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REPUBLIC OF
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MD-2073, Chisinau, 105, Stefan cel Mare si Sfânt Boulevard

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**To the Permanent Bureau of
the Parliament of the Republic of Moldova**

In accordance with the provisions of art. 73 of the Constitution of the Republic of Moldova and art. 47 of the Regulation of the Parliament, we hereby submit the draft law amending and supplementing the Audiovisual Code of the Republic of Moldova, as a legislative initiative.

Annexes:

1. The draft law
2. Information note

Members of Parliament

/seal of the Secretariat of the
Parliament of the Republic of Moldova/
/D.D.P. No. 218, 22 May 2015/

/ SIGNATURES /

LAW
amending and supplementing
the Audiovisual Code of the Republic of Moldova

The Parliament hereby adopts this organic law.

Article I. – The Audiovisual Code of the Republic of Moldova, No. 260-XVI dated 27 July 2006 (Official Monitor, No. 131-133 dated 18 August 2006, art. 679) shall be amended and supplemented as follows:

1. In article 2
Letters b), c) and j) shall be restated as follows:

“b) *rebroadcasting* – the simultaneous capture and broadcasting of programme services or important parts thereof, by any technical means, in their entirety and without any modification, broadcasted by service distributors and meant to be received by the public;

c) *broadcaster* – legal entity, titleholder of a broadcasting license issued by the Coordinating Council of Audiovisual, bearing full responsibility for the transmission of programme services meant to be received by the public;

j) *local production* – programmes created by broadcasters under the jurisdiction of the Republic of Moldova and/or independent producers of programmes from the Republic of Moldova, including by employing technical and intellectual means from the Republic of Moldova.”

Letter k) shall be excluded;

In letter u), the number “19.00” shall be replaced with “18.00” and the number “23.00” shall be replaced with “24.00”

2. The term “(its) own production” shall be completely excluded from the Code.

3. In article 4
Paragraph (1) shall be restated as follows:

“(1) For the purposes of this Code, a broadcaster shall be deemed to be under the jurisdiction of the Republic of Moldova if such broadcaster has its principal office and its means of production located in the Republic of Moldova, holds a broadcasting license issued by the Coordinating Council of Audiovisual and its editorial decisions on programme services are made in the Republic of Moldova.

Paragraphs (2) and (3) shall be excluded and paragraphs (4) and (5) shall become (2) and (3).

4. Article 9 shall be supplemented by two new paragraphs (2) and (3) as follows:

“(2) Broadcasters and service providers are prohibited to broadcast and rebroadcast radio and television channels containing informative, informative-analytical and political programmes or shows that are not made in the member states of the European Union or in the states that have ratified the European Convention on Transfrontier Television.

(3) Broadcasters are prohibited to broadcast and rebroadcast informative, informative-analytical, political and military-themed shows that are not made in the member states of the European Union or in the states that have ratified the European Convention on Transfrontier Television”

Paragraphs (2)-(3) shall, accordingly, become paragraphs (4)-(5)

5. In article 11

Paragraphs (2) and (3) shall be restated as follows:

“(2) Local production shall comprise at least 8 hours of the daily broadcasting volume and shall be broadcasted exclusively (in their entirety) between the hours 6.00 and 24.00. At least 6 hours of such local production shall be broadcasted during prime time, out of which at least 4 hours shall be broadcasted in the state official language.

(3) Broadcasters whose purpose is obtaining funds exclusively from distribution shall not be entitled to place advertisements, except where they comply with the provisions of para. (2).”

In article (7), the words “maintaining the original soundtrack” shall be replaced with the words “in the state language”

A new article (11) shall be inserted, which shall read as follows:

“(11) Private broadcasters shall be prohibited from using the symbols/logos of other television channels, including channels from outside the Republic of Moldova, more than twice per day. Private broadcasters shall be prohibited from using video and audio identification signs of other television channels, including channels from outside the Republic of Moldova.

6. In article 27

In para. (1), after letter h), the letters i)-m) shall be inserted, which shall read as follows:

“i) failure to comply with the provision of art. 9 para. (2) and (3) hereof;

j) public incitement to national, racial or religious hatred;

k) explicit incitement to mass public violence;

l) incitement to actions the purpose of which is to overthrow or change, by means of violence, the state order or to violate, by means of violence, the integrity of the Republic of Moldova;

m) incitement to terrorist acts.”

