council and coordinates the work of its members within the boundaries of competences established by this code;
- d) convenes and conducts the sittings of the Broadcasting Council;
- e) signs the decisions and other acts issued by the Broadcasting Council;
- f) is the principle commissioner or credits and ensures the efficient management of the allocated public funds;
- g) appoints and dismisses the technical personnel of the Broadcasting Council;
- h) issues administrative decisions in exerting his/her powers provided for in this code;
- i) presents an annual report about the activity of the Broadcasting Council to the Parliament;
- j) represents the Broadcasting Council in its relations with public authorities, legal persons from the field of radio and television, with other legal persons, as well as in international relations;
- k) represents the Republic of Moldova in international organizations on matters related to electronic mass information means;
- l) is revoked by the President of the Republic of Moldova before the appearance de jure of the position vacancy in the case provided for in art.82 paragraph (6).

(5) In case the chairperson is absent, or is withdrawn or of appearance de jure of position vacancy and till a new chairperson is appointed, the vice chairperson exercises the functions provided for in paragraph (4) let. (c)-(k). In that case, the vice chairperson may authorise another member of the Broadcasting Council to exercise these function in his/her absence.

(6) The vice chairperson is elected by open or secret vote by the majority of the votes of the members of the Broadcasting Council, for a 4-year term.

(7) The vice chairperson may be dismissed upon the proposal of any member of the Broadcasting Council by the vote of the majority of members, and a new vice chairperson is elected.

Articolul 80. Remuneration of Members of Broadcasting Council

The members of the Broadcasting Council are remunerated in conformity with the Law on budget salaries system.

The chairperson of the Broadcasting Council is entitled to a monthly salary equal to the salary of a vice-minister.

The members of the Broadcasting Council are entitled to a monthly salary in ratio of 90% from the monthly salary of the chairperson of the Broadcasting Council.

Articolul 81. Organisation and Functioning of Broadcasting Council

(1) The Broadcasting Council develops its own regulation of organisation and functioning.

(2) In order to exercise its functions, the Broadcasting Council constitutes its own functional, including territorial control and monitoring structures, which are provided for in its own regulation of organisation and functioning.

(3) In carrying out its functions and powers under this code, the Broadcasting Council issues decisions with a quorum of at least 4 members and with the votes of 3 members at least. Broadcasting Council motivates all decisions according to structure specified in art. 84 paragraph (12) - (15).

(4) The sittings of the Broadcasting Council are public. The vote expressed by every member of the Broadcasting Council is open and always accompanied by reasoning. The members of the Broadcasting Council may vote for or against, as no vote abstentions are allowed.

(5) The debates at the sittings of the Broadcasting Council and the vote results are written down in the minutes of the sitting signed by the chairperson of the Broadcasting Council. The minutes are published on the web site of the Broadcasting Council within 10 working days.

(6) The normative decisions issued by the Broadcasting Council enter into force when published in Monitorul Oficial, except for the case when provided otherwise. The other decisions of the Broadcasting Council are bounding from the date of issuance.

(7) The decisions of the Broadcasting Council are published on its web page and in Monitorul Oficial of the Republic of Moldova. The publication on the web page is operated within 5 days from issuance, except for the case provided for in art.84 paragraph (7).

(8) In carrying out its mission in the public interest, the Broadcasting Council ensures the transparency of its own activity in conformity with the Law on transparency of decision making. The Broadcasting Council develops its own internal rules of organising the procedures of ensuring the transparency in working out and adopting decisions, and inserts them into the regulation on organisation and functioning.

Articolul 82. Parliamentary Control over Activity of Broadcasting Council

(1) The Parliament exercises the control over the work of the Broadcasting Council by debating on its annual report, which is presented for the previous year. The parliamentary specialised committee may request the chairperson of the Broadcasting Council specific reports whenever it considers necessary. The annual reports of the Broadcasting Council comprise of two chapters: on exercises its powers and on spending its finances.

(2) The annual report of the Broadcasting Council shall be submitted to the parliamentary specialised committee till 1 February.

(3) The parliamentary specialised committee holds public hearings on the verge of the annual report of the Broadcasting Council as the members of the Broadcasting Council, representatives of political parties, representatives of mass-media non-governmental organisations mass-media, representatives of

international organisations, as well as other interested entities are invited to attend, as the latter ones may present alternative reports on monitoring the activity of the Broadcasting Council or conclusions on the verge of the annual report of the Broadcasting Council. For this purpose, the parliamentary specialised committee shall publish the report of the Broadcasting Council on the web site of the Parliament, and the Broadcasting Council – on its own web page at least 10 days before the public hearings.

(4) Following the public hearings, as well as on the basis of its own findings, the parliamentary specialised committee positively or negatively approves of the annual report of the Broadcasting Council reasoning its decision. The report by the committee refers the legality, opportunity and efficiency of the work of the Broadcasting Council, as well as to the correctitude and transparency of its financial operations.

(5) Grounding on the debates on the report of the Broadcasting Council, of the approval thereof of the parliamentary specialised committee, the Parliament may adopt a decision either approving of or rejecting it.

(6) In case the Parliament adopts a decision rejecting the annual report of the Broadcasting Council, the President of the Republic of Moldova revokes the chairperson of the Broadcasting Council within 30 days from the entry into force of the Parliament's decision, as the provisions of art. 79 paragraphs (1)-(2) are applicable. The recalled may not hold a new function of chairperson of the Broadcasting Council.

Articolul 83. Financing of Broadcasting Council

(1) The budget of the Broadcasting Council is made up from the following sources:

- a) the public budget;
- b) incomes from the licensing tax;
- c) grants.

(2) The subventions from the state budget are approved of for a 5-year period. The annual quotas are specified, updated and indicated in the State Budget Law for every year.

(3) In the case provided for in paragraph (1) let. a) the Broadcasting Council shall present the Parliament, through the agency of the parliamentary specialised committee, the draft budget for a 5-year period in which the cost of the activities to be unfolded by the Broadcasting Council in exercising its powers and obligations the coming 5 years will be estimated. The parliamentary specialised committee shall present the Parliament an opportunity notification over the financial plan of the Broadcasting Council.

(4) The financing of the Broadcasting Council from the public budget ensures the coverage of 70% from the planned expenditures for the first year of activities envisaged in the financial plan adopted by Parliament, 60% from the expenditures from the second year, and respectively by 40% from the planned expenditures for the third, fourth and fifth years. The ratio of the budget not covered from the state budget is covered from the incomes from the licensing tax and grants.

Articolul 84. Supervision and Control Over Activities in Broadcasting

(1) Supervising the observance, verifying the fulfilment of obligations and penalising the violations of the provisions of this code, as well as the decisions issued on its basis and for its enforcement rest with the Broadcasting Council.

(2) In exerting its supervision and control powers, the Broadcasting Council may request from the media services providers and the services distributors necessary information and acts to enforce this code. The Broadcasting Council shall indicate the legal reason, the purpose of the request and the deadline to present the information. In case of checking up in their premises, the media services providers and the services distributors shall provide access to working venues, shall offer the recordings of the broadcast programmes, provided those are available under this code, shall cooperate with the view to ease the exercise of the control timely and efficiently.

(3) The Broadcasting Council exercises control:

- a) ex officio;
- b) upon a notification by a public authority;

- c) following a complaint lodged by a natural or legal person considering him-/her-/itself directly impaired by a violation of the legal provisions;
 - d) following notifications submitted by non-governmental organisations.
- (4) In the cases provided for in paragraph (3) let. b), c), d), the Broadcasting Council, within 10 working days from receiving the notification or the complaint, shall check up the factual circumstances. Within 5 working days at most, but not later than within 15 days since the submission of the notification or the complaint, the Broadcasting Council shall consider the notification or the complaint, shall announce the results of the control, shall hear the interested subjects and shall decide on rejecting or accepting the notification or the complaint, and, if is the case, shall apply a penalty under the conditions provided for in this code and/or measures obliging the media services provider or the services distributor to certain action or inaction.
- (5) The results of the control exercised under the conditions of paragraph (3) let. a) shall be examined in a public sitting by hearing the interested subjects, notified in advance as provided for in paragraphs (10), (11).
- (6) The Broadcasting Council examines the notification or the complaint in a public sitting in the absence of the media services provider or of the services distributor in question only after its repeated absence from the sitting, being notified in advance under paragraph (10).
- (7) The complaints lodged during electoral campaigns shall be examined by the Broadcasting Council within the terms provided for in the Election Code, by observing the procedure provided for in paragraph (4). The decision is published on the web page of the Broadcasting Council within 2 days after issuance.
- (8) Interested subjects, under this article, are considered the representatives of the public authority authoring the notification, the natural or legal entity having lodged the complaint or their representatives by proxy, representatives of non-governmental organizations authoring the notifications, as well as the representatives of the media services provider and of the services distributor envisaged in the notification of the complaint.
- (9) The anonymous notifications and complaints shall not be considered. Anonymous are considered the notifications and complaints not containing the name, and if is the case, the author's name, contacts, signature and, if is the case, seal.
- (10) The Broadcasting Council shall notify the media services provider or the services distributor upon which the control is being exercised about its start, and in the cases when the control is exercised under paragraph (3) let. b),c),d) shall notify it about the factual circumstances exposed in the notification or the complaint. The Broadcasting Council shall inform them on their right to word objections and arguments in their defence, both in written form, or in a public sitting. In this regard, the Broadcasting Council shall communicate the media services provider and the services distributor the results of the control 5 working days before they are considered in a public sitting, as well as the time, date, and place of holding the sitting.
- (11) 5 days before examining the complaint or the notification in a public sitting, the Broadcasting Council notifies the author of the notification or of the complaint on the time, date and place of holding the sitting. The Broadcasting Council considers the author's notification or complaint in his/her/its absence, if the informing procedure was observed beforehand.
- (12) The decisions adopted by the Broadcasting Council under paragraph (3) shall have the following content: the description, the reasoning and the resolution.
- (13) The descriptive part contains information regarding the factual and legal grounds on the basis of which the control has been exercised, the claims of the author's notification or complaint, the defending arguments invoked by the media services provider or the services distributor, the results of the control exercised by the Broadcasting Council and other important circumstances.
- (14) The reasoning indicates the violations found following the verification, the arguments and evidence on which the Broadcasting Council's conclusions as to those violations are based, the arguments invoked by the Broadcasting Council at rejecting the claim's of the author of the notification or complaint, and, if is the case, the arguments invoked by the media services provider or the services distributor subjected to the control, as well as the legal provisions the Broadcasting Council has guided itself by.

