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Federal Act on Radio and Television (RTVA)

of 24 March 2006 (Status as of 1 January 2017)

The Federal Assembly of the Swiss Confederation,
having regard to Articles 71, 92 and 93 of the Federal Constitution (FC)¹,
and having regard to the Federal Council Dispatch of 18 December 2002²,
decrees:

Title 1 Scope and Definitions

Art. 1 Scope

¹ This Act regulates the broadcasting, processing, transmission and reception of radio and television programme services. Unless this Act provides to the contrary, the transmission of programme services using telecommunications techniques is based on the Telecommunications Act of 30 April 1997³ (TCA).

² Programming of minor editorial importance does not fall under this Act. The Federal Council shall determine the criteria.

Art. 2 Definitions

In this Act:

- a. *programme service* means sequence of programmes which are offered continuously, defined in time and transmitted using telecommunications techniques and which are intended for the public;
- b. *programme* means part of a programme service which is self-contained in terms of form and content;
- c. *editorial programme* means a programme which is not advertising.

AS 2007 737

¹ SR 101

² BBI 2003 1569

³ SR 784.10

- ^{bis}.⁴ *editorial publication* means an editorial programme in a Swiss broadcaster's programme service or a contribution produced by the editorial staff as part of the other journalistic services of the Swiss Broadcasting Corporation (SRG SSR) (Art. 25 para. 3 let. b);
- d. *broadcaster* means the natural or legal person bearing responsibility for the creation of programmes or for the compilation thereof into a programme service;
- e. *Swiss programme service* means a programme service which is subject to Swiss sovereignty in accordance with the provisions of the European Convention on Transfrontier Television of 5 May 1989⁵; these provisions also apply, *mutatis mutandis*, to radio programme services;
- f. *transmission by means of telecommunications techniques* means the electrical, magnetic, optical or other electromagnetic sending or receiving of information by wire or radio (Art. 3 let. c TCA⁶);
- g. *broadcasting* means the transmission by means of telecommunications techniques and intended for the general public;
- h. *telecommunications service* means the transmission of information for third parties by means of telecommunications techniques (Art. 3 let. b TCA);
- i. *coupled service* means a telecommunications service which constitutes a functional unit with the programme service or which is necessary for the use of the programme service;
- j. *processing* means the operation of services or technical procedures for the transmission, bundling, encryption or marketing of programme services or for the selection thereof on reception equipment;
- k. *advertising* means any public statement in the programme service, the purpose of which is to promote the conclusion of transactions concerning goods or services, the support of a cause or idea, or the achievement of another effect desired by the advertiser or by the broadcaster and which is broadcast in return for payment or similar consideration or for self-promotion purposes;
- l. *offer for sale* means advertising which invites the public to directly conclude a transaction concerning the presented goods or services;
- m. *tele-shopping programme* means a programme which exclusively contains offers for sale and lasts for at least 15 minutes;
- n. *tele-shopping programme service* means a programme service which consists solely of offers for sale and other advertising;
- o. *sponsorship* means the participation of a natural or legal person in the direct or indirect financing of a programme, with a view to promoting their own name, their own trade mark or their own image.

⁴ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁵ SR 0.784.405

⁶ SR 784.10

p.⁷ *radio and television fee*: the fee in terms of Article 68 paragraph 1.

Title 2 Broadcasting of Swiss Programme Services
Chapter 1 General Provisions
Section 1 Obligation to Notify and to Obtain a Licence

Art. 3⁸

Any person wishing to broadcast a Swiss programme service must:

- a. notify this in advance to the Federal Office of Communications (OFCOM);
 or
- b. hold a licence in accordance with this Act.

Section 1a⁹ Independence from the State

Art. 3a

Radio and television are independent from the state.

Section 2 Content Principles

Art. 4 Minimum requirements for programme service content

¹ All radio or television programmes must respect fundamental rights. In particular, programmes must respect human dignity, must be neither discriminatory nor contribute to racial hatred, nor endanger public morals nor glorify or trivialise violence.

² Editorial programmes with information content must present facts and events fairly, so that the audience can form its own opinion. Personal views and commentaries must be identifiable as such.

³ The programmes must not jeopardise the internal or external security of the Confederation or cantons, their constitutional order or the observance of Switzerland's obligations under international law.

⁴ Licensed programme services must appropriately express the variety of events and opinions in the totality of their editorial programmes. If a coverage area is served by an adequate number of programme services, the licensing authority may release one or more broadcasters in the licence from the variety obligation.

⁷ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁸ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁹ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

Art. 5 Programmes unsuitable for young people

Through the choice of transmission time or other measures, broadcasters must ensure that minors are not confronted by programmes which jeopardise their physical, mental, moral or social development.

Art. 5a¹⁰ Minimum requirements for other journalistic services from SRG SSR

Contributions produced by the editorial staff as part of the other journalistic services from SRG SSR must comply with the programme service principles set out in Articles 4 and 5. The variety requirement (Art. 4 para. 4) applies only to dossiers related to elections and popular votes.

Art. 6 Autonomy¹¹

¹ Unless federal law provides otherwise, broadcasters are not bound by the instructions of federal, cantonal or communal authorities.

² In the design of their editorial publications and the advertising, in particular in the choice of themes, handling of content and representation, they are free and shall bear the responsibility therefor.¹²

³ No-one may demand that a broadcaster broadcast specific presentations and information.

Art. 7 Other requirements for programme services of television broadcasters¹³

¹ The Federal Council may require television broadcasters, within a framework of practical feasibility and with appropriate resources:

- a. to reserve a substantial proportion of the relevant broadcasting time for Swiss and other European works;
- b. to reserve an appropriate amount of broadcasting time or programme costs in their television programme services for the broadcasting of Swiss and European works by independent producers.

² Television broadcasters with a national or regional-language programme service which broadcast films in their programme service must spend at least 4 per cent of their gross revenue on the purchase, production or co-production of Swiss films or pay a corresponding support fee not exceeding 4 per cent. This obligation also applies to broadcasters of a national or regional-language programme service win-

¹⁰ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

¹¹ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

¹² Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

¹³ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

dow in a foreign television programme service which broadcasts films. However, it does not apply to the SRG SSR.¹⁴

³ Television broadcasters with a national or regional-language programme service must prepare an appropriate proportion of programmes in a form suitable for the hard of hearing and the visually impaired.

⁴ Licensed regional television broadcasters shall subtitle their main information programmes. The Federal Council shall determine the extent of this obligation. The cost of processing programmes for persons hard of hearing is funded in full from the radio and television fee (Art. 68a).¹⁵

Art. 8 Publication obligations

¹ SRG SSR and the broadcasters with a licence under Article 38 paragraph 1 letter a or Article 43 paragraph 1 letter a must:¹⁶

- a. insert in their programme services without delay urgent police messages which are indispensable to the maintenance of public order and safety or the safety of persons, as well as official alerts and instructions;
- b.¹⁷ inform the public of decisions of the Confederation which are published urgently under Article 7 paragraph 3 of the Publications Act of 18 June 2004¹⁸ (PublA) or by means of extraordinary publication under Article 7 paragraph 4 PublA.

² The authority requiring the broadcasts in accordance with paragraph 1 is responsible for them.

³ When necessary, the Federal Council shall extend the obligations in paragraph 1 letter a to telecommunications service providers which broadcast programme services.

⁴ It shall ensure that the population is assured of information by radio in crisis situations. The licensing authorities regulate the details in the licences of the SRG SSR and of the radio broadcasters mentioned in Articles 38-43.

¹⁴ Sentence amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

¹⁵ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

¹⁶ Amended by Annex No 6 of the Federal Act of 26 Sept. 2014, in force since 1 Jan. 2016 (AS **2015** 3977; BBl **2013** 7057).

¹⁷ Amended by Annex No 6 of the Federal Act of 26 Sept. 2014, in force since 1 Jan. 2016 (AS **2015** 3977; BBl **2013** 7057).

¹⁸ SR **170.512**

Section 3 Advertising and Sponsorship

Art. 9 Identifiability of advertising

¹ Advertising must be clearly separated from the editorial part of the programme service and must be clearly identifiable as such. The Federal Council may prohibit those forms of advertising which jeopardise separation or identifiability or subject these forms to special provisions.

² The broadcaster's permanent editorial employees may not participate in its advertising programmes. Local and regional broadcasters with limited financial resources are excluded from this restriction.

Art. 10 Bans on advertising

¹ Advertising for the following is prohibited:

- a. tobacco goods;
- b.¹⁹ alcoholic beverages which are subject to the Alcohol Act of 21 June 1932²⁰; the Federal Council shall impose further restrictions for the protection of health and young people;
- c.²¹ ...
- d. political parties, persons holding political office or candidates for such offices and matters which are the subject of a popular vote;
- e. religious beliefs and the institutions and persons representing them.

² The following are prohibited:

- a. advertising for therapeutic products in accordance with the Federal Act of 15 December 2000²² on Therapeutic Products;
- b. sales offers for therapeutic products and medical treatments.

³ Surreptitious advertising and subliminal advertising are prohibited.

⁴ Advertising which:

- a. disparages religious or political convictions;
- b. is misleading or unfair;
- c. encourages behaviour prejudicial to health, the environment or personal safety.

is prohibited.

¹⁹ Amended by No I of the Federal Act of 25 Sept. 2009, in force since 1 Feb. 2010 (AS 2010 371; BBl 2008 9105).

²⁰ SR 680

²¹ Repealed by No I of the Federal Act of 25 Sept. 2009, with effect from 1 Feb. 2010 (AS 2010 371; BBl 2008 9105).

²² SR 812.21

⁵The Federal Council may prohibit other advertising in order to protect health and young people.

Art. 11 Insertion and duration of advertising

¹ Advertising must as a principle be inserted between individual programmes and must be broadcast in blocks. The Federal Council determines when deviations from this principle are possible. Deviations may not prejudice the integrity and the value of the programme concerned.

² Advertising may not in principle occupy more than 20 per cent of one hour's transmission time. The Federal Council shall determine the exceptions.²³

³ When determining deviations from the principles in paragraphs 1 and 2, the Federal Council shall notably take into account the following criteria:

- a. broadcasters' performance mandates;
- b. the economic situation of radio and television;
- c. transfrontier competition;
- d. international regulations on advertising;
- e. the concerns of the audience.

Art. 12 Sponsorship

¹ The content and scheduling of sponsored programmes fall within the exclusive responsibility of the broadcaster. The latter shall ensure that the sponsor does not influence the programme in a manner which adversely affects editorial independence.

² If programmes or sequences of programmes are sponsored in whole or in part, the sponsors must be named at the beginning or end of each programme.

³ Sponsored programmes may neither encourage the conclusion of transactions concerning goods or services of the sponsors or of third parties nor may they contain statements of an advertising nature concerning goods and services.

