
Law No. 02/L-15

ON THE INDEPENDENT MEDIA COMMISSION AND BROADCASTING

Assembly of Kosovo,

Pursuant to Regulation no. 2001/9 of 15 May 2001 on the Constitutional Framework for Provisional Institutions of Self-Government in Kosovo, in particular Chapters 5.4, 5.7, 9.1.26 (a), 9.3.2; and 11.1 (e)

Hereby adopts the following:

LAW ON THE INDEPENDENT MEDIA COMMISSION AND BROADCASTING

**CHAPTER I
DEFINITIONS**

Article 1

For the purpose of the present Law, the following definitions shall apply:

“Broadcasting” shall mean the original dissemination of broadcast programs diffusive net connection through terrestrial transmitters, cable, satellite any other broadcasting means, with code or no code designated to for public consumption and reception through radio and TV or any other particular electronic equipment for dissemination, with no inclusion of individual communications.

“Broadcaster” shall mean the natural or legal person who has editorial responsibility for the composition of television or radio programme services for reception by the general public and transmits them or has them transmitted, complete and unchanged, by a third party.

“Broadcasting Frequency Plan” shall mean the schedule of radio and television broadcast frequencies assigned by the competent governmental authority for post and telecommunications to the Office of the Temporary Media Commissioner and developed by the Office of the Temporary Media Commissioner.

“Broadcast Frequency Spectrum” shall mean those frequencies that are available for Assignment to radio and television broadcasters for their use, in compliance with standards of International Union of Telecommunication. It does not include other frequencies, such as those used by:

The Law on the Independent Media Commission and Broadcasting was approved by the Assembly on 21 April 2005 and promulgated by the SRSG with amendments on 8 July 2005. This version of the Law, prepared by the Independent Media Commission, incorporates the SRSG's promulgation amendments into the text approved by the Assembly. This text is therefore the operative version of the Law.

- a. Telecommunication common carriers, for example, for data, audio and video material such as telephones and pagers, or
- b. Broadcasting not intended for the general public, such as police, military and emergency channels.

“Advertising” means any form of public announcement broadcast whether in return for payment or for similar compensation with self-promotional purposes, designated for promotion of sale, purchasing or renting any of products or service: to move forward any of ideas and issues: or to cause some intended effects by advertiser or the broadcaster itself.

“Sponsorship” means any contribution by a legal or natural person not being engaged to the broadcasting activities or to the production of audio-visual works, to the direct or indirect financing of any program, but intending the promotion of name, trade mark, image or other activities of the person.

“Teleshopping” means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment.

“Communities” shall mean any resident or group of residents of Kosovo belonging to the same ethnic, religious or linguistic group.

“Private broadcaster” shall mean a broadcaster any of licensed broadcaster weather an individual, NGO or Commercial Business.

“Public broadcaster” shall mean any Radio and Television broadcaster in Kosovo, established particularly by the Law for operating as broadcaster of public consumption, including the public broadcaster established by UNMIK Regulation 2001/13.

“Resident of Kosovo” shall mean a person registered in the Central Civil Registry as a permanent resident of Kosovo, pursuant to UNMIK Regulation No. 2000/13 of 17 March 2000 on the Central Civil Registry.

CHAPTER II ESTABLISHMENT OF THE INDEPENDENT MEDIA COMMISSION

PART A: THE INDEPENDENT MEDIA COMMISSION

General Powers Article 2

2.1. Pursuant to this Law, the Independent Media Commission (hereinafter “the IMC”) is herewith established.

2.2. The IMC is a body the is independent of any political influence, of whatever type it May be, in order to take over its responsibilities and functions determined by this Law or Other applicable laws in Kosovo in compliance with Article 11.1(e) of the Constitutional Framework.

2.3. The IMC shall be composed of three separate bodies:

- a. the Council
- b. the Office of the Executive Chief and
- c. Media Appeals Board

2.4. The IMC shall regulate the Broadcasting Frequencies Spectrum in Kosovo as well as Licensing of public and private broadcaster to use them according to best European Practices, including but not limited to the implementation of a broadcasting policy to be Established by the Council (hereinafter the “Broadcasting Policy”).

2.5. The IMC, shall also issue such rules and regulations that are needed to carry out the Functions described under Article 2 of this Law.

2.6. The Commission is the only authority in the territory of Kosovo responsible for managing, regulating, and assigning resources of the Broadcast Frequency Spectrum, issuance of licenses and collection of duties for usage of broadcasting frequencies. The authorities and competencies of the Telecommunications Regulatory Agency (“TRA”) shall not encompass Broadcasting or Broadcasters as defined in Article 1 of the present Law. The Office of the Chief Executive (referred to as the “Executive Chief” throughout the Law) shall coordinate the management of the Broadcast Frequency Spectrum with the TRA.

PART B: THE COUNCIL

Functions of the Council Article 3

3.1. The Council shall, in consultation with the Office of the Executive Chief and other interested parties, pursuant to this Law, establish and amend the Broadcasting Policy, as required.

3.2. The Broadcasting Policy shall be in accordance with recognized international broadcasting and human rights standards, having full respect for democracy and the rule of law and the protection of the freedom of expression. In addition, the Broadcasting Policy shall be in full compliance with the respective legislation of Kosovo.