(15) The resolution of the decision contains the conclusion of the Broadcasting Council regarding the full or partial admission or rejection of the notification or complaint, the applied penalty, other measures obliging the media services provider or the services distributor to some action or inaction, the way and period of suing the decision. It also comprises the term of executing the decision, the mention about its immediate execution, the necessary measures to ensure the enforcement of the execution are provided in the resolution of the decision.

(16) The Broadcasting Council shall fully contribute to the entrance into legality of the media services provider or of the services distributor.

(17) In case the Broadcasting Council finds, while checking up the constituent elements of the violation, or finds the competence of another authority, it shall remit the materials to the competent authority.

(18) The Broadcasting Council exercises, annually, ex officio, a control of the way of executing by the media services providers and the services distributors of the legal provisions and of the conditions of the broadcasting licence or of the retransmission licence. The results of that check-up shall be mirrored in the annual report of the Broadcasting Council.

Articolul 85. Responsibility for Violation of Broadcasting Law

(1) In the sense of this code, responsibility for violating the broadcasting law means the Broadcasting Council's applying, under law, penalties on the media services providers or the services distributors, which have committed violations of the broadcasting law.

(2) Finding the violations and applying the due sanctions take place under art.84.

(3) A public warning is applied as a penalty for the first violation of the provisions of:

- a) art.6, art.7, art.8, art.9 paragraph (1), art.12 paragraph (2), art.13;
- b) art.64¹ paragraph (1) from the Election Code.

(4) Fines from 3,000 lei to 5,000 lei are applied on the media services providers or on the services distributors for the following violations:

- a) refusal to subject to the check-up, to permit the access to the offices in which they carry out their activity or to put at the disposal of the empowered representatives the requested documents and the recordings of the broadcast programmes;
- b) broadcasting a cinema work outside the periods provided for in the contracts concluded with copyrights owners;
- c) failing to observe the provisions of art.98 paragraph (9);
- d) illegally using the signals and/or logo of another broadcaster;
- e) failing to observe the provisions regarding the communication of reasons and object of the penalty provided for in paragraph (12)-(15);
- f) failing to observe the provisions of art.11 paragraph (2), (3), (5);
- g) failing to observe the obligation to submit the Broadcasting Council the copy of the contracts regarding copyrights and neighbouring rights concluded with the holders of copyrights and neighbouring rights or with the organisations of collective management of property rights;
- h) failing to observe the obligation to keep the recordings of the broadcast programmes for a period of at least 30 days after being aired;
- i) failing to observe the obligation to put at the Broadcasting Council's or at a court's disposal the recordings provided for in let.i).

(5) Fines from 5,000 lei to 10,000 are applied on the media services providers or the services distributors for the following violations:

- a) unauthorised change of the general concept (format) of the programme service under art.91 paragraph (3);
- b) the retransmission of a programme service without holding retransmission rights;
- c) failing to observe the provisions of art.10 paragraph (2) let.b);
- d) failing to observe the decisions of the Broadcasting Council issued under art.11 paragraph (6);
- e) stating, in executing art.92 paragraph (4), false information, as the real situation does not lead to the violation of the provisions of art. 105 paragraph (5) and art. 106 paragraph (4);
- f) using subliminal techniques in audiovisual commercial communications;
- g) for the repeated committal of the violations provided for in paragraph (3);

(6) Fines of 10,000 to 15,000 lei are applied on the media services providers or the services distributors for the following violations:

- a) transmission of audiovisual media services without broadcasting or audiovisual licence;
- b) retransmission of audiovisual media services without a retransmission licence;
- c) retransmission of audiovisual media services without a technical licence;
- d) utilisation of the broadcasting, audiovisual or retransmission licences by other entities than the lawful owners;
- e) the unreasoned interruption of broadcasting the programme services for a period longer than 30 consecutive days or for a period of 60 days intermittently in a calendar year;
- f) failing to observe the legal provisions regarding the conditions of broadcasting commercial audiovisual communications.
- g) violating the provisions of art.11 paragraph (4).

(7) The interdiction to broadcast advertising for a period from 15 to 30 days shall be applied on the media services providers for the following violations:

- a) utilisation of surreptitious commercial audiovisual communication;
- b) for repeated committal of the violations from paragraph (6) let.f);

(8) The suspension of the broadcasting, audiovisual or retransmission licences for a period from 30 to 60 days shall be applied on the media services providers or services distributors for:

- a) the repeated committal, within 12 months, of the violations with the same severity provided for in paragraph (4) let. b) and d), paragraph (5) let.a)-c) and let.e)-f), paragraph (6) let.d)-e), g) and paragraph (7) let.a) and b);
- b) exhorting the public to national, racial or religious hatred;
- c) explicitly exhorting to public violence;
- d) exhorting to actions aimed at overthrowing or changing by violence of the state order or violently encroaching upon the integrity of the Republic of Moldova;
- e) exhorting to terror actions.

(9) A media services provider or a services distributor is penalised by withdrawing the broadcasting, audiovisual licences or the retransmission licence:

- a) for repeatedly violating the provisions from paragraph (8) let.b)-e) within 12 months.
- b) for refusing to communicate the data asked by the Broadcasting Council in order to determine the property and/or the audience share or for presenting false data.

(10) The violations from paragraph (3)-(7), (8) let.a) shall be deemed as prescribed if more than 12 months have passed since their committal.

(11) Personalising the penalty in the case of committing one of the violations provided for in this article is done taking into account the severity of the fact, of its effects, as well as the previously received penalties, in relation to every programmes services (offer of programmes services), for a period of one year at most.

(12) The media services provider or the services distributor upon which a penalty provided for in this article has been applied is bound to inform the public on the motives and object of the penalty, in the way indicated by the Broadcasting Council in its penalising decision.

(13) The text of the penalty is broadcast within 48 hours after issuing the decision, sonorously and/or visually, at least 3 times, in prime time, of which once in the main newscast.

(14) For the programme services which, during the time periods specified in paragraph (13), retransmit another programme service, the way of broadcasting is established in the penalising decision.

Articolul 86. Apel Decisions of Broadcasting Council

(1) The normative decisions may be sued under the Law on administrative litigations. The recommending decisions may not be sued.

(2) The decisions adopted under art.84-85 may be directly sued in administrative litigation courts within 30 days from being communicated. The decisions not duly sued are to be executed.

(3) Suing the decisions issued under art.85 paragraph (9) within 30 days suspends their execution till the court issues a final sentence. The court may decide, within 48 hours from registering the lawsuit, on the basis of consistent proofs, to suspend the broadcasting until a final sentence is pronounced.

Articolul 87. Cooperation with Other Authorities

(1) For the good execution of its powers, the Broadcasting Council cooperates with the Moldovan authorities competent to regulate or to supervise services or activities referring to the broadcasting field.

(2) The procedures and conditions of the cooperation of the Broadcasting Council with the authorities provided for in paragraph (1), including the necessary conditions ensuring the efficient execution of every authority's powers, as well as the procedure of solving competence conflicts and the development of uniform practices, are regulated in cooperation agreements. The cooperation agreements are published in Monitorul Oficial of the R. of Moldova.

(3) The Broadcasting Council cooperates with the authority for the protection of competition, including by mutually exchanging information necessary to apply both the legislation on the protection of competition, on the advertising, and on the audiovisual law, as well as by mutual consulting on issues related to the protection of competition and advertising in broadcasting. The Broadcasting Council requests the competition protecting authority for the notification as to the correspondence of the audiovisual commercial communications to the legislation on advertising. Upon the request of the competition protection authority, in exercising the control over the observance of the legal provisions in the area of competition protection by media services providers or services distributors, the Broadcasting Council communicates its notification within 15 days.

(4) The Broadcasting Council cooperates with the National Medicine Agency, including by mutually exchanging the necessary information to enforce the legislation on the advertising of medicines for human usage. In exercising the control over the observance of the legal provisions regarding the audiovisual commercial communications for medicines used by humans by media services providers and services distributors, the Broadcasting Council requests the notification/expertise of the National Medicine Agency.

(5) The Broadcasting Council cooperates with the authority for intellectual property protection, as well as with the organisations collectively managing property rights, including by mutual exchange of the necessary information to enforce the legislation on copyrights and neighbouring rights in broadcasting. In case media services providers or services distributors violate copyrights and/or neighbouring rights, the Broadcasting Council notifies the authority for intellectual property protection, and/or the organisations collectively managing property rights, and/or the internal affairs bodies in case of offences in order to protect the holders' rights.

(6) The Broadcasting Council cooperates with the authority regulating electronic communications and information technology, including by mutually exchanging the necessary information to enforce both the legislation on electronic communications, and the audiovisual legislation. In case of finding constitutive elements of an offence in the electronic communications or the information technology in the work of media services providers or of services distributors, the Broadcasting Council notifies the authority regulating electronic communications and information technology to find the offence.

(7) The cooperation of the Broadcasting Council with the authorities provided for in paragraphs (3)-(6), as well as with other authorities provided for in paragraph (1), may also take place on other areas of the broadcasting than the ones provided for in this article, on the basis and according to the functions and powers legally conferred to every authority.

Chapter VII. Licensing Activity in Broadcasting

Section I. Licensing Activity in Broadcasting

Articolul 88. General Provisions

(1) The broadcasters and services distributors under the jurisdiction of the Republic of Moldova air audiovisual media services only after being licensed by the Broadcasting Council.

(2) Airing a programme service in terrestrial digital system through the agency of a multiplex radio/TV operator under the jurisdiction of the Republic of Moldova may be done only on the basis of a licence of using radio frequencies in terrestrial digital system, issued by the specialised authority of the central

public administration, to the benefit of the holders of digital audiovisual licences. The multiplex radio/TV operator is issued the licence of using radio frequencies in terrestrial digital system, at the consensual proposal of the holders of digital audiovisual licences for that multiplex. In case the licence holders do not reach consensus, the specialised authority of the central public administration organises a contest to select the operator, under an ad-hoc regulation.

(3) Airing a programme service by terrestrial radio frequencies is done only on the basis of the technical licence to the benefit of holders of analogue audiovisual licences, issued by the specialised authority of the central public administration.

(4) The Broadcasting Council issues audiovisual licences by observing the legal provisions concerning the development of competition, restraining monopoly activity in broadcasting and ensuring the pluralism of the media services providers.

(5) The Broadcasting Council develops and keeps a public registry of the issued licences, which contains: the number, name and identification data of holder, date of issuance, date of expiry, mentions concerning the prolongation and cession, covered area.

(6) The Broadcasting Council shall develop special regulations concerning the audiovisual media services broadcast in the internet.