⁴ Programmes may not be financed by sponsors who primarily manufacture or sell products or offer services for which advertising is banned under Article 10. Companies active in the area of therapeutic products may sponsor programmes provided no products for which advertising is banned are named or shown and no advertising effect is created for these products in some other way.

⁵ News programmes and programmes on political current events, as well as programmes and sequences of programmes which are related to the exercise of political rights in the Confederation, cantons and communes may not be sponsored.

²³ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

Art. 13 Protection of minors

¹ Advertising which is aimed at minors or in which minors appear may neither exploit their lack of life experience nor harm them in their physical or mental development. The Federal Council shall impose corresponding regulations on the form of the advertising.

² Programmes for children may not be interrupted by advertising.

³ Offers for sale may not be directed at minors.

⁴ In order to safeguard the concerns mentioned in paragraph 1, the Federal Council excludes specific forms of sponsorship of children's programmes.

Art. 14 Special provisions for the SRG SSR

¹ Advertising is prohibited in the radio programme services of the SRG SSR. The Federal Council may provide for exceptions for self-promotion.

² ...²⁴

³ The Federal Council may partially or wholly restrict advertising and sponsorship in the SRG SSR's radio and television programme services and in other journalistic services which are necessary for the fulfilment of its programme service mandate and which are financed by the radio and television fees²⁵ (Art. 25 para. 3 let. b).

Section 4**Notification, Information, Reporting and Recording Obligations****Art. 15** Notification of revenue from advertising and sponsorship

Licensed broadcasters of Swiss programme services must notify OFCOM²⁶ of the gross revenue from advertising and sponsorship.

Art. 16 Notification of holdings

Broadcasters of Swiss programme services must notify OFCOM of any changes in capital and in voting rights as well as any substantial holdings in other undertakings.

Art. 17 Obligation to provide information

¹ Broadcasters are obliged to provide the licensing and supervisory authorities free of charge with the information and to produce the documents that the authorities

²⁴ Repealed by No I of the Federal Act of 25 Sept. 2009, with effect from 1 Feb. 2010 (AS 2010 371; BBl 2008 9105).

²⁵ Expression in accordance with No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975). This amendment has been made throughout the text.

²⁶ Expression in accordance with No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975). This amendment has been made throughout the text.

require for their supervisory activity and for the assessment of any risks to diversity of opinion and programming (Art. 74 and 75).²⁷

² The obligation to provide information also applies to legal and natural persons:

- a. in which the broadcaster has a substantial holding or which have a substantial holding in the broadcaster and which are active in the radio and television market or related markets;
- b. which canvass for advertising or sponsorship for the broadcaster;
- c. which produce a major part of the programme service concerned for the broadcaster;
- d. which organise a public event in accordance with Article 72;
- e. which are active in the radio and television market and which occupy a dominant position in one or more media-related markets;
- f.²⁸ that are active in one or more media-relevant markets in terms of Article 74 in which a risk to diversity of opinion and programming is assessed insofar as the information is required to assess a dominant position in the market.

³ The right to refuse to provide information or produce documents is governed by Article 16 of the Federal Act of 20 December 1968²⁹ on Administrative Procedure (APA).

Art. 18 Annual report and annual accounts

¹ Broadcasters of Swiss programme services must submit an annual report and annual accounts to the Federal Office. The Federal Council exempts certain categories of broadcasters from these obligations.

² The Federal Office may publish information from broadcasters' annual reports.

³ The Federal Council determines what the annual report and annual accounts must contain and which information OFCOM may publish.

Art. 19 Statistical information

¹ OFCOM produces statistics in cooperation with the Federal Statistical Office. These contain the information which the competent authorities require:

- a. for legislation and the application of the law;
- b. in order to acquire an overview of the market.

² Broadcasters of Swiss programme services must submit the necessary information to OFCOM regularly.

³ OFCOM may make statistical results available to the public.

²⁷ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

²⁸ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

²⁹ SR 172.021

⁴ The Federal Council regulates the details; in particular, it lays down the principles regarding data collection, individual surveys, the use of the collected data and the publication of statistical results.

Art. 20³⁰ Recording and retention of programmes and contributions as part of the other journalistic services from SRG SSR

¹ Broadcasters of Swiss programme services must record all programmes and keep the recordings and the relevant material and documentation for at least four months. The Federal Council may exempt certain categories of broadcasters from this obligation.

² Contributions as part of the other journalistic services from SRG SSR must also be recorded and retained with the relevant material and documentation. The Federal Council shall regulate the duration and extent of the recording and retention obligation, taking account of technical feasibility and what can reasonably be expected of SRG SSR.

³ If a complaint is submitted to the Ombudsman Service within the retention period or an objection is raised with the Independent Complaints Authority for Radio and Television or an official supervisory procedure is opened, the recordings, materials and documentation must be retained until the completion of the proceedings.

Art. 21 Conservation of programme services

¹ The Federal Council may require Swiss broadcasters to keep recordings of their programme services available so that these remain permanently conserved for the public. Broadcasters may be financially compensated for the resulting costs.

² The Federal Council determines which programme services must be conserved and regulates the compensation of broadcasters as well as the delivery, archiving and availability of recordings. In particular, it may issue technical regulations concerning the nature and format of the data media and designate the bodies which coordinate the necessary work and select the programme services to be conserved.

³ Where the revenue from the charge for accessing the recorded programme services and for their continued use is not sufficient, the expenditure of the bodies under paragraph 2 and the compensation for broadcasters in accordance with paragraph 1 is financed from the radio and television fee.³¹

⁴ In order to assure the long-term use of the archives, the Federal Council may take support measures for the conservation of the corresponding playback equipment.

³⁰ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

³¹ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

Section 5 Licence Fee

Art. 22

¹ Licensed broadcasters of Swiss programme services pay an annual fee for their licence. The revenue from the licence fee is used primarily to promote research projects in the radio and television sector (Art. 77), and secondarily for new broadcasting technologies (Art. 58).³²

² The fee amounts to a maximum of 1 per cent of the gross revenue from advertising and sponsorship. The Federal Council determines the amount of the fee and an exemption amount.

Chapter 2 Swiss Broadcasting Corporation (SRG SSR)

Section 1 Programme Service Mandate and Licence

Art. 23 Principle

The SRG SSR provides a service for the community. In so doing, it does not attempt to make a profit.

Art. 24 Programme service mandate

¹ The SRG SSR fulfils the constitutional mandate in the area of radio and television (the programme service mandate). In particular:

- a. it supplies the entire population comprehensively in terms of content with equivalent radio and television programme services in the three official languages;
- b. it promotes understanding, cohesion and exchange between the parts of the country, linguistic communities, cultures and social groupings and takes account of the particularities of the country and the needs of the cantons;
- c. it promotes closer links between Swiss citizens living abroad and their home country and it promotes Switzerland and the understanding of its concerns abroad.

² The SRG SSR broadcasts at least one radio programme service for Romansh-speaking Switzerland. The Federal Council also lays down the principles in accordance with which the radio and television needs of this linguistic region must additionally be taken into consideration.

³ The Federal Council lays down the principles in accordance with which the needs of people with sensory disabilities must be taken into consideration. In particular, it determines the extent to which special programmes must be provided in sign language for the deaf.

³² Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁴ The SRG SSR contributes to:

- a. free public opinion-forming through comprehensive, diverse and accurate information especially regarding political, economic and social matters;
- b. cultural diversity and the reinforcement of the country's cultural values as well as the promotion of Swiss culture, with particular emphasis on Swiss literature and Swiss music and film, especially by broadcasting Swiss productions and programmes it has produced itself;
- c. education of the public, especially through the regular broadcasting of programmes with educational content;
- d. entertainment.

⁵ The standard language is generally to be used in important information broadcasts which are of interest beyond the linguistic and national borders.

Art. 25 Licence

¹ The Federal Council awards the SRG SSR a licence.

² A public consultation is held before the award of the licence or before changes to the licence with consequences for media policy.

³ The licence determines in particular:

- a. the number and nature of radio and television programme services;
- b. the scope of the further editorial programming which is necessary to fulfil the programme service mandate at the level of the linguistic region, as well as at national and international level and which is financed from radio and television fees;
- c. the details of the inclusion of Swiss literature, music and film in accordance with Article 24 paragraph 4 letter b; it may set down corresponding minimum quotas.

⁴ The SRG SSR may offer certain programme services in cooperation with other broadcasters. The cooperation is regulated in agreements which require the consent of the Federal Department of the Environment, Transport, Energy and Communications (DETEC).³³

⁵ DETEC³⁴ may amend individual provisions of the licence before its term expires if the actual or legal conditions have changed and the amendment is necessary to safeguard important interests. The SRG SSR will be paid appropriate compensation.

⁶ DETEC may restrict the SRG SSR's licence or partially suspend it if:

- a. the supervisory authority has made an application in accordance with Article 89;

³³ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

³⁴ Expression in accordance with No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975). This amendment has been made throughout the text.

- b. the SRG SSR has repeatedly or seriously violated its obligations regarding financial management and accounting (Art. 35 and 36).

Section 2 Editorial Programming

Art. 26 Restrictions on regional programming

¹ The SRG SSR is prohibited from broadcasting regional programme services.

² The SRG SSR may with the approval of DETEC insert time-limited regional windows in its radio programme services. Sponsorship is prohibited in such windows. These regional windows must be limited to a maximum of one hour per day.³⁵

Art. 27 Programme production

The SRG SSR's programme services shall be produced predominantly in the language regions for which they are intended.

Art. 28 Editorial programming for foreign countries

¹ The Federal Council shall periodically agree with the SRG SSR the scope of editorial programming for foreign countries in accordance with Article 24 paragraph 1 letter c and the corresponding costs.

² In crisis situations, the Federal Council may agree with the SRG SSR special short-term performance mandates for purposes of international understanding.

³ At least half the costs for services in accordance with paragraph 1 will be reimbursed to the SRG SSR by the Confederation; the costs for services in accordance with paragraph 2 will be reimbursed in full.

Section 3 Unlicensed Activities

Art. 29

¹ The SRG SSR and undertakings controlled by it must report in advance to OFCOM activities which are not laid down in the licence and which may adversely affect the position and mission of other Swiss media undertakings.

² If such activity adversely affects the fulfilment of the programme service mandate or substantially limits the development potential of other media undertakings, DETEC may impose conditions on commercial activity, financing, separation of accounting and organisational separation or prohibit the activity.

³⁵ Sentence inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

Section 4 Broadcasting of SRG SSR Programme Services

Art. 30

¹ The radio and television programme services of the SRG SSR shall be broadcast at least over the entire linguistic region concerned. At least one SRG SSR radio and television programme service shall be broadcast throughout Switzerland in German, French and Italian. The Federal Council may provide for exceptions. It also takes into consideration the needs of the Romansh-speaking population in accordance with Article 24 paragraph 2. In doing so, it ensures that frequencies and channels are made available to the other broadcasters for each means of broadcasting.