Paragraph (2) shall be excluded.

7. Article 38 shall be restated as follows:

“Article 38. Sanctions

(1) For the purposes of this Code, liability for the violation of broadcasting laws shall entail the application, by the Coordinating Council of Audiovisual, in accordance with the law, of certain sanctions to broadcasters or service providers that have committed violations of broadcasting laws. The Coordinating Council of Audiovisual shall apply sanctions based on the severity and frequency of violations.

(2) Broadcasters shall be sanctioned by means of a public warning for their first violation of the following provisions:

a) art. 3 paragraph (7), art. 6, art. 7, art. 10 paragraph (5), art. 11 paragraphs (3)-(7), (9)-(10), art. 16 paragraph (2), art. 17.

b) art. 64¹ para. (1) of the Electoral Code.

(3) Broadcasters and service providers shall be fined MDL 5,000 to 10,000 for the following violations:

a) the refusal to subject themselves to verifications, to allow access to the premises wherein they conduct their business, to create conditions for the viewing of their offer of rebroadcasted programme services or to make available, to duly empowered representatives, the requested documents and the recordings of broadcasted programmes;

b) the failure to comply with the offer of programme services rebroadcasted by service providers;

c) the failure to present, before the 1st of March, yearly activity reports and agreements on the rebroadcasting of programme services;

d) the illegal use of the signs and/or symbols/logos of other broadcasters;

e) the failure to comply with provisions on the communication of the reasoning and object of a sanction, as set out in paragraphs (8)-(10) of this article;

f) the broadcasting/rebroadcasting of programme services in violation of the provisions contained in the broadcasting license and the rebroadcasting authorization or the failure to comply with the general concept of a programme service, as approved by the Coordinating Council of Audiovisual;

g) the failure to comply with the decision of the Coordinating Council of Audiovisual and the provisions of paragraphs (4)-(5) of art. 9;

h) the failure to comply with the provisions of article 16 paragraph (7) and (8) and the provisions of article 18, as well as the refusal to make recordings of programme services available to the Coordinating Council of Audiovisual or the failure to present agreements concluded with the holders of copyrights and related rights;

i) the failure to comply with the legal provisions on the conditions of broadcasting advertisements and teleshopping, applicable to each established violation;

j) the repeated committing of the violations listed in paragraph (2).

(4) Broadcasters and service providers shall be fined MDL 10,000 to 15,000 for the following violations:

a) the failure to comply with the decisions of the Coordinating Council of Audiovisual on the protection of minors;

b) the use of subliminal techniques in advertisements and teleshopping;

c) the repeated committing of the violations listed in paragraph (3), with the exception of article 11 paragraph (10);

d) the failure to fulfill the obligation to ensure the transparency of the assets of broadcasters, set out in art. 66 para. (6)-(7).

(5) Shall be fined MDL 15,000 to 20,000 for the following violations:

a) the broadcasting/rebroadcasting of programme services without a broadcasting license or a rebroadcasting authorization;

b) the broadcasting/rebroadcasting of programme services outside the coverage zone specified in the broadcasting license or the rebroadcasting authorization;

c) the rebroadcasting of programme services with violation of the provisions of art. 28-30;

d) the unfounded interruption of the broadcaster's/service provider's activity for a period exceeding 10 consecutive days or a period exceeding 30 intermittent days in a calendar year;

e) the repeated committing of the violations listed in para. (4);

f) the broadcasting of cinematographic works outside the periods specified in the agreements concluded with copyright holders or without obtaining a valid license entitling the holder to broadcast.

(6) Broadcasters and service providers shall be fined MDL 25,000 to 30,000 for the repeated committing of the violations listed in para. (5) within a period of 12 months;

(7) Broadcasters and service providers shall be sanctioned by suspending their broadcasting license or rebroadcasting authorization for the repeated committing of the violations referred to in paragraph (6) within a period of 12 months. The suspension of the broadcasting license or rebroadcasting authorization shall be applied after the gradual application of the other sanctions listed in this article.

(8) Broadcasters and service providers that have been subjected to one of the sanctions listed in this article shall be under the obligation to communicate to the public the reasons for and object of the sanction, in the manner specified by the Broadcasting Coordination Council in its decision on the application of the sanction.

(9) The text of the sanction shall be broadcasted within the next 48 hours from the date the decision is issued, in audio and/or visual form, at least 3 times during prime time, out of which once as part of the main news broadcasting.