Articolul 89. Types of Licences

(1) The Broadcasting Council licences the activity in broadcasting by issuing the following categories of acts:

a) audiovisual licence issued by contest, for:

- i. airing a programme service by terrestrial radio frequencies;
- ii. airing a programme service in terrestrial digital system;

b) audiovisual licence issued without contest, for:

- i. transmitting linear radio/TV programme services by cable;
- ii. transmitting linear radio/TV programme services by satellite;
- iii. transmitting linear radio/TV programme services by wire;

c) retransmission licence for:

- i. retransmitting linear radio/TV programme services by cable;
- ii. retransmitting linear radio/TV programme services by satellite;
- iii. retransmitting linear radio/TV programme services in terrestrial digital system.

Articolul 90. Audiovisual Licence

(1) The audiovisual licence for broadcasting linear programme services by any other telecommunications means than the terrestrial radio frequencies is issued without contest, only by a decision of the Broadcasting Council.

(2) The Broadcasting Council shall develop special regulations, by observing the provisions from the strategy on transition from analogue to digital, comprising the criteria and modalities according to which, by exception from paragraph (1), for TV programme services aired by terrestrial radio frequencies, the digital audiovisual licence is issued by decision for the broadcasters, which:

a) hold a broadcasting licence still valid and opt for broadcasting the programme service in a terrestrial digital multiplex;

b) are about to cease the analogue transmission or the analogue transmission of which will not be protected, in the circumstances of the measures imposed by this code and by the strategy of transition from terrestrial analogue television to terrestrial digital television and of implementing the digital multimedia services at national scale.

(3) When granting audiovisual licences, a broadcaster may opt for the multiplex in which its TV/radio programme services will be included.

(4) The audiovisual licence is issued for a 9-year term. The term of the audiovisual licence pours from the issuance date, except for the case provided for in art. 94 paragraph (5).

Articolul 91. Content of Audiovisual Licence

(1) The audiovisual licence comprises:

- a) the number of the licence;
- b) the identification data of the holder, as well as the data of founders, associations of shareholders having a share over 20% in the equity of broadcaster;
- c) the type and structure of the programme service;
- d) the name and identifying elements of the programme service;
- e) the format of the programme service;
- f) the covered area;
- g) the validity period;
- h) the means of telecommunications used for broadcasting and its owner;
- i) the frequency/frequencies or the channel/channels granted, in the case of an analogue audiovisual licence;
- j) the digital multiplex in which the programme service is broadcast;
- k) the broadcaster's commitment to observe the provisions of this code.

(2) The broadcasters are bound to notify, in written form, the Broadcasting Council, within 10 days, about any modification occurring in the stated documents and data, as provided for in paragraph (1) let.b), c).

(3) In case of modification of the data provided for in paragraph (1) let. d), and in the case of the data provided for in paragraph (1) let.e) in ratio bigger than 20%, the broadcasters are bound to ask for the agreement of the Broadcasting Council.

(4) In the case of paragraph (3), the Broadcasting Council makes a decision within 30 days from the date of registering the broadcaster's request.

(5) The Broadcasting Council modifies, free of charge, the content of the audiovisual licence during its validity period to adjust the broadcaster's activity to the provisions operated in the legislation in force.

Articolul 92. Contest on Issuing Audiovisual Licence

(1) The Broadcasting Council announces the contest on the basis of the notification of specialised authority of the central public administration on the distribution of:

- a) radio frequencies to deliver programme services on the available terrestrial radio ways;
- b) frequencies available in the radio/TV multiplex networks.

(2) The announcement shall comprise:

- a) the list of documents provided for in paragraph (3);
- b) the deadline to submit the requests;
- c) the radio frequencies (groups of frequencies) with the parameters: area, apparently radiated power, reduction of apparently radiated power (if is the case), polarisation, the effective height of the aerial;
- d) the channel/multiplex;
- e) the requirements for the programme service, if is the case;
- f) the validity period of the audiovisual licence;
- g) the size of the state tax for the audiovisual licence;
- h) the evaluation criteria.

(3) The applicant for an audiovisual licence shall submit the following documents to participate in the contest:

- a) the application to register for the contest;
- b) the name of the programme service for which it requests the audiovisual licence and its identification data;
- c) a copy of the certificate registering the enterprise, institution, organisation;
- d) a copy from the extract from the State Registry of Enterprises and Organisations regarding the administrator of the enterprise and its field of operation;
- e) the certificate concerning the lack or existence of arrears to the public national budget, or, if is the case, a contract on staggered payment of the debts;

- f) the editorial project containing the type and format of the programme service and other arguments, which may be necessary to support the editorial project;
- g) the financial project showing the sources and the financial plan for a minimum period of 3 years, the experience and competence in any relevant area for broadcasting of audiovisual media services, other elements and proofs allowing to assess the capacity of financial sustainability of the project;
- h) the project on technical endowment of the stations;
- i) in case of retransmission of programme services, the preliminary agreement with the producers of those programme services or with their legal representatives.
- (4) In order to ensure the transparency of the structures of property and control in broadcasting, the applicant for an audiovisual licence communicates the Broadcasting Council a [statement](#) on personal responsibility with the following information:
- a) identification data of the natural and/or legal persons participating in the equity of the applicants and, respectively, the value of their shares in the participation and/or the list of the members/associates, as well as of the natural and/or legal persons controlling the applicant;
- b) statements on own responsibility of the persons provided for in paragraph (4) let. a), who hold a share bigger than 20% in the equity or the voting rights of the applicant by which it states whether they are direct or indirect investors or shareholders in other media services providers, by specifying the percentage held in their equity;
- c) identification data of the natural and/or legal persons involved in offering resources to broadcast the programme services of the applicant.
- (5) Any modification of the information mentioned in paragraph (4) during the contest period shall be communicated to the Broadcasting Council within 10 days, attaching the documents confirming these modifications in legalised copies.
- (6) The Broadcasting Council regularly updates the information specified in paragraph (4) and publishes it on its web page.
- (7) The application period is 30 working days.
- (8) The information provided for in paragraph (3) let. b) and let. f)-h) is presented to the Broadcasting Council when submitting the contest file also in electronic format, as the latter shall publish it within 24 hours from accepting the file. Any broadcaster, as well as any person having a legal interest may communicate the Broadcasting Council relevant information about the application and/or the applicant.
- (9) The Broadcasting Council shall hold its contest sitting within 20 days from the expiration of the deadline of submitting the bids.
- (10) The Broadcasting Council issues audiovisual licences grounding on the following general criteria:
- a) timeliness and viability of the financial project;
- b) experience and competence in any relevant field for broadcasting audiovisual media services;
- c) originality of the editorial project ensuring the development of the native broadcasting;
- d) share of own audiovisual production in the programme schedule and of native and European audiovisual production in the total volume of the broadcasting, diversity of programmes;
- e) the volume of the programmes broadcast in the state language and the observance of art. 15 paragraph (12);
- f) the volume of planned investments.
- (11) In the case of the programme services broadcast by terrestrial radio waves, the holder of the audiovisual licence issued in a contest requests the specialised authority of the public administration to issue the technical licence in conformity with art. 100.
- (12) The holders of audiovisual licences are bound to start broadcasting within 6 months at most after being issued the audiovisual licence.
- (13) The holders of audiovisual licence are bound to notify, in written form, the Broadcasting Council, at least 72 hours before starting broadcasting about starting broadcasting.
- (14) The Broadcasting Council announces contests within 3 months at most from the date of a frequency becoming available with the exceptions provided for in this code.

Articolul 93. Issuing Audiovisual Licence without Contest

- (1) The Broadcasting Council issues, without contest, an audiovisual licence to broadcast linear programme services by any other telecommunication means than the ones in terrestrial digital system and the ones on terrestrial radio waves.
- (2) In order to be issued an audiovisual licence without contest, the applicant submits the Broadcasting Council the documents provided for in art. 92 paragraph (3) let. a)-d) and paragraph (4).
- (3) The application on issuing an audiovisual licence is considered by the Broadcasting Council within 30 days from registration.
- (4) The audiovisual licence comprises the elements provided for in art. art.91 paragraph (1) let. a)-b), g), k).

Articolul 94. De jure Prolongation of Audiovisual Licence Issued by Contest

- (1) The audiovisual licence (broadcasting licence) issued by contest, the validity term expires is de jure prolonged for a new term, upon the holder's request, in conformity with the provisions of this article.
- (2) 6 months before the expiration of the period for which the audiovisual licence was issued, the broadcaster shall lodge a prolongation application with the Broadcasting Council.
- (3) The Broadcasting Council rightfully prolongs the validity of the audiovisual licence, if the following conditions are cumulatively met:
 - a) the broadcaster lodged the application on prolongation of audiovisual licence 6 months before expiration;
 - b) the broadcaster was not penalised by the Broadcasting Council during the validity of the audiovisual licence, the prolongation is asked for, by the penalty provided for in art.85 paragraph (8).
- (4) The Broadcasting Council decides to prolong the audiovisual licence or to reject the application within 30 days.
- (5) If the prolongation application was rejected, or no rightful prolongation was requested, the frequency or the channel becomes available and is set for contest 4 months before the expiration of the validity term of the audiovisual licence, the prolongation of which was rejected.
- (6) The audiovisual licence issued under paragraph (5) becomes available from the date of expiry of the audiovisual licence, the prolongation of which was rejected or not requested.

Articolul 95. Rent of Audiovisual Licence

- (1) Renting is forbidden in the first period of validity of the audiovisual licence.
- (2) The Broadcasting Council approves of renting an audiovisual licence, if the following conditions are met:
 - a) the renter does not hold an audiovisual licence to retransmit a programme service similar to the one provided for in the audiovisual licence, the rent of which is asked for, with the exception provided for in let.b);
 - b) the renter is holding an audiovisual licence to transmit a programme service similar to the one provided for in the audiovisual licence the rent of which is asked for, but the cession is requested with the view to expand the renter's coverage area;
 - c) the renter would not get to the situation as to violate art.106 paragraph (5).
 - d) the renter would not obtain a dominating situation in forming the public opinion,
- (3) The renter overtakes all the rights and obligations provided for in the rented audiovisual licence.
- (4) The rent is approved of following the joint request of the rentier and renter. When submitting the request, the rentier also submits the acts provided for in art.92 paragraph (3) let.c)-e) and paragraph (4).
- (5) In case the renter intends to modify the rented programme service in ratio bigger than 20%, it shall attach, to its rent application, the acts provided for under art.92 paragraph (3) let.f)-i).
- (6) The Broadcasting Council decides on renting the audiovisual licence by approving of modifying the programme service on the basis of the criteria provided for in art.92 paragraph (10).