² For each programme service, the Federal Council determines the coverage area and technical means of broadcasting.

Section 5 Organisation and Finance

Art. 31 Organisation of the SRG SSR

¹ The SRG SSR shall organise itself so that:

- a. its autonomy and independence from the state and from social, economic and political groupings is guaranteed;
- b. it is managed economically and the radio and television fees are used for the purpose for which they were intended;
- c. the concerns of the linguistic regions are taken into consideration and national leadership and coordination is assured;
- d. the public is represented in the organisation;
- e. editorial activity is separate from economic activities;
- f. it can be managed, supervised and inspected in accordance with the principles of the law on companies limited by shares.

² Its articles of association must be approved by DETEC.

Art. 32 Management bodies

¹ The mandatory management bodies are the General Assembly, the Board of Directors, the auditor and the Executive Board.

² Unless this Act provides otherwise, the provisions of the law on companies limited by shares apply *mutatis mutandis* to the provisions of the articles of association on the rights, obligations and responsibilities of the SRG SSR management bodies.

Art. 33 Board of Directors

¹ The Federal Council may nominate up to a quarter of the members of the Board of Directors.

² The Board of Directors does not issue individual directives in matters related to current programme services.

³ The members of the Board of Directors must not be employed by the SRG SSR or any of the undertakings controlled by it. They are not bound by instructions.

Art. 34 Finance

The SRG SSR is mainly financed by radio and television fees. Other sources of finance are available to it, unless this is restricted by this Act, the Ordinance, the licence or relevant international law.

Art. 35 Use of financial resources

¹ The SRG SSR and the undertakings controlled by it shall conduct their financial accounting in accordance with the recognised principles of best practice. They shall conduct themselves cost-effectively, use their resources in accordance with the provisions and ensure the long-term maintenance of their assets with regard to the fulfilment of their mandate.

² The SRG SSR shall use the share of fees³⁶ allocated to it solely to cover the costs resulting from the broadcasting of radio and television programme services and the costs of the other journalistic services (Art. 25 para. 3 let. b).

³ If it ceases to carry out an activity that was a major element when the fees were set, DETEC may require SRG SSR to build up reserves in the amount of the corresponding sum, which will be taken into account during the subsequent fee adjustment.³⁷

⁴ The Federal Council shall ensure that the provisions of Article 6a paragraphs 1–5 of the Federal Personnel Act of 24 March 2000³⁸ are applied accordingly in the SRG SSR and in the undertakings controlled by it for the members of the managing bodies, members of management staff and other personnel who are remunerated in a similar way.

Art. 36 Financial supervision

¹ The SRG SSR and the undertakings controlled by it shall maintain their books in accordance with the regulations which apply to companies limited by shares and in accordance with the accounting standards recognised by the Swiss stock exchanges.

² It shall maintain separate accounts for the activities involved in carrying out their mandate under the terms of the licence and for their other activities.

³ The Board of Directors of the SRG SSR shall communicate the following to DETEC yearly:

³⁶ Expression in accordance with No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975). This amendment has been made throughout the text.

³⁷ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

³⁸ SR 172.220.1

- a. the group accounts;
- b. the annual accounts, the preliminary estimate, the financial plan and the annual report of the SRG SSR and of the undertakings controlled by it.

⁴ DETEC shall audit the SRG SSR's financial accounting on the basis of the reports from the Board of Directors. It may demand additional information. In particular, DETEC may demand of the SRG SSR's Board of Directors or of the senior management bodies of controlled undertakings information on how they have discharged their responsibility.

⁵ DETEC may carry out audits on the premises of the SRG SSR and the undertakings controlled by it if:

- a. reporting is inadequate and the SRG SSR does not provide adequate information within the required time despite a request by DETEC; or
- b. there are well-founded suspicions that the SRG SSR or one of the undertakings controlled by it has not fulfilled the obligations stated in Article 35 paragraph 1.

⁶ Subject to the requirements of paragraph 5, DETEC may entrust the Federal Audit Office or other experts with the financial audit. The Federal Audit Office Act of 28 June 1967³⁹ is not applicable.

⁷ Audits on grounds of pure expediency are not permitted.

Art. 37 Holdings in other broadcasting companies

SRG SSR holdings in other broadcasters are subject to the approval of DETEC.

Chapter 3 Other Broadcasters with a Mandate

Section 1

Licences with a Performance Mandate and a Share of Fees

Art. 38 Principle

¹ Licences with a performance mandate and a share of fees (fee-sharing licences) may be awarded to broadcasters of local-regional programme services which:

- a. provide to an area that has no adequate funding options radio and television programme services which take account of local or regional particularities by providing comprehensive information, particularly on political, economic and social matters and which contribute to the development of cultural life in the coverage area;
- b. contribute to the fulfilment of the mandate under the Federal Constitution in urban areas by means of complementary, non-profit-orientated radio programme services.

³⁹ SR 614.0

² Fee-sharing licences give an entitlement to broadcast the programme service within a specific coverage area (right of access) and to a proportion of the revenue from radio and television fees.

³ One fee-sharing licence is awarded for each coverage area.

⁴ The licence specifies as a minimum:

- a. the coverage area and the technical means of broadcasting;
- b. the required programme services and the operational and organisational requirements necessary for these;
- c. other requirements and conditions which the licensee must fulfil.

⁵ ...⁴⁰

Art. 39 Coverage areas

¹ After consultation with the Federal Communications Commission, the Federal Council determines the number and extent of the coverage in which fee-sharing licences are awarded, as well as the technical means of broadcasting in the coverage area concerned. When it does so, it distinguishes between coverage areas for radio and for television.

² Coverage areas in accordance with Article 38 paragraph 1 letter a must be defined so that:

- a. they constitute a political and geographical unit or are marked by especially close cultural or economic contacts; and
- b. their existing funding options together with an appropriate proportion of the revenue from radio and television fees allow the broadcaster to fulfil its performance mandate.

³ Exceptions may be made for regional programme services which are broadcast in at least two national languages in a multilingual area.

⁴ The number and extent of the coverage areas are examined by the Federal Council periodically but after ten years at the latest. DETEC may make minor adjustments to the extent.

⁵ Before defining the coverage areas and before significant changes, the cantons and the licensed broadcasters directly concerned shall be consulted.

Art. 40 Share of fees

¹ The share of fees for broadcasters receiving a share of fees in terms of Article 68a paragraph 1 letter b amounts to 4 to 6 per cent of the revenue from radio and television fees. The Federal Council decides:

⁴⁰ Repealed by No I of the Federal Act of 26 Sept. 2014, with effect from 1 July 2016 (AS 2016 2131; BBI 2013 4975).

- a. when fixing the amount of the fee, on the respective shares allocated to radio and television, taking account of the need to fulfil the performance mandates in accordance with Article 38 paragraph 1;
- b. the maximum percentage which the share of fees may make to the operating costs of the individual broadcaster.⁴¹

² DETEC lays down each licensee's share of the revenue from radio and television fees for a specific period. It takes into consideration the size and economic potential of the coverage area as well as the expenditure which the licensee must incur to fulfil the performance mandate including transmission costs.

³ The provisions of the Subsidies Act of 5 October 1990⁴² apply.

Art. 41 Obligations of broadcasters with fee-sharing licences

¹ Broadcasters which hold a fee-sharing licence must fulfil the performance mandate defined in the licence. In order to ensure the fulfilment of the performance mandate and of independent programme production, the Federal Council may impose other obligations. In particular, it may oblige the broadcasters to produce a mission statement and editorial statutes.

² Broadcasters with a fee-sharing licence must use the financial resources economically and in accordance with the regulations. Distribution of profits is not permitted. Broadcasting of the fee-supported programme service must be separated in the accounts from any other economic activities carried out by the licensee. If an undertaking which is economically controlled by the licensee carries out activities in connection with the programme service, the licensee shall ensure that these activities are kept separate in the accounts from other activities.⁴³

³ Cooperation with other broadcasters must not jeopardise the fulfilment of the performance mandate or the independence of programme production.

Art. 42 Financial supervision

¹ The licensee shall submit the accounts to OFCOM on an annual basis. The latter shall examine whether the financial resources have been used economically and in accordance with the regulations. If not, it may reduce or reclaim the share of fees from a licensee.

² OFCOM may also request information from the licensee and from those obliged to provide information in accordance with Article 17 paragraph 2 letter a–c and carry out on-the-spot financial audits.

³ Audits on grounds of pure expediency are not permitted.

⁴¹ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁴² SR 616.1

⁴³ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

Section 2 Licence with Performance Mandate but without a Share of Fees

Art. 43

¹ DETEC may award other broadcasters a licence for wireless terrestrial broadcasting of a programme service if this programme service:

- a. takes account of local or regional particularities in an area by means of comprehensive information, particularly concerning political, economic and social matters and contributes to the development of cultural life in the coverage area;
- b. contributes to a significant extent in a linguistic region to the fulfilment of the performance mandate provided for by the Constitution.

² The licence defines the scope of access to technical means of broadcasting and the performance mandate with regard to programme services. DETEC may impose other obligations in order to ensure the fulfilment of the performance mandate and the independence of programme production.

Section 3 Licensing Regulations

Art. 44 General licence requirements

¹ A licence may be awarded if the candidate:

- a. is able to fulfil the performance mandate;
- b. credibly demonstrates that it can finance the necessary investments and operation;
- c. demonstrates to the licensing authority the identity of the majority holder of its capital and who makes substantial financial resources available to it;
- d. guarantees that it complies with the employment law regulations and the working conditions of the industry, the applicable law and in particular the obligations and conditions associated with the licence;
- e. separates editorial activity from economic activities;
- f. is a natural person with residence in Switzerland or a legal person domiciled in Switzerland;
- g.⁴⁴ ...

² In the absence of any international obligations to the contrary, a legal person controlled from abroad, a domestic legal person with foreign participation or a natural person without Swiss citizenship may be refused the licence if the corresponding foreign state does not guarantee reciprocal rights to a similar extent.

⁴⁴ Repealed by No I of the Federal Act of 26 Sept. 2014, with effect from 1 July 2016 (AS 2016 2131; BBI 2013 4975).

³ A broadcaster or the undertaking to which it belongs may acquire a maximum of two television licences and two radio licences. The Federal Council may permit exceptions for the introduction of new broadcasting technologies.⁴⁵

Art. 45 Licensing procedure

¹ Licences are awarded by DETEC. As a rule, OFCOM puts the licences out to tender; it may consult interested parties.

^{1bis} Licences may be extended with a public tendering process, in particular where the situation in the coverage areas or technological changes pose significant challenges to broadcasters. In reaching a decision, account is taken of previous fulfilment of the performance mandate.⁴⁶

² The Federal Council may provide for a special procedure for the award of short-term licences.