(10) The sanctioned service provider shall be under the obligation to broadcast the text of the sanction applied in relation to it, in a continuous manner, for 24 hours, on each of the channels that are the object of the sanction.

(11) Broadcasting licenses shall be withdrawn in accordance with art. 27.

(12) The decision of the Coordinating Council of Audiovisual on the application of any sanction shall contain the reasoning thereof, and shall become enforceable from the moment it is published. Any decision of the CCA may be appealed with a court of law by the sanctioned broadcaster.

(13) In case if, within 6 months, the broadcaster or service provider has not allowed a repeated violation of the provisions of this Code for which it had been sanctioned, prior sanctions shall be annulled.”

8. Art. 66¹ shall be inserted and shall read as follows:

“Article 66¹. Measuring audience shares

The measuring of audience shares shall be carried out by a company selected on the basis of a transparent tender, at least once every 5 years, according to the procedures and conditions set out in a Regulation approved by the CCA.”

Article II. This law shall enter into force at the date of its publication, with the exception of pt. 5 regarding art. 11, para. (2) and (3) of the Audiovisual Code of the Republic of Moldova, which shall enter into force 6 months following publication, and pt. 7 letter d) para. (4) of art. 38, which shall enter into force together with the entry into force of provisions ensuring the transparency of broadcasters.

PRESIDENT OF THE PARLIAMENT

INFORMATION NOTE
on the draft Law amending and supplementing
the Audiovisual Code of the Republic of Moldova

This draft law aims at amending and supplementing the Audiovisual Code of the Republic of Moldova.

The Audiovisual Code of the Republic of Moldova is a legislative act endowed with special importance for the development of the rule of law principles and the development of democracy in the Republic of Moldova.

From the moment it was adopted in 2006, the Audiovisual Code has undergone a series of amendments, the purpose of which was to improve the relationships regarding, on the one hand, the protection of the rights of consumers of programmes to receive true and objective information, and, on the other hand, ensuring the rights of broadcasters to editorial freedom and the freedom of expression.

The development of the media market, the appearance and large-scale use of modern technologies, as well as the permanent evolution of European jurisprudence in this field brings about the need to make certain adjustments to national broadcasting laws.

An important factor, which generated the need to promote this draft law, are recent regional events, the sensitive nature of information, which can have a distinctively negative effect on the protection of human rights, national security, strengthening the sovereign, independent and unified status of the state.

This draft law proposes to enter certain clarifications regarding the concepts of rebroadcasting, broadcaster and domestic product. In order to avoid abuse and erroneous interpretation, the definition of a broadcaster under the jurisdiction of the Republic of Moldova has been clarified.

In this regard, in order to ensure the information security of the state, to prevent information which has a negative impact and can harm the sovereignty, independence and territorial integrity of the state, the protection of human rights, as well as the harmonization of the national legal framework with international standards, it is hereby proposed to prohibit the broadcasting and rebroadcasting of television and radio channels containing informative, informative-analytical and military programmes or shows that are not made in the member states of the European Union or in the states that have ratified the European Convention on Transfrontier Television.

However, in order to create conditions for the development of local broadcasters and the promotion of local production, it is hereby proposed to review the minimum daily broadcast shares, including those referring to broadcasts in the state language. In addition, it is proposed to increase the prime time interval by two hours in the evening, the interval thus being from 18.00 to 24.00.

It should be noted that these provisions shall not apply to broadcasters that will not place advertising and whose purpose is to benefit only from funds obtained by means of distribution.

The draft law also contains restrictions on private broadcasters to use the symbols/logos and audio/video signs of other television channels.

Taking into account the fact that, from the time the Audiovisual Code had been adopted, the media market has developed immensely, the laws have been improved, it is thus also

necessary to review both the mechanism and the amounts of sanctions applied for violations of the mandatory provisions of the Code. In this regard, we propose a new wording for art. 38.

Taking into account the above, realizing the sensitive nature of the subject-matter addressed herein, we believe that only by such explicit rules can the state and the authorities develop local broadcasting, prove their adherence not only to democratic principles, but also their fundamental task – ensuring national interests, national security, sovereignty, independence and the territorial integrity of the Republic of Moldova – supreme values, guaranteed by the Constitution.

Members of Parliament

/ SIGNATURES /