Articolul 96. Annulment of Audiovisual Licence

The Broadcasting Council annuls an audiovisual licence in the following cases:

- a) the broadcaster notifies, in written form, the Broadcasting Council on renouncing to broadcast its programme service;
- b) the broadcaster, after being issued the audiovisual licence, has not started broadcasting in the period provided for in art.92 paragraph (13);
- c) the broadcaster has not paid the tax for the audiovisual licence, after being warned by the Broadcasting Council, in written form, for two times at least;
- d) in the case under art.108 paragraph (3);
- e) when, after issuing the audiovisual licence, it is proved, through authentic documents, that the broadcaster declared false information in executing art.92 paragraph (4), while the real situation leads to violating art.105 paragraph (6) and art.106 paragraph (4);
- f) when, after issuing the audiovisual licence, it is proved, through authentic documents, that a founder of the broadcaster holding the audiovisual licence is a foreign legal person registered in a country, the law of which forbids founding foreign legal persons or if it is impossible to determine the origin of the broadcaster's equity.

Articolul 97. Free Retransmission

(1) The retransmission of any programme service, legally broadcast by broadcasters under the jurisdiction of the Republic of Moldova or under the jurisdiction of a state with which the Republic of Moldova has concluded an international agreement on free retransmission in broadcasting, is free, under this code.

(2) The retransmission, on the Moldovan territory, of programme services, aired by broadcasters under the jurisdiction of the Member States of the European Union or under the jurisdiction of the state parts to the European Convention on Transfrontier Television and received on the territories of those states, is free and does not require any preliminary licensing.

(3) The Broadcasting Council may temporarily restrain the right to free retransmission of a certain programme service from the Member States of the European Union or from states parts to the European Convention on Transfrontier Television and received on the territory of those states, if the following conditions are met cumulatively:

- a) the programme service explicitly, significantly and severely violates the provisions of art. 10 or 11;
- b) for the last 12 months, the broadcaster has violated, at least twice, the provisions of art. 10 or 11;
- c) the Broadcasting Council has notified the broadcaster, in written form, about those violations and about the measures it intends to take in case such a violation occurs repeatedly;
- d) the consultations with the Member States of the European Union from the territory of which the retransmission is operated have not concluded in an amiable agreement, within 15 days from the notification provided for in let. c), and the violated in question continues.

(4) Any services distributor retransmitting a programme service meeting the provisions of paragraphs (1) and (2) shall notify the Broadcasting Council about the state under the jurisdiction of which the broadcaster in question is and, if is the case, the granted agreement for retransmission, which comprises the technical and quality parameters of the retransmission, as established among broadcasters and services distributors.

Articolul 98. Retransmission Licence

(1) Any legal person is entitled to request the Broadcasting Council to be issued a retransmission licence to retransmit programme services on the territory of the Republic of Moldova. The retransmission of a programme service not meeting the provisions of art. 97 is done only on the basis of a retransmission licence.

(2) Issuing, modifying and withdrawing the retransmission licence is established by the Broadcasting Council's decision.

(3) The Broadcasting Council shall publish, annually till 1 February, the list of services distributors and the list of programme services retransmitted on the Moldovan territory.

(4) In order to obtain a retransmission licence, the applicant shall submit an application to the Broadcasting Council accompanied by the following documents:

- a) list of the programme services planned to be retransmitted;
- b) preliminary agreement with the respective programme services producers or with their legal representatives;

(5) Within 10 days from obtaining the retransmission licence, the holder shall submit the proof of paying the state tax to the Broadcasting Council.

(6) In order to ensure the transparency of the structures of property and control in broadcasting, the applicant for a retransmission licence notifies the Broadcasting Council by a statement on its own responsibility supplying the following information:

- a) identification data of the natural and/or legal persons participating in the equity of the applicant and, respectively, the value of their participation quota and/or the list of members/associates, as well as of the natural and/or legal persons controlling the applicant;
- b) statements on own responsibility of the persons provided for in let. a), which hold a quota bigger than 20% in the equity or the voting rights of the applicant by which it states whether the investors or the shareholders are direct or indirect investors or shareholders in other media services providers, specifying the percentage held in their equity;

(7) The retransmission licence is issued without contest for a 10-year term.

(8) The holder of the retransmission licence communicates, in written form, the Broadcasting Council about starting broadcasting at least 72 hours in advance. The information is accompanied by the contracts (or legalised copies thereof) concluded with the producers of the programme services planned to retransmitted or with their legal representatives.

(9) The holder of a retransmission licence annually submits, till 1 February, the Broadcasting Council a statement on its own responsibility indicating the territories it operates the retransmission in and the list of the retransmitted programme services.

(10) The retransmission licence comprises:

- a) the number, issuance and expiry dates;
- b) identification data of the holder;
- c) name of the services distributor.

(11) The services distributor may modify the offer of programme services, approved of by the Broadcasting Council, in ratio of more than 10% only with the Broadcasting Council's agreement. The Broadcasting Council makes a decision within 30 days from the date of registering the request of the services distributor. Any modification of up to 10% from the approved offer of programme services is notified to the Broadcasting Council within 10 days.

(12) The holder of a retransmission licence is entitled to ask Broadcasting Council to issue a new retransmission licence 3 months before expiration of its validity. The Broadcasting Council adopts a reasoned decision in this regard till the expiration of the validity term of the initial retransmission licence.

(13) Renting the retransmission licence is permitted only with the agreement of the Broadcasting Council upon the joint request of rentier and renter. The renter takes over all the obligations provided for in the retransmission licence.

Articolul 99. Conditions of Retransmitting Programme Services

(1) In the case of retransmitting a programme service, the identification sign of the programme producer shall be kept, specifying the identification signs of the retransmitting services distributor.

(2) The holder of the retransmission licence bears editorial responsibility for the programme service retransmitted on the Moldovan territory and which is not under the jurisdiction of the Member States of the European Union or of other states part to the European Convention on Transfrontier Television.

(3) Any distributor retransmitting programme services is bound to insert into its offer the programme services of the national public broadcaster, other programme services, free to be retransmitted, of the private broadcasters under the jurisdiction of the Republic of Moldova, up to the limit of 25% from the total number of distributed programme services, as well as the TV services obligatorily retransmitted under international agreements the Republic of Moldova is part to.

(4) The services distributors are obliged, at regional and local scales, to include into their offers at least two regional programmes and two local programmes, in the cases such programmes exist.

(5) In the localities where an ethnic minority accounts for over 20% of the population, the services distributors shall ensure they provide programme services free to retransmit, in the language of the respective minority.

Articolul 100. Technical Licence

(1) The technical licence is issued by the specialised authority of the central public administration within 60 calendar days from the request date.

(2) The technical licence is issued and modified in conformity with the provisions of the Electronic Communications Law. The technical licence is valid during the validity of the audiovisual licence.

(3) The technical licence remains valid after the expiration/withdrawal/annulment of the audiovisual licence it was issued for, if a new audiovisual licence has been issued for the frequency envisaged in the technical licence, and its holder starts broadcasting within 6 months from the date of issuing the audiovisual licence, in conformity with paragraph (4).

(4) The holder of the newly issued audiovisual licence is entitled, in conformity with paragraph (3), to conclude a services provision contract with the holder of the technical licence and to lodge a legalised copy of the contract with the Broadcasting Council before starting broadcasting.

Articolul 101. Modifying Technical Licence

Because of technical reasons, or because of changing the National Plan on distributing terrestrial radio frequencies, the specialised authority of the central public administration modifies the frequency and technical data provided for in the technical licence, free of charge, without interrupting the programme service of the licence holder and by ensuring the reception of equivalent quality.

Articolul 102. Withdrawal of Technical Licence

(1) The technical licence is withdrawn by the specialised authority of the central public administration in the following situations:

- a) for breaking the obligations provided for in the technical licence;
- b) upon the request of the holder;
- c) if ceasing broadcasting for more than 45 days because of technical reasons.

Articolul 103. Licence for Using Radio Frequencies in Terrestrial Digital System

(1) The licence for using radio frequencies in terrestrial digital system is granted to an operator of radio/TV multiplex by the specialised authority of the central public administration in conformity with the normative acts regarding the transition from the terrestrial analogue television to the terrestrial digital television and regarding the implementation of digital multimedia services at national scale.

(2) The technical, administrative and/or financial pre-qualification criteria, as well as the obligations to be assumed by the persons obtaining licences for using radio frequencies in terrestrial digital system are established by the taskbook carried out with the view to organise the selection procedures.

(3) The conditions of issuing, modifying and withdrawal of the licence for using radio frequencies in terrestrial digital system are established in the Regulation on licences in telecommunications and information technology approved of by the specialised authority of the central public administration and published Monitorul Oficial of the Republic of Moldova.

Articolul 104. Supervision of Technical Parameters

Monitoring and controlling the parameters provided for in technical licences and in the licences for using radio frequencies in terrestrial digital system during their validity period are carried out directly or through the agency of another legal person of public or private right, by the specialised authority of

the central public administration, within the boundaries and in conformity with the powers laid down by law.

Section II. Legal Regime of Property in Broadcasting

Articolul 105. Limiting Property Concentration in Broadcasting

(1) In order to protect the diversity and pluralism of opinions, the Broadcasting Council shall limit the concentration of property and expansion of audience share in broadcasting to the dimensions ensuring the economic efficiency, but which shall not generate the appearance of dominating situations in forming the public opinion.

(2) Any agreements (coordinated actions) among competing legal persons in broadcasting, which jointly hold a dominating situation on the market, are forbidden and deemed invalid totally or partially, in the mode laid down by law, if those have or may have a restriction of competition as a result.

(3) Any agreements (coordinated actions) among non-competing natural and legal persons in broadcasting, of which one holds a dominating situation on the market, and the other is the former's provider or buyer, are forbidden and, in the mode laid down by law, are deemed as invalid totally or partially, if such agreements (coordinated actions) lead or may lead to restraining competition.

(4) No broadcaster, except for the public broadcasters, may broadcast more than 2 programme services within the same level-2 territorial-administrative unit or within the same municipal area.

(5) No broadcaster, except for the public broadcasters, may broadcast more than 2 programme services within the same level-2 territorial-administrative unit or within the same municipal area.

(6) Any natural person, or his/her spouse, or the legal person, which is the only founder/associate/owner or holds more than 50% from shares, voting rights or equity of a legal person acting in broadcasting, may not hold more than 20% from the shares, voting rights or equity of a legal person acting in broadcasting under the jurisdiction of the Republic of Moldova.

(7) The political parties, the legal entities or the enterprises founded by them, the trade unions and the religious organisations may not found and/or hold shares, voting rights or quotas in the equity of a legal person acting in broadcasting.