³ If there are several candidates for one licence, preference is given to the candidate that is best able to fulfil the performance mandate. If several candidates are essentially equivalent from this viewpoint, preference is given to the candidate which best enhances to the diversity of opinion and the diversity of programming.

⁴ Licences for wireless terrestrial transmission of programme services are as a rule awarded before the invitation to tender for the corresponding radiocommunication licences in accordance with Article 24 TCA⁴⁷.

Art. 46 Term and expiry of licences

¹ Each licence is awarded for a specific term. As a rule, comparable licences are limited to the same term.

² A licence expires in the case of relinquishment by the broadcaster, on withdrawal and on expiry of its term.

Art. 47 Fulfilment of the performance mandate

¹ OFCOM examines whether the licensed programme service fulfils the performance mandate. For purposes of clarification, it may call in external expertise or experts.

² If it finds substantial shortcomings, it takes measures. It may notably reduce the claim to shares of fees by up to half until the shortcomings are remedied.

Art. 48 Transfer of the licence

¹ A transfer of the licence must be notified to DETEC before it takes place and must be approved by the latter.

⁴⁵ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁴⁶ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁴⁷ SR 784.10

² DETEC examines whether the licence requirements are also met after the transfer. It may refuse approval within three months of receipt of notification; in particular cases the period may be extended.

³ Economic transfer of the licence is also deemed to be a transfer. Such a case applies if more than 20 per cent of the share capital, nominal capital or registered capital or where applicable the participating capital or voting rights are transferred.

Art. 49 Amendment of the licence

¹ DETEC may amend individual provisions of the licence before its term expires if the actual or legal conditions have changed and the amendment is necessary to safeguard important public interests.

² The licensee is appropriately compensated if the amendment substantially restricts the rights granted with the licence. It receives no compensation if the amendment is based on important national interests or on a change in international obligations.

³ At the request of the broadcaster, DETEC may amend individual conditions if the amendment applied for corresponds to the requirements for the award of the licence.

Art. 50 Restriction, suspension and withdrawal of the licence

¹ DETEC may restrict, suspend or withdraw the licence if:

- a. the licensee has acquired it as a result of incomplete or incorrect information;
- b. the licensee seriously violates this Act or its implementing provisions;
- c. the licensee continuously fails to meet its obligations laid down in the licence despite measures under Article 47 paragraph 2;
- d. the licensee seriously exploits the licence for unlawful purposes;
- e. important national interests so require.

² DETEC shall withdraw the licence if essential conditions relating to the award thereof are no longer applicable.

³ The licensee has a claim to compensation if DETEC:

- a. withdraws the licence because essential conditions relating to the award thereof cease to exist and the Confederation is responsible for this;
- b. suspends or withdraws the licence because important national interests so require.

Title 3 Transmission and Technical Processing of Programme Services

Chapter 1 General Rules

Art. 51 Principle

¹ Broadcasters may broadcast their programme services themselves on the basis of the provisions of telecommunications law or commission a telecommunications service provider to broadcast the programme services.

² The broadcasting services are provided on fair, reasonable and non-discriminatory terms.

³ Article 47 TCA⁴⁸ concerning communication in extraordinary situations is applicable to broadcasters which transmit their programme services themselves.

Art. 52 Restrictions

¹ OFCOM may restrict or prohibit the transmission of a programme service using telecommunications techniques if the programme service:

- a. infringes international telecommunications law which is binding on Switzerland;
- b. seriously and continuously violates the international regulations which are binding on Switzerland regarding programme content, advertising or sponsorship; or
- c. is the subject of a ban on broadcasting in accordance with Article 89 paragraph 2.

² Both the broadcaster of the programme service in question and the telecommunications service provider which broadcasts the programme service or feeds the signal for broadcasting may object to the decision of OFCOM.

³ ...⁴⁹

Chapter 2 Wireless Terrestrial Broadcasting of Programme Services

Art. 53 Access-entitled programme services

The following are access-entitled for wireless terrestrial broadcasting within the framework of the licence:

- a. the programme services of the SRG SSR;
- b. the programme services of broadcasters which hold a licence with a performance mandate.

⁴⁸ SR 784.10

⁴⁹ Repealed by No I of the Federal Act of 26 Sept. 2014, with effect from 1 July 2016 (AS 2016 2131; BBl 2013 4975).

Art. 54⁵⁰ Frequencies for programme services

¹ The Federal Council shall ensure that sufficient frequencies are made available to fulfil the constitutional performance mandate of radio and television (Art. 93 para. 2 FC). In particular, it shall ensure that access-entitled programme services can be transmitted using wireless terrestrial technology in the intended coverage area and shall specify the relevant principles.

² For frequencies or frequency blocks which are used in accordance with the national frequency allocation plan (Art. 25 TCA⁵¹) for the broadcasting of radio and television programme services, it determines:

- a. the broadcasting area;
- b. the number of radio or television programme services which are to be broadcast, or the transmission capacities which are to be reserved for the broadcasting of programme services.

³ In accordance with the requirements specified by the Federal Council, DE TEC shall ensure that sufficient broadcasting of programme services can be assured to serve the population in extraordinary situations.

Art. 55 Broadcasting obligation and broadcasting conditions

¹ Any person acquiring a radiocommunication licence for the utilisation of a frequency which is intended for the broadcasting of an access-entitled programme service must broadcast the latter in adequate quality and respect the provisions of the licence with regard to programme services and of the radiocommunication licence with regard to telecommunications law.

² Broadcasters pay the owner of a radiocommunication licence cost-based compensation for the broadcasting of access-entitled programme services. The Federal Council determines the chargeable costs. If the radiocommunication licence is awarded in a bidding procedure, the award price as mentioned in Article 39 paragraph 4 TCA⁵² is not included in the chargeable costs.

³ The Federal Council may extend the transmission obligation to services which are coupled with access-entitled programme services.

Art. 56 Procedures for agreement and decision making

¹ If the parties cannot agree on the broadcasting obligation and broadcasting conditions within three months, OFCOM adjudicates.

² For the decision, it refers to comparable domestic or foreign reference values in so far as the parties do not produce evidence which justifies deviation therefrom.

⁵⁰ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁵¹ SR 784.10

⁵² SR 784.10

³ For the period from the submission of the application to the legally-enforceable decision, it may order transmission on an interim basis and fix the financial conditions.

⁴ The procedure and the obligation to provide information are based, *mutatis mutandis*, on the provisions of the TCA on the granting of access by dominant providers (Art. 11, 11a and 11b TCA⁵³).⁵⁴

Art. 57 Support for the broadcasting of radio programme services

¹ In accordance with Article 38 paragraph 1 letter a, OFCOM provides a contribution to a broadcaster with a fee-sharing licence which incurs additional expense for the wireless terrestrial broadcasting of its radio programme service in a mountain region.

² The Federal Council shall regulate the conditions and calculation criteria by which OFCOM pays the contributions.

Art. 58⁵⁵ Promoting new broadcasting technologies

¹ OFCOM may for a limited period subsidise the introduction of new technologies for broadcasting programme services by contributing to the cost of constructing and operating transmitter networks, provided that insufficient funding options are available in the corresponding coverage area.

² It may provide the public with information on new technologies, in particular the technical requirements and possible applications, and work with third parties to do so.

³ The subsidies in terms of paragraphs 1 and 2 shall be paid for from the revenue from the licence fee (Art. 22) and, if this is not sufficient, from the revenue from the radio and television fee.

⁴ When determining the amount of the radio and television fee (Art. 70), the Federal Council shall determine the proportion which is available for subsidies. This shall amount to no more than one per cent of the total revenue from the radio and television fee.

⁵ The Federal Council determines who is entitled to support and the requirements for receiving subsidies.

Chapter 3 Broadcasting by Wire

Art. 59 Access-entitled and foreign programme services

¹ In their coverage area, the following must be broadcast by wire:

⁵³ SR 784.10

⁵⁴ See also Art. 106 No 1 below.

⁵⁵ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

- a. programme services of the SRG SSR within the framework of the licence;
- b. programme services based on a licence with a performance mandate.

² The Federal Council may also specify programme services of foreign broadcasters which are to be transmitted by wire because of their special contribution to education, cultural development or free opinion-forming.

³ The Federal Council determines the maximum number of access-entitled programme services in accordance with paragraphs 1 and 2 within the framework of the technical capabilities of telecommunications service providers. The programme services are to be transmitted free of charge and in adequate quality.

⁴ The telecommunications service provider which already broadcasts programme services in the coverage area and reaches the most households is primarily subject to the broadcasting obligation. Within the same coverage area, OFCOM may require more than one telecommunications service provider if this is necessary to ensure that a programme service can be received by the general public. In the event of refusal, OFCOM may arrange immediate broadcasting by way of precaution.

⁵ If compliance with this obligation leads to an unreasonable economic burden on the telecommunications service provider, OFCOM shall require the access-entitled broadcaster to pay appropriate compensation.

⁶ The Federal Council may extend the transmission obligation to services which are coupled with access-entitled programme services.

Art. 60 Other broadcasting obligations

¹ On application by a broadcaster, OFCOM shall require a telecommunications service provider for a specific period to provide broadcasting by wire of a programme service within a specific area, if:

- a. the programme service contributes to a significant extent to the fulfilment of the mandate under the Constitution; and
- b. broadcasting can reasonably be expected from the telecommunications service provider taking account of the available transmission capacities and its economic capacity.

² The Federal Council determines the maximum number of programme services.

³ OFCOM may withdraw the right prior to expiry of the decreed term if the broadcaster no longer provides the services stated in the decision.

⁴ The Federal Council may extend the transmission obligation to services which are coupled with access-entitled programme services.

Art. 61 Transmission by wire of other programme services

In the case of the broadcasting of programme services not regulated by Articles 59 and 60, the telecommunications service provider decides on the basis of its capacities for transmitting programme services. In particular, the economic benefit of the

broadcasting service to the broadcaster may be taken into account in the payment of the broadcasting costs.

Art. 62 Channel occupancy

The Federal Council may decree that telecommunications service providers broadcast the programme to be transmitted in accordance with Article 59 paragraphs 1 and 2 on preferred channels.

Chapter 4 Technical Processing of Programme Services

Art. 63 Principles

¹ Access to technical processing must be guaranteed to broadcasters on fair, reasonable and non-discriminatory terms. If processing using the telecommunications service provider's equipment essentially corresponds to the state of the art, the broadcaster is not entitled to use its own equipment for processing.

² Any person providing services as a higher-level user interface which control programme service selection must use the state of the art to ensure that reference is clearly made in the first stage of use to access-entitled programme services.

³ Operators and providers of processing services or equipment must:

- a. provide third parties with a justified interest with all information and disclose all documentation, the knowledge of which is necessary to enforce the rights in paragraph 1;
- b. provide OFCOM on its request with all information and submit all documentation which is necessary to verify whether the obligations in the provisions on technical processing are being complied with.

