[DK] New Radio and Television Broadcasting Act

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On 1 January 2003, a new Lov om radio- og fjernsynsvirksomhed (Danish Act on radio and television broadcasting, Act no. 1052 of 17 December 2002) came into force. The Act represents a significant liberalisation compared to the previous Act.

Pursuant to Chapters 1 and 8, the right to broadcast, i.e. to provide programme services to the general public, can be obtained in three ways: 1) by specific authorisation in accordance with the Act, which is given only to the national public service broadcasters (DR and TV2, including the regional TV2 enterprises); 2) by a licence granted by the Radio and Television Board (such a licence is required under the new Act only when the broadcast is carried out by means of scarce frequency resources) and 3) by registration with the Radio and Television Board.

The Act distinguishes between the broadcasting and the distribution of programmes (Chapter 2). Distribution by means of cable network systems does not require a licence from, or even registration with, the Radio and Television Board. Cable-network distribution must, however, only take place unchanged and simultaneously with the actual broadcasting or transmission. Furthermore, owners of cable-network systems are obliged to ensure that the radio and television programmes of the public service broadcasters are distributed via the cable system ("must-carry" obligations).

The new Act also covers the overall regulatory framework for distribution via a planned future digital terrestrial network. Under the Act, the distribution of programmes via the future digital platform requires a licence from the Radio and Television Board. The licence will be given on the basis of a public tender to be held in the spring of 2003.

Chapters 3-6 concern public service activities, the structure of the public service institutions (DR, TV2 and the regional TV2 companies) and certain public service obligations incumbent on the holders of the fourth and fifth national radio stations (which are allocated on the basis of a public tender). The national public service institutions must supply public service content to the entire Law Department Copenhagen Business School Danish population via radio and television, the Internet, or similar electronic platforms. Public service content must aim at quality, versatility and diversity. In the planning of programmes, freedom of information and of expression shall be primary concerns. Under the new Act, more

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detailed provisions regarding the content of the public service obligations will be laid down in annual public service contracts between the respective public service institutions and the Government. In addition, the new Act implements certain organisational changes in the management of the public service institutions and specifies that the overall programme responsibility lies with the Board of Governors.

According to Chapter 7, the Radio and Television Board, set up by the Minister of Culture, handles a number of administrative tasks, including the consideration of applications for authorisation to provide programme services; decision-making and supervision in matters concerning the Act (these decisions are final administrative decisions) and advising the Minister of Culture.

The new Act implements a substantial liberalisation regarding access to the provision of local radio and television services (Chapter 9). The requirements for the local radio and television stations regarding geographical and organisational attachment to the local area are repealed. Likewise, the existing restrictions regarding networking (i.e. programmes transmitted simultaneously by different local broadcasters) are also repealed.

As under the previous Act, public service activities are financed by annual licence fees payable for radio receivers and television sets (Chapter 10). The licence fees are collected by DR.

Under Chapter 11, the restrictions regarding advertising and programme sponsorship have been eased in order to harmonise the Danish rules with the minimum requirements set forth in the EC "Television without Frontiers" Directive. Thus, under the new Act, it is permitted to interrupt a programme with advertising breaks provided the programme is a sports programme, a theatre show being broadcast or similar programmes with "natural" breaks before a live audience. Further, the former prohibitions on advertisements for pharmaceutical products and alcoholic beverages are repealed.

Lov om radio- og fjernsynsvirksomhed - Lov nr. 1052 af 17/12 2002

http://www.kum.dk/sw5345.asp

Act no. 1052 of 17 December 2002 on radio and television broadcasting

http://www.kum.dk/sw4498.asp

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