(8) The person holding an elective position in the administrative bodies of a political party and is a founder, holds shares or is a member of a legal person in broadcasting may not have voting rights in them.

(9) Any natural or legal person holding or gaining a quota equal to or bigger than 20% from the equity or the voting rights of a legal person holding an audiovisual licence or of a legal person controlling the holder of such a licence is bound to notify this situation to the Broadcasting Council through a statement written on own responsibility, within 30 days from the date when he/she reached that quota.

(10) Using the name of another person, in any mode, by a legal person, which applies for any licence in broadcasting, or which controls a legal person holding a licence in broadcasting, with the view to elude the provisions of this code is forbidden.

Articolul 106. Limiting Audience Share on Programme Services Market

(1) In the sense of this code and in order to determine the audience share of programme services, it is deemed that:

a) the market of TV and/radio programme services enjoying national coverage comprises all the programme services aired by the national broadcasters under the jurisdiction of the Republic of Moldova;

b) the market of TV and/radio programme services enjoying regional coverage comprises all the programme services aired by the regional broadcasters under the Moldovan jurisdiction from the same level-2 administrative-territorial unit or municipal unit;

c) the market of TV and/radio programme services enjoying local coverage comprises all the programme services not provided for in let.a) or b);

d) the programmes services with significant weight in forming the public opinion are the generalist, news, political and/or economic analysis and debate programmes services;

e) the significant market comprises all the TV and/or radio programme services, provided for in let.d), aired by national, regional local broadcasters;

f) the audience share represents the market share attributed to a certain programme service, determined under this article.

(2) In determining the dominating situation in forming the public opinion, a natural or legal person is considered by the programme services provided for in paragraph (1) let.d), which this person, and/or the persons close to it, either provide(s) them as holder(s) of an audiovisual licence, or hold a quota bigger than 20% in the equity of the voting rights of the holder of audiovisual licence.

(3) In the sense of this code, by close persons one means spouses, persons related by blood or adoption (parents, children, brothers, sisters, grandparents, nephews, uncles, aunts) and the persons related by affinity (in-laws.)

(4) It is considered that a natural or a legal person holds a dominating situation in forming the public opinion in case the audience share of the programme services attributed to it/him/her exceeds 30% from the significant market.

(5) The audience share of the programme services attributed to a natural or legal person represents the sum of the audience shares of every programme service provided in paragraph (2), weighed against the quota of equity or voting rights held by that person.

(6) Determining the audience quota of every national, regional or local programme service is done annually, by the average of the audience share registered during that year, during the whole broadcasting duration.

(7) The Broadcasting Council starts the procedure of evaluating the dominating situation in forming the public opinion of a natural or legal person in case there are grounded indices regarding the attainment of the limit provided for in paragraph (4).

(8) In the circumstances in which the Competition Protection National Agency identifies an anti-competition practices (agreements or abuses of the dominating situation), it notifies the Broadcasting Council, which acts under paragraph (7).

Articolul 107. Auction for Measuring Audience Shares

1. Measuring audience and market shares shall be carried out in conformity with the international standards by specialised institutions assigned by auction.

2. The auction shall be organised by a committee formed from 5 representatives of the broadcasters, 5 representatives of the advertising agencies and 5 representatives of the Broadcasting Council.

3. The first auction shall be held within one year at most from the enactment of this code, and the next ones – from 5 to 5 years.

4. The Broadcasting Council shall benefit from the research results free of charge.

Articolul 108. Penalties for Encroaching upon Legal Regime of Property in Broadcasting

1. In case it is found that a natural or legal person has encroached on the provisions of art.105 paragraph (6) and/or art.106 paragraph (4), the Broadcasting Council publicly warns to enter legality the broadcaster in which this natural or legal person holds the largest participation quota or the broadcasters with major weight in forming the dominating situation, establishing a deadline.

2. Upon the expiry of the period of public warning, a new evaluation shall be carried out, and if the violation persists, the Broadcasting Council takes concrete measures to diminish some participation quotas or the number of held licences, at the choice of the natural or legal person in question, within 3 months.

3. If the dominating position is maintained after the expiration of that period, the licence in which the respective natural or legal person holds the largest participation quota is cancelled.

4. The broadcasters are bound to cooperate in determining the property and/or the audience share by communicating all the information requested by the Broadcasting Council.

CHAPTER VI. Public Broadcasters

Articolul 109. Mission of the Public Broadcaster

1. The public broadcaster serves the public, functions from the public's contribution, is subjected to public control and has the mission to implement the following principles:

- a) the universal access of the public for which it broadcasts to the programme services;
- b) editorial policy combining the satisfaction of common general interests with the attention for the minority groups, thus contributing to the social cohesion;
- c) maintaining and developing the national conscience by capitalising the intellectual, artistic, creative potential at national, regional and community levels;
- d) independence from the state authorities and institutions, from political and economic forces;
- e) fees accessible for all the beneficiaries of programme services;
- f) diversity of the programme services meeting the information, educational and entertainment needs of all the social groups of beneficiaries;
- g) responsibility before the public.

Articolul 110. Legal Status of Public Broadcaster

1. In the of Moldova function:

- a) the national public broadcaster – the company Teleradio-Moldova;
- b) the regional public broadcaster – the company Teleradio-Gagauzia.

2. The company Teleradio-Moldova and the company Teleradio-Gagauzia are legal persons of public right constituted as public institutions.

Articolul 111. Activity Object of the Public Broadcaster

1. The public broadcaster has as activity object:

- a) producing radio and TV programmes in the state language of the Republic of Moldova, as well as in languages of the national minorities or in other modern languages, with informing, cultural, educational and entertainment goals;
- b) broadcasting programmes through own station and technical means or through leased networks of radio, satellite, cable audiovisual telecommunications, or through other technical means;
- c) producing radio and TV programmes, recordings on any type of holders, feature movies, TV plays, TV serials, scientific movies, documentaries, necessary for its own programme services, for its usage and for exchange with similar organisations from the country and abroad. Those can be produced in its own studios or in cooperation with domestic or foreign partners.
- d) organising concerts, festivals and performances with public, contests, quizzes or gambling games, concluding contracts with artists and impresarios from the country and abroad for the concerts, festivals and performances it organises, paying honoraria and making incomes under the law;
- e) undertaking advertising activities by own programmes and publications for beneficiaries from the country and abroad;
- f) organizing researches on specific issues, publishing and distributing its programmes, advertising materials and other publications related to its radio and TV operations;
- g) researching and projecting, operating works peculiar of the audio and video equipment, for its own needs or for other beneficiaries from the country and abroad, pursuing the results of scientific researches and using them under law, promoting the technical and scientific progress in its operation;
- h) performing operations of foreign trade with audiovisual productions and payments in Moldovan lei and foreign currencies, under the law;
- i) concluding, upon request or if is the case, agreements with similar organisations from abroad with the view to make productions, co-productions, processing, exchange, export and import of movies and/or programmes for its own programme services or with the view to broadcast them abroad;

- j) representation in the relations with related international bodies the Republic of Moldova is part to, concluding conventions and establishing cooperation relations with radio and TV organisations from other countries;
 - k) organising exchanging of programme producers and correspondents with similar organisations from other countries;
 - l) keeping and archiving audiovisual recordings and documents of interest for the national heritage;
 - m) and other activities provided for in this code and/or in its regulation of organisation and functioning.
2. The below-mentioned do not represent an object of activity of the public broadcaster:
- a. the programmes in the state and other languages, devoted to listeners and TV viewers from abroad, to promote Moldova's positive image, its domestic and foreign policies;
 - b. audiovisual co-productions with state authorities;
 - c. managing artistic (music, theatrical etc.) ensembles.

Articolul 112. Editorial Independence of Public Broadcaster

1. The editorial independence of the public broadcaster is guaranteed under law. No interference operated by public authorities and no influence on behalf of any political party, company, social-political, trade union, religious or other kind of organisation are allowed.
2. The editorial and creative independence implies the exclusive right of the administration and of the supervisory body of the public broadcaster to adopt, within the boundaries of this code, decisions concerning:
- a. the determination of the editorial policy, adopting and modifying the content of the programme services and of the programme schedule of the public broadcaster;
 - b. the organisation of the editorial and creative activity;
 - c. the conception and production of programmes, including news and current affairs programmes;
 - d. other activities established by this code and/or by the supervisory body of the public broadcaster.
3. The administration and the supervisory body of the public broadcaster are bound to ensure, within the institution, the editorial independence, the institutional autonomy, the access of specialised employees to information, the freedom of creation, the observance of the fundamental human rights.

Articolul 113. Tasks of the Public Broadcaster

1. The tasks of the public broadcaster are:
- a) working out, producing and broadcasting radio and TV programmes about the current affairs from the country and abroad, ensuring the complex, impartial, equidistant information of the public, observing the political balance, the freedom of expression, of creation and of beliefs;
 - b) promoting the values of the national heritage, implementing the language policy in conformity with the provisions of this code;
 - c) promoting the values of the contemporary civilisation cultivating the civic spirit, public morals, justice, the feeling of human dignity, of tolerance, of compassion, other values;
 - d) honestly, loyally, equidistantly transmitting information in newscasts;
 - e) encouraging and promoting civic journalism;
 - f) forming spaces for social dialogue and democratic public debates on issues of enhanced interest for beneficiaries, favouring the exchange of opinions among diverse social layers, as well as the citizens' social integration;
 - g) diversifying its own programme services by broadcasting audiovisual products purchased from independent producers;
 - h) implementing the provisions from the Taskbook as established by this Code;
 - i) implementing new technologies of producing and broadcasting programme services and services related to the audiovisual communication;
 - j) continuously training its employees, in its own training centre or by contracting such services;

- k) ensuring the functionality of correspondents networks and/or, if is the case, of correspondents offices within and/or out of the country with the purpose to diversify the content of the programme services;
- l) broadcasting programme services at the corresponding technical standards to beneficiaries, offered by the informational technologies;
- m) using the opportunities of the informational technologies to select, store and keep the programmes with historic and artistic value. The list of the programmes to be kept is made up by the administration and decided by the supervisory body;
- n) ensuring the transparency of its own activity;
- o) compiling and publicising the catalogue of non-linear media services it can deliver to citizens on demand;
- p) twice a year presenting public reports expressly envisaging the mode in which it observe the editorial policy and mode in which it carries out its financial plan, as provided in the Taskbook;
- q) once a year presenting an activity report before the supervisory body;
- r) broadcasting commercial audiovisual communications in conformity with the provisions of Chapter III of this code and with the Advertising Law;
- s) free of charge contracting and broadcasting non-commercial advertising with the duration not exceeding 6 minutes of a clock hour, operated by the principle “first come – first served”.
- t) cooperating with the regional public broadcaster, on mutually advantageous principles, with the view to better inform the public.