⁴ The Federal Council may extend the provisions on technical processing to coupled services.

⁵ If no regulations exist for specific circumstances, OFCOM shall in individual cases take the decisions required to safeguard diversity of opinion and diversity of programming.

Art. 64 Open interfaces and technical configuration

In so far as is necessary to safeguard diversity of opinion, the Federal Council may, after consultation with the parties concerned, stipulate open interfaces or decree other provisions concerning their technical configuration for equipment or services which are used for processing of programme services. In so doing, it takes account of the equipment or services already on the market and allows appropriate transitional periods.

Art. 65 Unbundling

¹ Any person offering programme services as bundled packages or providing services which are used for the processing of programme services must fulfil the technical requirements that enable third parties to broadcast these programme services individually under cost-effective conditions and use the equipment or services individually.

² The Federal Council may decree regulations relating to unbundling in so far as this is necessary to safeguard diversity of opinion.

Title 4 Reception of Programme Services**Chapter 1 Freedom of Reception****Art. 66** Free programme service reception

Everyone is free to receive programme services broadcast within Switzerland and from abroad if they are intended for a general audience.

Art. 67 Cantonal bans on antennas

¹ The cantons may in specific areas prohibit the erection of outdoor antennas if:

- a. this is necessary for the protection of significant local and national landscapes, historical sites or natural and art monuments; and
- b. reception of the customary programme services in the region remains guaranteed under acceptable conditions.

² The erection of an outdoor antenna for the reception of additional programme services must be approved by way of exception if the interest in receiving the programme services overrides the interest in protecting the local and national landscape.

Chapter 2⁵⁶ Radio and Television Fee**Section 1 General****Art. 68** Principle

¹ The Confederation charges a fee to finance the performance mandate for radio and television in terms of the Federal Constitution (Art. 93 para. 2 FC).

² The fee is charged for each household and each undertaking.

³ The revenue from and the application of the fee, with the exception of the payments due to the Confederation, are not shown in the federal financial statements.

⁵⁶ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

Art. 68a Amount of the fee and allocation key

¹ The Federal Council shall determine the amount of the fee for households and for undertakings. The decisive factors are the need:

- a. to finance SRG SSR programme services and other journalistic services from SRG SSR that are required to fulfil the programme service mandate (Art. 25 para. 3 let. b);
- b. to support programme services from fee-sharing licensees (Art. 38–42);
- c. to support the Foundation for Audience Research (Art. 81);
- d. to subsidise the construction of transmitter networks in order to introduce new broadcasting technologies (Art. 58);
- e. to finance the processing of programmes in licensed regional television programme services for persons hard of hearing (Art. 7 para. 4);
- f. for the tasks of the collection agency, the Federal Tax Administration (FTA), OFCOM and the cantons and communes in connection with collecting the fee and enforcing the obligation to pay (Art. 69d–69g and 70–70d);
- g. to finance the maintenance of programme services (Art. 21).

² The Federal Council shall determine how the revenue from the fee is allocated for the uses in accordance with paragraph 1. In doing so, it may determine the shares allocated for the radio programme services, television programme services and other journalistic services from SRG SSR separately.

³ In deciding on the amount of the fee, the Federal Council shall take account of the Price Supervisor's recommendation. Any divergence from the recommendations must be publicly justified.

Section 2 Household Fee**Art. 69** General Provisions

¹ Household members' obligation to pay begins on the first day of the month following the establishment of the household and ends on the last day of the month in which the household is dissolved.

² The make-up of the household as registered in the cantonal or communal register of residents is decisive when collecting the fee.

³ The Federal Council shall regulate the frequency, due date and the prescriptive period for the fee.

Art. 69a Private households: obligation to pay

¹ Each private household must pay the same fee.

² The definition of a private household is governed by the legislation on the harmonisation of registers.

³ The following persons are jointly and severally liable for payment of the household fee:

- a. adults for whom the household is their main residence, in analogous terms to the definition of the commune of residence in Article 3 letter b of the Register Harmonisation Act of 23 June 2006⁵⁷ (RHA); or
- b. adults who have no main residence in Switzerland and for whom the household is their secondary residence, in analogous terms to the definition of the commune of residence in Article 3 letter c RHA.

⁴ Each person's liability extends to the amount due from the fee periods at the start of which the person is a member of the household.

⁵ If all the adults who belonged to a household at the start of a month leave that household within that month, the household is deemed to be dissolved as of the last day of that month.

Art. 69b Private households: exemption from the obligation to pay

¹ The following persons are exempted from the obligation to pay the fee:

- a. on application, persons who receive annual benefits under Article 3 paragraph 1 letter a of the Federal Act of 6 October 2006⁵⁸ on Benefits supplementary to the Old Age, Survivors' and Invalidity Insurance; the exemption applies retrospectively from the date on which supplementary benefits were first claimed, but at the earliest from a date five years prior to receipt of the application by the collection agency;
- b. persons entitled to privileges, immunities and facilities under Article 2 paragraph 2 of the Host State Act of 22 June 2007⁵⁹ (HSA) and who enjoy diplomatic status, provided they do not hold Swiss citizenship; the Federal Council shall regulate the exemption of other persons enjoying privileges, immunities and facilities and the members of staff of institutional beneficiaries under Article 2 paragraph 1 letters d, e and f HSA, provided they do not hold Swiss citizenship.

² Where one member of a private household meets the requirements for an exemption under paragraph 1, all members of the household concerned are exempted from the obligation to pay.

Art. 69c Collective households

¹ Each collective household must pay the same fee.

² The definition of a collective household is governed by the legislation on the harmonisation of registers.

³ The fee is owed by the private or public entity responsible for the collective household.

⁵⁷ SR 431.02

⁵⁸ SR 831.30

⁵⁹ SR 192.12

Art. 69d Collection of the household fee

¹ The Federal Council may delegate the collection of the fee per household and related duties to a collection agency outside the federal administration. The legislation on public procurement applies.

² OFCOM supervises the collection agency.

Art. 69e Duties and powers of the collection agency

¹ The collection agency may issue administrative rulings:

- a. to fee payers: on the obligation to pay;
- b. to the cantons and communes: on the payments made under Article 69g paragraph 4.

² The collection agency acts as an authority as defined in Article 1 paragraph 2 letter e APA⁶⁰. It may dismiss an objection in debt enforcement proceedings in accordance with Article 79 of the Federal Act of 11 April 1889⁶¹ on Debt Enforcement and Bankruptcy (DEBA) and is deemed to be an administrative authority in terms of Article 80 paragraph 2 number 2 DEBA.

³ It may not pursue any economic activity other than that delegated to it under this Act.

⁴ Each year it shall publish a report on its activities and its annual accounts.

Art. 69f Data processing by the collection agency

¹ In order to assess eligibility for an exemption from the fee under Article 69b paragraph 1 letter, the collection agency may process data that allows conclusions to be drawn as to a person's health or social assistance claims. The data processing and the supervision thereof are governed by provisions of the Federal Act of 19 June 1992⁶² on Data Protection that apply to federal bodies.

² The collection agency shall take the organisational and technical measures required to secure the data against unauthorised processing. It may only process data that it obtained in connection with its activities under this Act for the purpose of collecting and enforcing payment of the fee and may only pass on the data to third parties for these purposes.

³ Data that allow conclusions to be drawn with regard to a person's health or social insurance claims may not be disclosed to third parties. Such data may be stored by third parties in encrypted form (content encryption). Data may only be decrypted by the collection agency. Persons entrusted with servicing, maintenance or programming tasks may process such data within the information system if this is required in order to carry out their tasks and data security is guaranteed. In doing so, the content of the data may not be modified.

⁶⁰ SR 172.021

⁶¹ SR 281.1

⁶² SR 235.1

⁴ The collection agency must pass on the data required for collecting and enforcing payment to any successor agency in good time and free of charge. Once the data has been passed on, it must permanently delete the data that it no longer requires.

Art. 69g Obtaining data on households

¹ The collection agency shall obtain the data on households and their members required for collecting the fee from the following registers:

- a. the register of residents (Art. 2 para. 2 let. a RHA⁶³);
- b. the Ordipro information system of the Federal Department of Foreign Affairs (Art. 2 para. 1 let. c RHA).

² It shall obtain the data via the Federal Information and Communication Platform in accordance with Article 10 paragraph 3 RHA.

³ Cantons and communes shall provide the collection agency with the data from their registers of residents in the required format and with the required regularity for delivery via the Federal Information and Communication Platform in encrypted form.

⁴ The collection agency shall pay contributions from the fee revenue to communes and cantons towards the investments specifically required in order to transmit data to the collection agency.

⁵ The collection agency may systematically use the insurance number in terms of Article 50c of the Federal Act of 20 December 1946⁶⁴ on Old-Age and Survivors' Insurance (OASIA):

- a. to fulfil its tasks in connection with collecting the fee;
- b. in the case of queries to communes and cantons related to transmitted data.

⁶ The Federal Council shall determine the data that the collection agency may obtain in accordance with paragraph 1. It shall regulate the details with regard to volume and format of the data, the regularity of data deliveries and the contributions to cantons and communes in accordance with paragraph 4.

Section 3 Corporate Fee

Art. 70 Undertaking's obligation to pay

¹ A corporate undertaking is required to pay the fee if it reached the minimum turnover fixed by the Federal Council in the tax period that ended in the previous calendar year in accordance with Article 34 of the Value Added Tax Act of 12 June 2009⁶⁵ (VATA).

⁶³ SR 431.02

⁶⁴ SR 831.10

⁶⁵ SR 641.20

² An undertaking is any entity entered in the FTA register of persons liable to pay VAT.

³ Turnover in terms of paragraph 1 is defined as the total turnover excluding VAT achieved by an undertaking that must be declared in accordance with the VATA, irrespective of whether it qualifies for VAT liability. Where group taxation applies, the total turnover of the VAT group is decisive.

⁴ The Federal Council shall specify the minimum turnover at a level that ensures that small undertakings are exempt from the fee.

⁵ The amount of the fee is determined by the turnover. The Federal Council shall specify several turnover levels with a separate tariff for each level (tariff categories).

Art. 70a Collecting the corporate fee

¹ The FTA collects the fee.

² Each year, when assessing the liability to pay VAT, the FTA shall allocate each undertaking liable to pay the fee to a tariff category and invoice it for the fee.

³ If an undertaking has made no VAT returns or its returns are clearly inadequate, the FTA shall use its discretion to allocate the undertaking to a tariff category.

⁴ If allocation to a tariff category for the tax period ending in the previous calendar year is temporarily impossible, the FTA shall invoice the fee when the tariff category has been determined.

Art. 70b Due date and enforcement

¹ The fee becomes due for payment 60 days after it is invoiced and the debt prescribes five years after the due date. In the event of late payment, default interest of 5 per cent per annum becomes due without prior notice.

² If a person liable to pay the fee files an objection in debt enforcement proceedings, the FTA shall issue a ruling on the amount of the fee due and at the same time dismiss the objection in accordance with Article 79 DEBA⁶⁶.

³ In the event of any dispute, the ranking of creditors is postponed until an enforceable ruling has been issued.

⁴ Any fees that are due or have been invoiced may be offset against refunds of VAT.

⁵ Security for the fee is governed by Articles 93–95 VATA⁶⁷. Joint liability and succession to liability are governed by Articles 15 and 16 VATA.

⁶ The procedure is governed by the APA⁶⁸.

⁶⁶ SR 281.1

⁶⁷ SR 641.20

⁶⁸ SR 172.021

Art. 70c Reporting by the FTA

¹ The FTA must keep its activities in collecting the fee separate from its other activities in its accounts.

² It shall publish its annual accounts each year, together with an annual report on the collection of the fee.

Art. 70d Confidentiality and data processing

¹ The FTA shall process data required to carry out its activities in accordance with this Act. The provisions of the VATA⁶⁹ on data processing apply.

² The duty of confidentiality and its exceptions under Article 74 VATA also apply to collecting and enforcing payment of the fee.

Chapter 3 Fees for Wireless Terrestrial Reception⁷⁰**Art. 71** ...⁷¹

The cantons may provide for fees for the reception of radio and television programme services which are transmitted using wireless terrestrial technology on the basis of a public supply contract.

Title 5**Measures to Safeguard Diversity and promote Programme Service Quality****Chapter 1 Ensuring Access to Public Events****Art. 72** Short reporting right with regard to public events

¹ If the reporting of a public event in Switzerland is restricted by exclusive agreements, any interested broadcaster has the right to short, up-to-date, media-compatible reporting of this event.

² The organiser of a public event and the broadcaster benefiting from first exploitation or exclusive rights are obliged to provide any interested broadcaster with the possibility of short reporting.

³ They shall give interested broadcasters:

- a. access to the event, in so far as technical and spatial circumstances permit; and

⁶⁹ SR **641.20**

⁷⁰ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

⁷¹ Repealed by No I of the Federal Act of 26 Sept. 2014, with effect from 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

b. the desired parts of the transmission signal under appropriate conditions.

⁴ With reference to Article 90, OFCOM may order organisers of a public event and broadcasters with first or exclusive rights to take appropriate measures to ensure exercise of the right of short reporting.

Art. 73 Free access to events of major importance to society

¹ Reporting of events of major importance to society must be made freely accessible to a substantial proportion of the general public.

² DETEC drafts a list of international and national events of major importance to society and updates it regularly.

³ For broadcasters of Swiss television programme services, the lists drafted by the member states of the European Convention on Transfrontier Television of 5 May 1989⁷² are binding in the state concerned with regard to free access.

Chapter 2 Measures to prevent Risks to the Diversity of Opinion and Programming⁷³

Art. 74 Risks to diversity of opinion and programming

¹ A risk to diversity of opinion and programming exists if:

- a. a broadcaster abuses its dominant position in the relevant market;
- b. a broadcaster or another undertaking active in the radio and television market abuses its dominant position in one or more media-related markets.

² DETEC shall consult the Competition Commission to assess the dominant position as defined in Article 4 paragraph 2 of the Cartel Act of 6 October 1995⁷⁴. The Competition Commission shall apply the principles of competition law and may publish its comments.⁷⁵

Art. 75 Measures

¹ If, after obtaining the Competition Commission's report, DETEC ascertains that a broadcaster or another undertaking active in the radio and television market has jeopardised diversity of opinion and programming as a result of its abuse of its dominant position, it may take measures in the area of radio and television. As a rule, it takes a decision within three months of receipt of the report.

² It may demand that the broadcaster or the undertaking concerned:

⁷² SR **0.784.405**

⁷³ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

⁷⁴ SR **251**

⁷⁵ Sentence amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

- a. ensures diversity by measures such as granting broadcasting time for third parties or cooperating with other participants in the market;
- b. takes measures against corporate journalism, such as issuing editorial statutes to ensure editorial freedom;
- c. should such measures prove to be clearly inadequate, adapts the business and organisational structure of the undertaking.

Chapter 3

Basic and Continuing Education and Training of Programme Services Producers⁷⁶

Art. 76

The Confederation may support the basic and continuing education and training of programme producers, in particular through contributions to institutions for basic and continuing education and training. OFCOM regulates the award criteria and decides on the contributions.

Chapter 4 Research

Section 1 Media Research

Art. 77

The Federal Council regulates the requirements and calculation criteria in accordance with which research projects in the radio and television sector are supported from the licence fee (Art. 22).

Section 2 Foundation for Audience Research

Art. 78 Function

¹ The Foundation for Audience Research is responsible for collecting scientific data on the use of radio and television in Switzerland. In doing so, it must apply scientific methodology and is independent of the SRG SSR, other broadcasters and the advertising industry. It may transfer the activities in whole or in part to subsidiary undertakings controlled by it and bring in independent experts with regard to data collection. The Foundation is subject to supervision by DETEC.

² The Foundation ensures that Swiss broadcasters and scientific research have sufficient data available on the use of radio and television. Licensed broadcasters in

⁷⁶ The amendment in accordance with the Federal Act of 20 June 2014 on Continuing Education and Training, in force since 1 Jan. 2017 relates only to the Italian text (AS 2016 689; BBl 2013 3729).

mountain and peripheral regions must be able to obtain data with a quality comparable to that provided to other broadcasters.

Art. 79 Data reporting and delivery

¹ The Foundation publishes the most important results of its surveys at least once a year.

² It makes the basic data on use available to third parties at prices which cover the costs. The data is provided to university researchers and OFCOM free of charge.

Art. 80 Organisation

¹ The Foundation regulates its organisation and its activities by means of regulations which must be approved by DETEC.

² The board of the Foundation comprises the same number of representatives from the SRG SSR as from other Swiss broadcasters. In addition, other persons are appointed to the Foundation board. Account is taken of the need for language regions and sexes to be represented fairly.⁷⁷

³ DETEC selects the foundation board. In doing so, it takes account of the proposals of those concerned.

Art. 81 Finance contribution

¹ The Foundation receives an annual contribution from the revenue from radio and television fees for the development and acquisition of survey methods and systems.

² The Federal Council determines the amount of the contribution when determining the amount of the radio and television fees.

³ The Subsidies Act of 5 October 1990⁷⁸ applies. Activities in accordance with Articles 78 and 79 shall be separated from any other activities in the accounts of the foundation and of any subsidiary companies.

Title 6
Independent Complaints Authority for Radio and Television

Art. 82 Composition

¹ The Independent Complaints Authority for Radio and Television (the Complaints Authority) comprises nine part-time members.

² The Federal Council elects the members of the Complaints Authority and appoints the president.

³ The following may not belong to the Complaints Authority:

⁷⁷ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁷⁸ SR 616.1

- a. members of the Federal Assembly;
- b. persons in the service of the Confederation;
- c. members of the management and employees of Swiss broadcasters.

⁴ If there is an incompatibility, the person concerned shall declare which of the two offices he or she opts for. If he or she opts for an office in paragraph 3, he or she shall resign from the Complaints Authority four months at the latest from the occurrence of the incompatibility.

Art. 83 Functions

¹ The Complaints Authority is competent for:

- a.⁷⁹ dealing with complaints about the content of editorial publications and the refusal of access to the programme service or other journalistic services from SRG SSR (Art. 94);
- b. the selection and supervision of the ombudsman services (Art. 91).

² It produces an activity report annually for the Federal Council.

Art. 84 Independence

The Complaints Authority is independent and is not bound by any directives from the Federal Assembly, the Federal Council and the federal administration. The right of instruction based on Article 104 paragraph 2 is reserved.

Art. 85 Organisation

¹ Unless the Federal Council provides to the contrary, the Committees Ordinance of 3 June 1996⁸⁰ applies.

² The Complaints Authority organises itself. It shall draw up regulations on its organisation and management. The regulations are subject to the approval of the Federal Council.

³ The Complaints Authority has its own secretariat. It regulates the duties in the regulations in accordance with paragraph 2. The conditions of service of the secretariat personnel are governed by the legislation applicable to federal government employees.

⁷⁹ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁸⁰ [AS 1996 1651, 2000 1157, 2008 5949 No II. AS 2009 6137 No II 1]. See now: Art. 8a ff. of the Government and Administration Organisation Ordinance of 25 November 1998 (SR 172.010.1).

Title 7 Supervision and Legal Remedies
Chapter 1 General Supervision
Section 1 Procedures

Art. 86 Principles

¹ OFCOM shall ensure that this Act and its implementing provisions, the licence and relevant international agreements are complied with. The Complaints Authority is responsible for dealing with complaints about the content of editorial publications and refusal of access to the programme service or other journalistic services from SRG SSR (Art. 83 para. 1 let. a and Art. 94–98).⁸¹

² Supervisory measures relating to the production and preparation of programme services and the other journalistic services from SRG SSR and on the grounds of simple expediency are not permitted.⁸²

³ The provisions of the APA⁸³ apply to the supervisory procedure unless this Act provides otherwise.

⁴ No provisional measures are permitted in the Complaints Authority’s supervision procedure (Art. 91–98).⁸⁴

⁵ The Complaints Authority only evaluates complaints against published editorial publications and complaints about refusal of access to the programme service or to other journalistic services from SRG SSR. It does not act *ex officio*.⁸⁵

Art. 87 Information for the public

¹ The supervisory authorities shall inform the public of their activities. In particular, they may publish the decisions on administrative and criminal matters and make them accessible online.

² They shall not divulge any commercial secrets.

Art. 88 Data protection

¹ The supervisory authorities may process sensitive personal data if this is necessary for the performance of the duties imposed by this Act.

² Data processing by the supervisory authorities and supervision thereof are governed by the provisions of the Federal Act of 19 June 1992⁸⁶ on Data Protection which apply to federal bodies.

⁸¹ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁸² Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁸³ SR 172.021

⁸⁴ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁸⁵ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁸⁶ SR 235.1

Section 2 Measures in the event of Infringements

Art. 89 General

¹ If the supervisory authority establishes an infringement of the law, it may:

- a. require the natural or legal person responsible for the infringement:
 1. to remedy the deficiency and take measures to ensure that the infringement does not recur,
 2. to inform the authority of the precautions taken,
 3. to surrender to the Confederation the revenue achieved as a result of the infringement;
- b. request DETEC to make the licence subject to conditions, or to restrict, suspend or withdraw the licence.