Articolul 114. Rights of the Public Broadcaster

1. The public broadcaster has the following rights:
 - a) recording and broadcasting live, free of charge, the sittings of the Parliament and/or of the People’s Assembly, of the Government and/or of the Executive Committee, the public debates of the public authorities, meetings, demonstrations, processions, manifestations, commemorative reunions, religious reunions, other public actions, regardless of their venue. The radio or TV transmission or recording for transmission, free of charge, of any kind of works from performance halls or from the public places those are performed, executed or exposed in, and of the cultural, artistic and sports events may be done for informing purposes only once, with a duration of 3 minutes at most, on condition of observing the law on copyrights and neighbouring rights;
 - b) using its own transmission networks, as well as the rented ones;
 - c) recording and using, in their programme services, cultural works from all the areas, by observing the law on copyrights and neighbouring rights;
 - d) setting, under law, the prices and fees for its services, in its activity field, except for the subscription fees;
 - e) organising own correspondents networks in the country and abroad.
2. The public broadcasters may associate between themselves or with third parties with the view to carry out joint activities representing interest for the associates, without thus modifying the legal status of the radio and TV public services.

Articolul 115. Functioning of the Public Broadcaster

1. The functioning of the public broadcaster is ensured by the Managerial Committee headed by the general manager.
2. The functioning of the public broadcaster is supervised by a supervisory body.
3. The general manager is appointed by public contest by the supervisory body of the public broadcaster in conformity with an ad-hoc regulation worked out and adopted by the latter.
4. The Managerial Committee is constituted by the general manager of the public broadcaster.
5. Part from the Managerial Committee make:
 - a) the general manager of the public broadcaster exercising the function of president;
 - b) the managers of the programme services of the public broadcaster;
 - c) other persons from amongst the managers of the subdivisions of the public broadcaster.

6. The appointments and hiring in the Managerial Committee are done for determined periods, till the expiry of the term of the general manager.

Articolul 116. Tasks of the Managerial Committee

1. The Managerial Committee works in conformity with the Regulation of organisation and functioning, approved of by the supervisory body and has the following tasks:

- a) ensures the current management of the public broadcaster;
- b) ensures the execution of the decisions of the supervisory body;
- c) drafts and sets for the approval of the supervisory body the draft taskbook and development strategies for medium and long terms;
- d) endorses the documents subjected to the approval of the supervisory body, including semestral and annual reports, the wage system, the execution of the financial plan of the public broadcaster, the result of the internal audit;
- e) approves of engaging and operating expenditures and commercial and financial transactions, within the boundaries of the competence approved of by the supervisory body ;
- f) endorses the draft documents, regulations, instructions to be approved by the general manager;
- g) endorses work norms, personnel tasksheets, the necessary crafts and professions to be approved of by the general manager;
- h) ensures the observance of the legal decisions regarding the protection of goods;
- i) ensures the observance of the legal decisions regarding the protection of environment;
- j) works out and proposes the fees for the commercial audiovisual communications;
- k) establishes the preservation periods and the archiving and access conditions to the archived recordings and documents through internal regulations, under law;
- l) exercises any other tasks attributed to it under legal provisions and the regulation of organisation and functioning.

2. The Managerial Committee convenes whenever necessary, but not rarer than once a month.

3. The Managerial Committee adopts decisions by majority of votes. In case of votes equality, the vote of the general manager is decisive.

4. The Managerial Committee publishes its decisions on the official site of the public broadcaster.

Articolul 117. General Manager

1. The general manager is appointed for a 7-year term.

2. The general manager has the following tasks:

- a) Ensures, jointly with the Managerial Committee, the current management of the public broadcaster;
- b) orders, controls and is responsible for the execution of the decisions of the supervisory body, of the Managerial Committee, as well as for the execution of the obligations assumed by the public broadcaster;
- c) approves, at the proposal of the Managerial Committee, of norms, regulations and instructions related to the exploitation, maintenance, safety in functioning and utilisation of own transmission networks, of the equipment, of projecting and repairing constructions and of all the equipment of the institution, as well as of commercial, financial, accounting operations, of recruiting, preparing and training the personnel;
- d) appoints and dismisses the members of the Managerial Committee, under law;
- e) drafts the working agenda and presides over the sittings of the Managerial Committee;
- f) ensures the drafting of the Taskbook and its implementation;
- g) temporarily delegates his/her own competence and responsibility to a member of the Managerial Committee, in case of his/her reasoned absence;
- h) signs contracts and agreements in the name of the public broadcaster;
- i) ensures the transparency of the work of the public broadcaster and of the Managerial Committee;
- j) exercises other tasks under the legal provisions and approves of any other measures regarding the work of the public broadcaster.

3. The general manager approves of the employment and dismissals of the personnel and appoints the heads of departments and the managers of the units directly subordinated to him/her, on a contest basis, under law. The contest is organised and held according to the following procedures:

- a) the general manager orders the creation of an ad-hoc qualification board, inviting as its members: 1 representative of the Managerial Committee, 1 representative of the supervisory body, 1 representative of the trade union, 1 academician, 1 representative of the civil society;
- b) the qualification board, depending on specialisation, is composed from a chairperson, a member of the Managerial Committee;
- c) the qualification board works in accordance with its own Regulation, drafted by the Managerial Committee and approved of by the supervisory body;
- d) the chairperson of the qualification board convenes sittings whenever necessary and presides over them;
- e) the qualification board organises and holds the employment contest and decides in accordance with its own regulation;
- f) the work of the members of the qualification board is remunerated, per contest sitting, under law, with the amount established by the general manager.

4. The general manager approves of, under law, the employment of specialists, on a limited term, to carry out researches, works, expertise and other similar actions necessary for the fulfilment of the mission of the public broadcaster;

5. The general manager approves of the participation and of the mandate of the delegations to domestic and international reunions, business meetings or studies of interest for the public broadcaster;

6. The general manager represents the public broadcaster in the relations with the public authorities, organisations from the Republic of Moldova and abroad.

7. The general manager receives a gross monthly salary established by the supervisory body in ratio of 5 average monthly salaries of the personnel, calculated for the last 3 months of work.

8. The position of a general manager is incompatible with:

- a) any other public or private position, except for the scientific and/or didactic ones;
- b) the capacity of a member of an administration body, partner, participant or holder of equity of a media services provider, independent media services producer, private supplier of specialised technical equipment, supplier of specialised technical services and/or of an advertising agency;
- c) the capacity of a political party member;
- d) capacity of an author and/or co-author of programmes, produced and broadcast during his/her mandate in the programme services of the public broadcaster and of other broadcasters, regardless of whether remunerated or not.

9. The position of general manager is compatible with the didactic, scientific, creative work, unless generating conflicts of interest in relation to the public broadcaster.

10. The general manager may be dismissed by the supervisory body in the following circumstances:

- a) on his/her initiative, on the basis of a written application;
- b) fulfilling the Taskbook in ratio of less than 2/3 found in a reasoned decision by the supervisory body;
- c) the annual report by the public broadcaster is rejected by the supervisory body;
- d) the Court of Audit finds embezzlements in the running management of the institution following an operated control;
- e) other cases provided for in the Labour Law.

11. The general manager exercises his/her mandate until the appointment of a successor. The prolongation of the mandate may not be longer than 6 months.

Articolul 118. Taskbook

1. The taskbook of the public broadcaster comprises:

- a) the statement of the editorial policy;
- b) the financial plan.

2. The taskbook serves as ground for:

- a) approving of the budget of the public broadcaster;
- b) monitoring and supervising the fulfilment of the mission of the public broadcaster;
- c) supervisory body and the corresponding legislature to find the conformity of the activity of the public broadcaster with its mission;
- d) exerting the public control over the activity of the public broadcaster.

3. The statement of editorial policy is worked out in conformity with the mission of the public broadcaster and envisages the key objectives, activities through which every objective shall be attained and their reasoning.

4. The editorial policy statement shall not contain objectives strange to the mission of the public broadcaster.

5. The financial plan contains:

- a) the general budget of the public broadcaster;
- b) the detailed budget of every programme service of the public broadcaster.

6. The draft Taskbook is worked out by the Managerial Committee and submitted to the supervisory body for endorsement.

7. The Taskbook is lodged by the administration of the public broadcaster with the corresponding legislature till 1 October.

8. The content of the Taskbook may be modified by the supervisory body of the public broadcaster upon the initiative of the Managerial Committee.

Articolul 119. Property of the Public Broadcaster

(1) The public broadcaster possesses, uses and has its own property under law.

(2) The public broadcaster is not entitled:

- a) to ensure / unfold the execution of the obligations of other persons through its property or to act as a partner of a general company or as a general partner in a limited partnership;
- b) to ensure the execution of its obligations with its entire property, either movable or immovable, or with a part of it exceeding 50% from the balance value of its entire movable or immovable property;
- c) to hand over its property free of charge or for a charge smaller than its natural value or to offer sponsorships or other financial donations;
- d) to offer loans (credits) or to rent / lease goods;
- e) to borrow or to lease goods, if, following such a transaction, the total amount of the payments related to the loan and leasing exceeds, every year, 10% from the budget incomes from the year of concluding the transaction.

(3) The loans for which the Government /Executive Committee has offered a state guarantee shall not be included into the category of loans specified in paragraph (2) let.e). The general manager presents the Government/Executive Committee the request to be granted state guarantees for loans, with the endorsement of the supervisory body, and the former decides over that legislative initiative.

(4) With the preliminary agreement of the supervisory body, the public broadcaster may operate transactions implying:

- a) the purchase or the cancellation of a stock in a company;
- b) purchasing, transmitting or ceasing the operations of an enterprise;
- c) mortgaging or transmitting the registered movable or immovable goods;
- d) lending.

Articolul 120. Budget of the Public Broadcaster

1. The budget of the public broadcaster is made up from the allocations from the state budget, from own incomes and other sources.

2. For the allocations from the state budget, the general manager of the public broadcaster has the quality of principle commissioner of budget loans, under law.

3. The financial activity of the public broadcaster unfolds on the basis of its own budget.

4. From the incomes from other sources, the supervisory body, upon the initiative of the Managerial Committee, may decide to use some amounts for endowment.

5. The state budget shall annually cover for the allocations needed to pay the salaries of the employees; for the utilisation of transmitters, radio relays and video and sound circuits, owed to communications companies; the insurance of protection, as an objective of national interest; the membership fees in the international organisations.