² At the request of the Complaints Authority (Art. 97 para. 4), DETEC may ban the programme service or allow it only under certain conditions.⁸⁷

Art. 90 Administrative penalties

¹ The supervisory authority may impose a penalty not exceeding 10 per cent of its average turnover achieved in Switzerland in the previous three business years on any person who:

- a. violates a legally-binding decision of the supervisory authority or a legally-binding decision of the appeals authority;
- b. seriously infringes conditions of the licence;
- c. violates regulations concerning advertising and sponsorship which are contained in this Act (Art. 4, 5 and 9-14), its implementing provisions, the licence or the relevant international agreements;
- d. violates the regulations concerning the transmission obligation (Art. 55);
- e. fails to comply with the obligation to guarantee the right of short reporting of public events (Art. 72);
- f. fails to guarantee free access to events of major importance to society (Art. 73);
- g. violates measures as defined in Article 75 (media concentration);
- h.⁸⁸ ...

² Any person who fails to comply with, or belated or incompletely complies with one of the following obligations or who provides false information may be required to pay an amount not exceeding CHF 10 000:

⁸⁷ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁸⁸ Repealed by No I of the Federal Act of 26 Sept. 2014, with effect from 1 July 2016 (AS 2016 2131; BBl 2013 4975).

- a. obligation to notify (Art. 3);
- b. publication obligations (Art. 8);
- c. obligation to notify revenue from advertising and sponsorship (Art. 15);
- d. obligation to notify holdings (Art. 16);
- e. obligation to provide information (Art. 17);
- f. reporting obligation (Art. 18);
- g. obligation to submit statistical information (Art. 19);
- h. obligation to record and retain programmes (Art. 20) or to permanently conserve programmes (Art. 21);
- i. obligations of the SRG SSR (Art. 29);
- j. obligations for broadcasters with a fee-sharing licence (Art. 41);
- k. obligation to notify transfer of the licence (Art. 48);
- l. obligation to comply with the licence area designated by the Federal Council when broadcasting or arranging the broadcasting of programme services (Art. 52 para. 3);
- m. broadcasting of prescribed programme services on preferred channels (Art. 62);
- n. obligation to provide information and to submit documentation (Art. 63 para. 3).

³ When assessing the penalty, the supervisory authority shall take particular account of the seriousness of the infringement and the financial circumstances of the penalised legal or natural person.

Chapter 2 Supervision by the Complaints Authority⁸⁹

Section 1 Report Procedure of the Ombudsman Service

Art. 91 Ombudsman services

¹ The Complaints Authority shall designate an independent ombudsman service for each region of the three official languages; the ombudsman service is attached to the Complaints Commission for administrative purposes.

² The SRG SSR shall provide its own independent ombudsman services.

³ The ombudsman service deals with reports about:

- a. editorial programmes that have been broadcast, where the report relates to violations of Articles 4 and 5 of this Act or of international law binding on Swiss broadcasters;

⁸⁹ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

a^{bis}.⁹⁰ published contributions produced by the editorial staff as part of the other journalistic services from SRG SSR where the report relates to an infringement of Article 5a;

b.⁹¹ refusal to grant access to the programme services of Swiss broadcasters or to the part of the other journalistic services from SRG SSR produced by the editorial staff.

⁴ The regional-language ombudsman services are subject to the supervision of the Complaints Authority.

Art. 92⁹² Reports

¹ Any person may submit a report to the competent ombudsman service:

- a. about editorial publications alleging an infringement of Articles 4, 5 and 5a of this Act;
- b. alleging refusal of access (Art. 91 para. 3 let. b).

² Reports must be submitted within 20 days of the appearance of the publication or refusal of a request for access in terms of Article 91 paragraph 3 letter b.

³ If the report relates to more than one programme or contribution, the period begins with the broadcasting or appearance of the last publication that is the subject of the report. However, the first of the publications reported must not be more than three months before the last.

⁴ A report may only concern two or more contributions produced by the editorial staff as part of the other journalistic services from SRG SSR if these contributions are published in the same election or vote dossier.

⁵ The report must be submitted in writing and, if it relates to other journalistic services from SRG SSR, be accompanied by supporting documents. A brief statement of grounds must be provided, explaining in what way the editorial publication is deficient in terms of content or the refusal to grant access to the programme service or to the part of the other journalistic services from SRG SSR produced by the editorial staff is unlawful.

Art. 93 Procedure

¹ The ombudsman service examines the case and mediates between the parties concerned. It may in particular:

- a. discuss the matter with the broadcaster or in minor cases hand it over to it for direct settlement;
- b. arrange a direct encounter between the parties concerned;

⁹⁰ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁹¹ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁹² Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

- c. issue recommendations to the broadcaster;
- d. inform those concerned about the responsibilities, the applicable law and legal remedies.

² It has no power to make decisions or issue directives.

³ Forty days at the latest after submission of the report, the ombudsman service shall inform the parties in writing of its findings and the manner in which the report is to be settled.

⁴ By mutual consent, the parties may be informed of the settlement orally.

⁵ The ombudsman service bills the broadcaster after the report has been dealt with. In the event of a vexatious report, at the request of the ombudsman service or the broadcaster the Complaints Authority may award procedural costs against the person submitting the report.

Section 2 Complaints Procedure of the Complaints Authority⁹³

Art. 94 Right to submit a complaint

¹ Complaints against an editorial publication that has appeared or against refusal to grant access may be submitted by any person who:⁹⁴

- a. was involved in the report procedure before the ombudsman service; and
- b.⁹⁵ demonstrates a close relationship with the subject of the disputed editorial publication or whose application for access (Art. 91 para. 3 let. b) has been rejected.

² Natural persons who do not have a close relationship with the subject of the disputed editorial publication may also submit a complaint if the complaint is signed by a minimum of 20 persons.⁹⁶

³ Natural persons who submit a complaint in accordance with paragraph 2 must be at least 18 years old and hold Swiss citizenship or hold a permanent or temporary residence permit.⁹⁷

⁴ Complaints may also be submitted by DETEC, in which case the provisions of paragraph 1 do not apply.

⁹³ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁹⁴ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁹⁵ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁹⁶ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁹⁷ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

Art. 95 Time limit and form of the complaint

¹ Within 30 days of receipt of the report in accordance with Article 93 paragraph 3, a complaint may be submitted in writing with the Complaints Authority. The ombudsman service's report must be attached.

² DETEC submits its complaint directly to the Complaints Authority within 30 days of the transmission of the programme concerned.

³ In the complaint, a brief statement of grounds must be provided explaining:

- a. how the editorial publication which is the subject of the complaint has violated provisions concerning content in Articles 4, 5 and 5a of this Act or of international law binding on Swiss broadcasters; or
- b. why the refusal to grant access is unlawful.⁹⁸

Art. 96 Consideration of the complaint and correspondence

¹ If there is a public interest in a decision, the Complaints Authority shall also consider complaints which have been submitted within the time limit but which do not meet all the formal requirements. In this case the party lodging the complaint does not have party rights.

² Unless the complaint is clearly inadmissible or without merit, the Complaints Authority invites the broadcaster to comment.

³ The Complaints Authority may refuse or suspend the consideration of a complaint if judicial remedies in civil or criminal law are pending or have not been used or if an administrative procedure is being conducted in the same matter.

Art. 97 Decision

¹ The deliberations of the Complaints Authority are public unless private interests worthy of protection demand otherwise.

² The Complaints Authority determines whether:

- a. the contested editorial publications have violated provisions concerning content laid down in Articles 4, 5 and 5a or relevant international law; or
- b. an unlawful refusal to grant access (Art. 91 para. 3 let. b) has occurred.⁹⁹

³ If it establishes that a violation has occurred, it may take or apply for the measures provided for in Article 89.

⁴ In the event of repeated serious violations of the obligations in Article 4 paragraphs 1 and 3 and Article 5 in the programme service or of the obligations in relation to

⁹⁸ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁹⁹ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

other journalistic services from SRG SSR (Art. 5a), the Complaints Authority may apply to DETEC for a programme ban (Art. 89 para. 2).¹⁰⁰

Art. 98 Costs

¹ Proceedings of the Complaints Authority are free of charge.

² The complainant may be charged the procedural costs for vexatious complaints. APA¹⁰¹ applies.

Chapter 3 Legal Remedies

Art. 99¹⁰²

¹ Legal remedies are based on the general provisions on the administration of federal justice.

² Rulings issued by the collection agency may be contested by filing an appeal with OFCOM.

³ Appeals against decisions of the Complaints Authority may be filed directly with the Federal Supreme Court.

Title 8 Administrative Fees

Art. 100

¹ The competent authority charges administrative fees, in particular for:

- a. granting, amending, and revoking licences;
- b. supervisory activity;
- c. making decisions;
- d. dealing with enquiries.

² The Federal Council determines the rates of fees. In so doing, it shall consider the administrative expense and may take account of the limited financial resources of the natural or legal person who is charged the fee.

³ The competent authority may require the party obliged to pay the fees to provide appropriate guarantees.

¹⁰⁰ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

¹⁰¹ SR 172.021

¹⁰² Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

Title 9 Criminal Provisions

Art. 101 Offences

¹ ...¹⁰³

² Any person who wilfully violates a legally enforceable decision of the competent supervisory authority or of the legal authorities is liable to a fine not exceeding CHF 100,000.

³ Any person who influences a licensing procedure or a procedure to amend a licence in his or her favour by providing false information is liable to a fine not exceeding CHF 100,000.

⁴ In minor cases a penalty may not be imposed.

Art. 102 Jurisdiction and procedures

¹ OFCOM has jurisdiction to prosecute and adjudicate on offences. The Federal Act of 22 March 1974¹⁰⁴ on Administrative Criminal Law applies.

² ...¹⁰⁵

Title 10 Final Provisions

Chapter 1

Implementation, Repeal and Amendment of existing Legislation

Art. 103 Implementation

The Federal Council shall implement this Act unless the duties hereunder are assigned to another authority. It shall enact the implementing provisions. It may delegate the task of issuing administrative and technical regulations to DETEC.

Art. 104 International agreements¹⁰⁶

¹ The Federal Council may conclude agreements of restricted scope under international law which fall within the scope of this Act.

² In the case of international agreements with technical or administrative content, it may delegate this power to DETEC or OFCOM.¹⁰⁷

¹⁰³ Repealed by No I of the Federal Act of 26 Sept. 2014, with effect from 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

¹⁰⁴ SR **313.0**

¹⁰⁵ Repealed by No I of the Federal Act of 26 Sept. 2014, with effect from 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

¹⁰⁶ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

¹⁰⁷ Amended by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS **2016** 2131; BBl **2013** 4975).

Art. 105 Repeal and amendment of existing legislation

The repeal and amendment of existing legislation is regulated in the Annex.

Art. 106 Coordination with the Amendment of 24 March 2006¹⁰⁸ of the Telecommunications Act of 30 April 1997 and with the Amendment of 24 March 2006 of the Federal Supreme Court Act of 17 June 2005

1. Irrespective of whether this Act (RTVA) or the amendment of 24 March 2006 to the Telecommunications Act of 30 April 1997¹⁰⁹ comes into force first, Article 56 paragraph 4 RTVA¹¹⁰ reads on the entry into force of the act which comes into force later or on simultaneous entry into force of both acts as follows:

...

2. and 3.¹¹¹

...

Chapter 2 Transitional Provisions

Art. 107 Radio and television licences

¹ Licences for radio and television programme services which have been awarded on the basis of the Federal Act of 21 June 1991¹¹² on Radio and Television (RTVA 1991) continue to be valid subject to paragraph 2 until their expiry unless broadcasters expressly declare that they do not wish to make use of them.

² Following the commencement this Act, the Federal Council may cancel the licences of SRG SSR, swissinfo/SRI, Teletext AG and of those broadcasters which broadcast their programme services in cooperation with the SRG SSR in accordance with Article 31 paragraph 3 RTVA 1991 at the end of any calendar year, subject to nine months' notice.

³ The Federal Council may extend the licences of SRG SSR and of swissinfo/SRI which have been granted on the basis of the RTVA 1991 by a maximum of five years from the commencement of this Act.

⁴ DETEC may extend other licences awarded on the basis of the RTVA 1991 by a maximum of five years from the commencement of this Act. A right of cancellation may be provided for in the extended licences.

¹⁰⁸ AS 2007 921

¹⁰⁹ SR 784.10

¹¹⁰ Text entered above.

¹¹¹ The amendments may be consulted under AS 2007 737.

¹¹² [AS 1992 601, 1993 3354, 1997 2187 Annex No 4, 2000 1891 No VIII 2, 2001 2790 Annex No 2, 2002 1904 Art. 36 No 2, 2004 297 No I 3 1633 No I 9 4929 Art. 21 No 3, 2006 1039 Art. 2]

⁵ If the licences of SRG SSR or of swissinfo/SRI continue to apply or if they are extended, Articles 22 and 25 paragraphs 5 and 6 apply, *mutatis mutandis*.

⁶ The provisions of Article 22 and Articles 44-50 regarding other licences with a performance mandate which continue to be valid or which have been extended apply *mutatis mutandis*.

Art. 108 Transmitter network plan

The Federal Council may extend the directives for transmitter network planning in terms of Article 8 paragraph 1 RTVA 1991¹¹³ by a maximum of five years from the commencement of this Act or amend them after consultation with the Communications Commission.

Art. 109 Contributions from radio and television fees

¹ Broadcasters of radio and television programme services which at the time of the commencement of this Act receive a proportion of radio and television fees in accordance with Article 17 paragraph 2 RTVA 1991¹¹⁴ may continue to claim a share of the fees until the expiry of their licence in accordance with Article 107. The entitlement to a proportion of the fees and the calculation of the proportion are based on Article 17 paragraph 2 of the RTVA 1991 and on Article 10 of the Ordinance of 6 October 1997¹¹⁵ on Radio and Television.

² Within the framework of the conditions in paragraph 1, OFCOM may arrange a share of fees for broadcasters which have a licence in accordance with RTVA 1991 and which have commenced transmission operations after the commencement of this Act.

³ The Federal Council takes the financial requirement into account when setting the radio and television fee (Art. 70).

⁴ The transitional arrangements in paragraph 1 end at the time when the fee-sharing licences in accordance with Articles 38–42 are awarded, but at the latest five years after the commencement of this Act.

Art. 109a¹¹⁶ Surpluses from the share of fees

¹ Surpluses from the share of fees for broadcasters of local or regional programme services (Art. 38) that exist when this provision comes into force shall be used for the benefit of fee-sharing broadcasters as follows:

¹¹³ [AS 1992 601, 1993 3354, 1997 2187 Annex No 4, 2000 1891 No VIII 2, 2001 2790 Annex No 2, 2002 1904 Art. 36 No 2, 2004 297 No I 3 1633 No I 9 4929 Art. 21 No 3, 2006 1039 Art. 2]

¹¹⁴ [AS 1992 601, 1993 3354, 1997 2187 Annex No 4, 2000 1891 No VIII 2, 2001 2790 Annex No 2, 2002 1904 Art. 36 No 2, 2004 297 No I 3 1633 No I 9 4929 Art. 21 No 3, 2006 1039 Art. 2]

¹¹⁵ [AS 1997 2903, 2004 4531, 2006 4395]

¹¹⁶ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

- a. one quarter for the basic and continuing education and training of their employees;
- b. three quarters for promoting new broadcasting technologies in terms of Article 58 and digital television production techniques.

² Up to 10 per cent of the surpluses may be used to provide general information to the public in accordance with Article 58 paragraph 2.

³ The Federal Council shall determine the extent of the amount to be used to fund the tasks in accordance with paragraphs 1 and 2. In doing so, it shall take account of the portion to be retained as the liquidity reserve.

⁴ OFCOM shall grant individual contributions in accordance with paragraph 1 on application. The Federal Council shall regulate the conditions and calculation criteria by which OFCOM pays the contributions.

Art. 109b¹¹⁷ Introduction of the radio and television fee

¹ The Federal Council shall determine the date from which the new radio and television fee will be charged.

² Until that date, the reception fee for private and commercial reception will be charged in accordance with the previous law (Art. 68–70 and Art. 101 para. 1 of the Federal Act of 24 March 2006¹¹⁸ on Radio and Television).

³ The use of the revenue from the reception fee is governed by the provisions of the new law on the radio and television fee.

⁴ The Federal Council shall regulate the transition to the new fee system. It may in particular provide that funds available from the reception fee are transferred to the new system, and decide which authorities continue ongoing first instance proceedings.

⁵ It may decide on an assessment period for the first period of the corporate fee that differs from that in Article 70 paragraph 1.

Art. 109c¹¹⁹ Private households with no means of reception

¹ Members of a private household in which no device suitable for receiving radio or television programme services is available or in operation shall be exempted from the paying the fee for one fee period.

² The Federal Council shall regulate which categories of device are deemed suitable for receiving programme services.

³ OFCOM may enter the rooms or premises of a household exempted under paragraph 1 in order to verify whether the requirements for the exemption are being met.

¹¹⁷ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

¹¹⁸ AS 2007 737

¹¹⁹ Inserted by No I of the Federal Act of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBl 2013 4975).

⁴ Any person exempted from the fee in terms of paragraph 1 who obtains or begins to operate a device suitable for receiving programme services in the household before expiry of the fee period must notify the collection agency of this in advance.

⁵ Any person who belongs to a household exempted from the fee in terms of paragraph 1 in which a device suitable for receiving programme services in the household is available or in operation without notice thereof being given to the collection agency in advance in accordance with paragraph 4 shall be liable to a fine not exceeding 5000 francs.

⁶ The collection agency shall provide OFCOM with online access to the personal data required for prosecuting persons in accordance with paragraph 5. The Federal Council may issue provisions on the extent of this data, access to the data, authorisation for processing, retention and data security.

⁷ Exemptions from the fee expire five years from the date from which the fee is charged in accordance Article 109*b* paragraph 1.

Art. 110 Licences for retransmission by wire

¹ Existing licences for the retransmission by wire of radio and television programme services in accordance with Article 39 RTVA 1991¹²⁰ (wire licences) retain their validity until their owner obtains a telecommunications services licence in accordance with Articles 4 ff. TCA¹²¹, but at the latest up to two years after the commencement of this Act.

² Wire licences continue to be subject to:

- a. Article 42 paragraphs 2–4 RTVA 1991;
- b. Article 47 paragraph 1 RTVA 1991 concerning the transmission of programme services of other broadcasters whose licence has been extended in accordance with Article 107 of this Act.

³ The obligations of a wire licensee in accordance with paragraph 2 end as soon as transmission by wire of the programme services covered therein (in accordance with Articles 59 and 60) in their area of operation is clarified with legal force, but at the latest after five years.

Art. 111 Relay licences

Existing licences for the wireless retransmission of radio and television programme services in accordance with Article 43 RTVA 1991¹²² (relay licences) retain their validity until their owner obtains a radio and telecommunications services licence in

¹²⁰ [AS 1992 601, 1993 3354, 1997 2187 Annex No 4, 2000 1891 No VIII 2, 2001 2790 Annex No 2, 2002 1904 Art. 36 No 2, 2004 297 No I 3 1633 No I 9 4929 Art. 21 No 3, 2006 1039 Art. 2]

¹²¹ SR 784.10

¹²² [AS 1992 601, 1993 3354, 1997 2187 Annex No 4, 2000 1891 No VIII 2, 2001 2790 Annex No 2, 2002 1904 Art. 36 No 2, 2004 297 No I 3 1633 No I 9 4929 Art. 21 No 3, 2006 1039 Art. 2]

accordance with Articles 4 ff. or Articles 22 ff. TCA¹²³ respectively, but at the latest two years after the commencement of the act.

Art. 112 Organisational structure of the SRG SSR

The SRG SSR shall implement the organisational structure (Art. 31–33) at the time of renewal of its licence.

Art. 113 Pending supervisory procedures

¹ Procedures in accordance with Articles 56 ff. and 70 ff. of the RTVA 1991¹²⁴ pending at the time of commencement of this Act shall be assessed by the competent authority in accordance with the new act. The new procedural law shall be applied.

² If a case relating to supervisory law has arisen before the commencement of this Act and if a procedure is pending, RTVA 1991 is applicable. If a case continues after the commencement of this Act and if a procedure is pending, the violations which occurred before the commencement of this Act shall be assessed on the basis of RTVA 1991. Application of Article 2 paragraph 2 of the Criminal Code¹²⁵ is reserved.

Art. 114 Referendum and commencement

¹ This Act is subject to an optional referendum.

² The Federal Council shall determine the commencement date.

Commencement date: 1 April 2007¹²⁶

¹²³ SR 784.10

¹²⁴ [AS 1992 601, 1993 3354, 1997 2187 Annex No 4, 2000 1891 No VIII 2, 2001 2790 Annex No 2, 2002 1904 Art. 36 No 2, 2004 297 No I 3 1633 No I 9 4929 Art. 21 No 3, 2006 1039 Art. 2]

¹²⁵ SR 311.0

¹²⁶ BRB of 9 March 2007

Annex
(Art. 105)

Repeal and Amendment of Existing Legislation

I

The Federal Act of 21 June 1991¹²⁷ on Radio and Television (RTVA) is repealed.

II

The following federal acts are amended as follows:

...¹²⁸

¹²⁷ [AS 1992 601, 1993 3354, 1997 2187 Annex No 4, 2000 1891 No VIII 2, 2001 2790 Annex No 2, 2002 1904 Art. 36 No 2, 2004 297 No I 3 1633 No I 9 4929 Art. 21 No 3, 2006 1039 Art. 2]

¹²⁸ The amendments may be consulted under AS 2007 737.