6. The other expenditures shall be covered from own incomes.

7. The public broadcaster's own incomes come, as if the case, from:

- a) revenues from executing the activity object;
- b) the subscription fee for the public radio and TV service;
- c) penalties for subscription fees not duly paid;
- d) revenues from commercial audiovisual communications;
- e) revenues from fines and damages;
- f) donations and sponsorships;
- g) sources from taxes on importing radio and TV equipment;
- h) revenues from the monthly revenues from the commercial advertising of the private broadcasters, in amount of 2%;
- i) donations and sponsorships;
- j) other incomes legally obtained.

8. The subscription fee provided for in paragraph (7), let.b), shall be inserted into the monthly electricity bill and is distributed as follows:

- a) to the account of the national public broadcaster – the fees from all the tax-payers, except for the ones from the Gagauz Autonomy;
- b) to the account of the regional public broadcaster – the fees from all the tax-payers residing in the Gagauz Autonomy.

9. The sources envisaged in paragraph (7), let.h) are accumulated as follows:

- a) the private broadcasters and the audiovisual services suppliers under the Moldovan jurisdiction, except for the ones from the Gagauz Autonomy, monthly transfer 2% to the account of the national public broadcaster;
- b) the private broadcasters and the audiovisual services suppliers residing in the Gagauz Autonomy, monthly transfer 2% to the account of the regional public broadcaster;
- c) the private broadcasters and audiovisual services suppliers headquartered in other geographical areas, but having radio frequencies and/or TV channels, and broadcast or have subscribers on the territory of the Gagauz Autonomy, additionally 0.2 % from their monthly income to the account of the regional public broadcaster.

10. The semestral reports on executing the budget shall be submitted by the Managerial Committee to the supervisory body, unless the latter decides otherwise.

11. The annual report on executing the budget shall be submitted, jointly with the annual activity report, to the legislature by administration of the public broadcaster.

12. The financial activity of the public broadcaster is annually audited by the Court of Audit.

13. The utilisation of the funds of the public broadcaster is subjected to controls on behalf of the legally empowered bodies, according to the provenience of the respective funds.

Articolul 121. Subscription Fee

1. The natural persons residing in the Republic of Moldova are bound to pay a subscription fee for the public radio and TV services, as beneficiaries of these services, except for the ones declaring on their own responsibility about not having radio and/or TV receivers, and for the ones, who are spared from paying the fees, under law.

2. The legal persons residing in the Republic of Moldova, including their branches and offices, agencies and representations, as well as the Moldova-based representations of foreign legal persons, are bound to pay a fee for the public radio and TV service, as beneficiaries of these services.

3. The amount of the fees, by categories of payers, the modality of payment and exemption, the delay penalties, as well as the penalties for erroneously fulfilling the statement on exemption from paying the fees by the owners of radio and/or TV receivers, who, according to this code, are payers of the subscription fee for the public radio and TV service, are established in the Fiscal Code.

4. The check-up procedure, the finding of offences, the application of (delay) penalties in case of eluding from paying the subscription fee by the owners of radio and TV receivers are established by parliamentary decision.

5. The families and single people benefiting from monthly social assistance, the non-profit associations and foundations, the foreign diplomatic missions and their members, the elderly hospices, the units from institutions related to defence, public order and national security, the kindergartens, schools and universities, the orphanages, the retirees from agriculture and the public broadcaster shall be exempt from the monthly subscription fee.

6. Other exemptions from the monthly subscription fee than the ones provided for in this code shall be established in the Fiscal Code.

Articolul 122. Supervisory Body of the Public Broadcaster

1. The Supervisory Board works on the basis of its regulation of organisation and functioning.
2. The Supervisory Board represents the public interest in relation with the state authorities and the public broadcaster.
3. The Supervisory Board acts in its own name, contributes to build and develop the radio and television public service according to the principles mentioned herein.

Articolul 123. Constituting Supervisory Board of the Public Broadcaster

1. The Supervisory Board is composed from 9 members, public personalities with professional qualifications in different fields as culture, arts, cinematography, journalism, law, financial management and company management, public relations, international relations, science, mass-media and engineering.

2. The members of the Supervisory Board are appointed by the corresponding legislature, according to the following procedure:

a) The Broadcasting Council, within 15 days from being notified, in written form, about the vacant positions, by the chairperson of the Supervisory Board, shall issue a public invitation to candidate to the position of member of the Supervisory Board, announcing the criteria to occupy the position and the applying deadline;

b) The Broadcasting Council, within 15 days from the deadline of applying for the contest, shall select and propose the specialised committee of the legislature a list of candidates exceeding twice the number of vacancies of the position of members of the Supervisory Board;

c) The specialised committee of the legislature, after hearing the candidates, shall compile a reasoned notification and, within 15 days after the start of the appointment procedure, shall present it in the plenary sitting of the legislature, accompanied a list of candidates proposed for the vacancies and a list of proposed alternate members.

d) The candidates lists are submitted to vote entirely and voted by the majority of the parliamentarians.

3. In case no bids have been made within the period provided for in (2), the Supervisory Board may function with at least 6 validated members, as the Broadcasting Council repeats the appointment procedure after 7 days from finding the remained vacant positions.

4. The alternate members shall be appointed by the corresponding legislature to the position of full-right member of the Supervisory Board from the moment of the intervention of the vacancy and till the end of the term of a full-right member.

5. A person meeting the following conditions may candidate for the position of a member of the Supervisory Board:

a) is a Moldovan citizen;

b) has higher education and at least 5 years of experience in one of the areas provided for in paragraph (1);

c) is 25 years of age, and shall reach the retiring age while serving the mandate;

d) speaks the official language of the Republic of Moldova. The candidates to the position of members of the Supervisory Board of the regional public broadcaster shall speak the official language of the Republic of Moldova and the language of the ethnic majority in the Gagauz Autonomy;

- e) has not penal antecedents;
- f) unimpeachable reputation confirmed by at least 3 recommendation letters on behalf of specialised non-governmental organisations.

6. The members of the Supervisory Board are appointed for a 6-year term. Renewing the structure of the Supervisory Board is done in stages: initially, 3 candidates are appointed for a 6-year term, 3 – for a 4-year term, and 3 for 2 years. Upon the termination of the initial terms, grounding on the proposals made at the request of the specialised committee of the corresponding legislature, on the basis of the Supervisory Board, other members are appointed for a 6-year term.

Articolul 124. Incompatibilities with Position of Member of the Supervisory Board

1. The position of a member of the Supervisory Board is incompatible with:
 - a) the status of a member in the corresponding legislature or of a councillor, of a member of the central or local/regional public administration, of a member of the Broadcasting Council;
 - b) the quality of an direct or indirect holder of shares in the equity of companies related to activities in areas that may be in conflict of interests with the capacity of a member of the Supervisory Board;
 - c) the status of an employee of the public broadcaster with the exceptions provided for in art.127;
 - d) the status of an author, presenter, moderator, producer, either employed or not, of audiovisual programmes of the public broadcaster;
 - e) the capacity of a party member.
2. The full-right member of the Supervisory Board, who is in one of the situations provided for in paragraph (1) when appointed, has 30 days at most to renounce his/her capacity or actions, as he/she is not entitled to vote in the Board.
3. In case the provisions of this article are not observed, the person is dismissed under law, and the position becomes vacant.

Articolul 125. Powers and Tasks of Supervisory Board

1. The Supervisory Board has the following powers and tasks:
 - a) approves of the regulation on organising and functioning of the public broadcaster and modification whereto;
 - b) approves of the Taskbook of the public broadcaster;
 - c) approves of the Regulation of the Managerial Committee;
 - d) confirms the appointment and dismisses the general manager of the public broadcaster under this code;
 - e) supervises the activity of the public broadcaster with the view to fulfil the Taskbook and, if needed, intervenes with bounding decisions for the Managerial Committee;
 - f) notify, ex officio and/or on request, on the derogations from the provisions of the Taskbook, on violating this code and/or of other laws, committed by the public broadcaster, forwarding notifications of entering legality to the general manager;
 - g) approves of development strategies of the public broadcaster for medium and long terms;
 - h) approves of the organisation structure and, if is the case, the economic and personnel restructuring necessary for the functioning of the public broadcaster;
 - i) approves of the conditions of organising the contests for the appointment of the general manager;
 - j) approves of detailed regulations to specify the functions of the public service, provided for in this code and in international regulations;
 - k) approves of, upon the proposal of the Managerial Committee, the editorial policy statement of the public broadcaster in electoral campaigns;
 - l) approves of the annual profits and losses balance sheet, forwards them to the bodies provided for by the law and makes them public;
 - m) approves of, according to its competence, the investments to be made by the public broadcaster;

- n) establishes, under law, measures of expanding or restraining the activities of the public broadcaster;
- o) approves of the maximum threshold of bank loans that the general managers may engage without the approval of the Supervisory Board;
- p) approves of the proposals of modifying the budget within the boundaries of own incomes;
- q) approves of the powers of the organisation structures of the public broadcaster regarding the employment and the operation of any kinds of expenditures, including investments, financial and commercial transactions, renting movable and immovable goods, under law;
- r) analyses current reports concerning the activity of the public broadcaster and approves of measures for unfolding the future activity;
- s) approves of measures of observing the legal decisions concerning the protection of environment;
- t) lodges with the corresponding legislature an annual report till the end of the first month of the calendar year for the previous period. The report contains two items: the activity of the public broadcaster with the view to fulfil the Taskbook and its own activity;
- u) considers the petitions and complaints from the public (natural or legal persons), referring to the quality of the programme services offered by the public broadcaster and, if is the case, orders the general manager of the public broadcaster obligatory actions to improve the situation;
- v) in exerting its supervisory tasks, asks the public broadcaster for the necessary information, specifying the legal ground and the goal of the request and establishes the deadline to supply that information;
- w) ensures the transparency of its own activity;
- x) exercises any other tasks resting with it according to the legal provisions and the regulation of organisation and functioning.

Articolul 126. Organisation and Functioning of Supervisory Board

1. The mode of activity of the Supervisory Board is the public sitting, convened upon the initiative of the chairperson or of, at least, 3 members. The Supervisory Board is convened in the constituting sitting by its eldest member.
2. The Supervisory Board elects its chairperson and secretary by the majority of the votes of its members.
3. The chairperson of the Supervisory Board, assimilated to the capacity of the chairperson of the Broadcasting Council, is responsible with the execution of the tasks of the Supervisory Body.
4. The secretary of the Supervisory Board is responsible with the organisation of the working sittings and with secretariat works.
5. The chairperson of the Supervisory Board:
 - a) drafts the agenda of the working sittings and presides over them;
 - b) signs the decisions of the Supervisory Body and ensures their publication;
 - c) compiles the annual activity report and lodges it with the corresponding legislature;
 - d) represents the supervisory body in the relations with the public authorities, the natural and legal persons;
 - e) represents the Supervisory Body in national and international organisations in matters related to the supervision of public broadcasters.
6. In the chairperson's absence, the running works of the Supervisory Board are conducted by the secretary, as the working sittings are presided over by a chairperson of the sitting, openly elected by the majority of the attending members.
7. In case the positions of chairperson or of secretary are vacant, the elections are started under this article.
8. The vacancy of the position of a member of the Supervisory Board may intervene in case of:
 - a) resignation;
 - b) death;
 - c) expiration of the term of holding the position;
 - d) condemnation by final court sentence;

- e) absence from 7 sittings of the Board during 12 months;
 - f) mental or physical inability, established by a competent body;
9. The vacancy of the positions of chairman and secretary of the Supervisory Board may intervene:
- a) in the cases provided for in paragraph (8) let. a) – f);
 - b) in the corresponding legislature rejects the annual report on the activity of the Supervisory Board.
10. In case of the vacancy intervened according to paragraph (9) let.b), the chairperson and the secretary of the Supervisory Board keep their capacity of members of the Supervisory Board.
11. At least 30 days before the expiration of the mandate of the members of the Supervisory Board, the chairperson of the Board notifies the Broadcasting Council about that fact, as the latter, at its first public sitting, the start of the procedure of appointing new members of the Supervisory Board.
12. In executing its tasks, the Supervisory Board adopts obligatory decisions entering force on publication.
13. All the decisions of the Supervisory Board are reasoned and are published on the web page.
14. Any decision of the Supervisory Board may be sued by anyone considering him- /herself impaired by it.

Articolul 127. Remuneration of Members of the Supervisory Board

1. The chairperson and the secretary of the Supervisory Board are fully employed as employees of the public broadcaster.
2. The size of the remuneration of the chairperson is equivalent to the one of the chairperson of the Broadcasting Council. The size of the remuneration of the secretary is 90 % from the remuneration of the chairperson of the Supervisory Board. The other members of the Supervisory Board receive a monthly subsidy of 25% from the remuneration of the chairperson of the Supervisory Board.
3. The financial means necessary for the activity of the Supervisory Board are envisaged in a separated chapter of the Financial Plan of the public broadcaster.

Articolul 128. Control of Supervisory Board's Work

1. The control over the Supervisory Board's activity is exercised by the corresponding legislature, by debating on the Board's annual report.
2. The Supervisory Board's annual report shall be submitted till 1 February and is made up from 2 parts: the activity of the public broadcaster and its own activity.
3. The corresponding legislature's rejection of the part from the annual report concerning the activity of the Supervisory Board leads to the lawful dismissal of the chairperson and secretary, in conformity with art.126 paragraph (9)-(10).

Articolul 129. Independent Producer

1. During the first 5 years after the enactment of this code, the public broadcaster shall ensure the staggered addition of products purchased from Moldovan independent producers in ratio of at least 10% to its programmes services. Further this ratio shall be kept on a yearly basis.
2. Independent producers are natural or legal persons. The natural persons are others than ones being employed by the public broadcaster.
3. The acquisitions shall be done publicly and transparently, in conformity with the Regulation worked out by the Managerial Committee and approved of by the Supervisory Board.
4. The regulation shall expressly contain at least:
 - a) the acquisitions of the acquisition contest;
 - b) the periodicity of acquisition contest;
 - c) selection criteria for the acquisitions;
 - d) structure of the acquisition board;
 - e) provisions excluding incompatibilities and conflicts of interest for the contest participants.

Articolul 130. Community Broadcasters

1. The community broadcasters are constituted by the community, function for the community and managed by the community and are financed from the community's contribution.
2. In the sense of this code, the community represents social groups united on territorial criteria and/or criteria of common interests, excepting political, religious and trade union interests.
3. The community broadcasters are non-commercial legal persons.
4. The community broadcasters enjoy the facilities provided for the institutions of public utility.

Articolul 131. Constituting Community Broadcasters

1. The community broadcasters are constituted by natural or legal persons according to the following procedure:
 - a) the initiative group (natural persons are representatives of legal persons) convene a general meeting representative for the community;
 - b) the meeting decides, at least, on the following issues: the constitution of the community broadcaster, the administration of the community broadcaster, the supervision of the work of the community broadcaster, financing the work of the community broadcaster, the mode of exercising control over the activity of the community broadcaster and of its supervisory body, the mode of liquidation of the community broadcaster.
 - c) The meeting establishes the mode of adopting the decisions by voting procedure.

Articolul 132. Functioning of Community Broadcaster

1. The community broadcaster observes the principles of audiovisual communication provided for in this code.
2. The community broadcaster may use:
 - a. frequencies and/or channels obtained in conformity with the provisions of this code;
 - b. air time on frequencies and channels belonging to other broadcasters and/or audiovisual services distributors.
3. The community broadcaster may use air time on frequencies and channels belonging to other broadcasters and/or audiovisual services distributors, on the basis of an agreement signed between the parties and endorsed by the Broadcasting Council.
4. The utilisation of air time on the frequency and channel of other broadcasters shall not lead to the modification of the general concept of the broadcasting for which the licence was issued. The contract on the utilisation of air time shall necessarily contain:
 - a) the conditions of using the broadcasting time;
 - b) the volume of air time to be used by the community public broadcaster;
 - c) the validity term of the contract.
5. To the contract submitted for endorsement to the Broadcasting Council, the community broadcaster shall attach:
 - a) its identification documents;
 - b) the general concept of the programmes it intends to produce;
 - c) the proof of financial viability.
6. Contract shall be concluded for a period not shorter than 2 years and enters force after being approved by the Broadcasting Council.
7. The litigations that may appear among the community broadcaster and other parties are amiably resolved by the Broadcasting Council.
8. The audiovisual licence of the community broadcaster has no validity period and may not be rented.
9. The community broadcaster is included into the Registry of media services providers, as such.

Articolul 133. Management and Supervision of the Community Broadcaster

1. The management of the community broadcaster is exercised by a managing body, the mode of appointment and the powers of which by be established by a supervisory body, unless otherwise decided by the general representative meeting of the community.

2. The supervision of the community broadcaster may be exercised by a supervisory body, the structure, mode of appointment and powers of which are decided at the community's general representative meeting, unless decided otherwise.

3. The managing body of the community broadcaster represents an annual activity report to the supervisory body, unless otherwise decided by the general representative meeting of the community.

4. In case the community broadcaster does not have a supervisory body, it shall present its annual activity report to the general representative meeting of the community, convened by the broadcaster.

5. The rejection of annual report or of a part of the general report has the consequences decided by the general representative meeting of the community.

6. A copy of the annual report shall be lodged with the Broadcasting Council, as a notification.

Articolul 134. Financing the Community Broadcaster

1. The budget of the community broadcaster is made up from:

a) funds collected from the community members;
b) incomes from commercial advertising, the volume of which represents up to 10% from the total daily broadcasting volume;

c) incomes from the provision of services specialised in contracts. Such contracts may also be concluded with the state bodies, if their object corresponds to the mission of a broadcaster. The value of the contracts concluded with the state bodies shall not exceed 30 % from the annual budget of the community broadcaster;

d) donations, sponsorships and grants;

e) other incomes not running counter the law and the legal status of the community broadcaster.

2. The budget of the community broadcaster is made public for the community.

3. The execution of the budget is supervised and controlled in the mode established at the general representative meeting of the community.

Articolul 135. Suspension of Work and Liquidation of the Community Broadcaster

1. Suspending the work of the community broadcaster is decided at the general representative meeting of the community, convened on the initiative of its supervisory body, unless otherwise decided at the meeting.

2. In case of using terrestrial frequencies, the suspension may not last more than 6 months from the day of making the decision.

3. The liquidation of the community broadcaster is decided at the general representative meeting of the community on the initiative of the supervisory body, unless otherwise decided at the meeting.

4. The utilisation of the assets of the community broadcaster during the suspension period and/or after its liquidation is decided at the general representative meeting of the community.

5. The decision on the suspension of the activity or on liquidating the community broadcaster is communicated to the Broadcasting Council, in written form.

6. In case of liquidation of a community broadcaster or of suspension of its activity for more than 6 months, the terrestrial frequency is withdrawn by the Broadcasting Council.

CHAPTER X. Final Provisions

Articolul 136.

1. When this code is enacted, the Broadcasting Code No.260-XVI of 27 July 2006 is abrogated.

2. Within 12 months from the enactment of this code, the Broadcasting Coordinating Council, constituted on the basis of the Broadcasting Code No.260-XVI of 27 July 2006, shall exercise the tasks of the Broadcasting Council as provided in this code.

3. Within 12 months from the enactment of this code, the Broadcasting Coordinating Council shall be liquidated.

4. Within 12 months from the enactment of this code, the Parliament of the Republic of Moldova shall constitute and approve the structure of the Broadcasting Council.

5. Within 18 months from the enactment of this code, the Observers Councils of the public national company “Teleradio-Moldova” and of public regional company “Teleradio-Gagauzia” shall be liquidated.

6. Within 18 months from the enactment of this code, the Broadcasting Council shall start the procedure of selecting candidates to the positions of members of the Supervisory Board of Teleradio-Moldova and of candidates to the positions of members of the Supervisory Board of Teleradio-Gagauzia.

7. Within 2 months from the constitution of the Supervisory Boards of the public broadcasters, the general managers of Teleradio-Moldova and of Teleradio-Gagauzia shall be appointed.

8. The financial obligations of the national and regional public broadcasters, contracted till the enactment of art.136, paragraphs (6)-(7), resulting from: renting transmitters, radio relays and video and sound circuits; payments for the protection of offices; payments for membership fees in international institutions, shall be covered from the state budget, from the Reserve Fund of the Government.

9. Within 6 months from the enactment of this code, the Broadcasting Coordinating Council checks up the broadcasters with the view to their compliance with the provisions of this code.

10. The financing system of the Broadcasting Council and of the public broadcasters shall be enforced from 1 January 2013.

11. Within 3 months from the enactment of this code, the Government shall ensure the transition of the Artistic Ensemble Direction and of the subdivision Radio Moldova International from Teleradio-Moldova’s to its subordination.

12. Within 3 months from the enactment of this code, the Government shall submit the Parliament a draft law on the transition to the terrestrial digital television.

**PRESIDENT OF
THE PARLIAMENT**

Marian LUPU