3.3. The Broadcasting Policy established by the Council shall promote the local production, promotes diverse range of quality broadcasting services including widest possible geographic distribution, in the best possible way which will serve all Communities in Kosovo, encourage quality educational programming, promote the financial viability and technical quality of broadcasting in Kosovo, promote the use of new technology and respond to the public rights, and promote accurate and informative programming. It therefore shall promote locally produced programming, educational programming, especially youth programming. The programming reflects requirements for equality between citizens and communities. It shall also, through its broadcasting policy, enable application of provisions that will prevent the monopoly of broadcasting in Kosovo, in order to promote a fair broadcasting competition.

3.4. The Council, following consultation with the Office of the Executive Chief, shall review the annual budget proposal of the IMC and submit it, through the competent governmental authority for fiscal matters, to the Ministry of Finance and Economy for final approval. The Budget shall offer funds for honoraria, reasonable expenses, appropriate support and administrative expenses, reasonable capital expenditures, provide staffing, program expenses, capacities and current expenses and relevant expenses required by three IMC bodies, which must be in compliance with normal procedures of the government authority for fiscal matters.

3.5. After approval of the budget for the IMC Council, Office of the Executive Chief and Media Appeals Board for the current year, no later restrictions can be made in the funds made available to them.

3.6. The Council shall review the annual Budget proposal of the Media Appeals Board, prepared in compliance with Article 26, and submit it for approval to the competent government authority for fiscal matters.

3.7. In consultation with the Office of the Executive Chief, the Council shall annually review the Broadcasting Frequency Plan (hereinafter “the Plan”) and make necessary changes. The Council should inform the government authority competent for post and telecommunication for any change in the Plan.

3.8. Following consultations with the Executive Chief Office, the Council shall prepare and present an annual report to the Assembly of Kosovo, within two months after the end of every calendar year, including full data related to the determination and implementation of broadcasting policy, issuance of licenses, and complaints, implemented sanctions and decisions made in relation to them, financial activities, other activities of broadcasting and projected objectives for the next year. The annual report shall be made public.

3.9. The Council shall appoint the Executive Chief in accordance with Article 8 of the present Law.

3.10. All meetings of the Council shall be made open to the public, and all decisions of the Council must be in writing and released to the public within two business days after the meetings are held.

3.11. The Council shall have the exclusive authority, by simple majority vote, to approve conditions for licenses and decide on license applications (including license renewals), granting the right to use frequencies of the Broadcast Frequency Spectrum. In addition, the Council may issue sanctions based on recommendations of the Executive Chief.

3.12. The Council directs the Commission with respect to strategic matters that concern the application of this law. The Council shall issues acts, instructions, policies and duties that are necessary for the effective application of this law. Based on the advice and recommendations of the Office of the Executive Chief, the Council shall issue licenses and their renewal, granting to the authorized entities the right of frequency usage in the Broadcast Frequency Spectrum, as well as having the power to pronounce sanctions for violation of commission regulations or violation of license provisions.

3.13. The Council, pursuant to recommendations of the Executive Chief, shall issue a Code of Ethics applicable to the Council and the Commission Staff.

3.14. Every time the Council plans to issue a specific act, respectively a regulation which regulates certain relations, it has the duty to make such acts available to a wide number of entities. The public and interested parties shall be given no less than 14 days to provide comments on the draft act. The Staff of the Commission has the duty to take into consideration the opinions of the public on the proposed acts.

3.15. The Council, pursuant to the recommendation of the Executive Chief, shall adopt a strategy that grants the opportunity for public access to the licenses and regulations issued by the Commission, public decisions that result from such regulations and all the existing actions undertaken by the Council. In addition, the Commission shall grant the opportunity for public access to the collection of documentation, minutes regarding cases and decisions of the Media Appeals Board. Public access to such documentation of the Commission shall be based on the best European practices which refer to the area regulated by information laws.

Composition of the Council

Article 4

4.1. The Council shall be composed of seven (7) members of whom two (2) shall be international members whilst five (5) shall be resident members of Kosovo. The composition of the members of the Council who are residents of Kosovo shall reflect the principle of multi-ethnicity. After the status of Kosovo will be solved out the number of Council members remain the same of (7) with the final two being resident members appointed pursuant to the procedures described in Article 4.4 of this Law.

4.2. International members of the Council shall be appointed by the Special Representative of the Secretary General (SRSG).

- a. In case when the term of an international member of the Council terminates before the expiration of his or her term of appointment, or when the member has died or resigned, the SRSG shall, within sixty (60) days period, appoint a new member. The appointment shall be valid until the former member's term of office expires.

4.3. One (1) resident member of the Council shall be nominated and appointed by the Assembly of Kosovo.

- a. The procedures adopted by the Assembly of Kosovo for the appointment of the resident member shall be open and transparent.
- b. The appointment shall be ratified before the expiration of the current member's term of office. (For the initial member, appointment shall be ratified within sixty (60) days of the adoption of the present Law.
- c. The resident member of the Council shall be approved by the Assembly with a majority vote over than 50% percent or Assembly members present.
- d. Should the term of the resident member of the Council, appointed by the Assembly, terminate before the expiration of his or her term appointment, or should the member die or resign, the Assembly of Kosovo shall, within sixty (60) days time appoint a

new member. The appointment shall be for the period until the former member's term of office expires.

- e. Written consent of the member concerning his or her acceptance for the nomination shall be attached to the nomination certificate, as well as his or her statement confirming that there are no obstacles for his or her appointment, referred to in Article 4.7 of the present Law.

4.4. Four resident members of the Council shall be nominated and appointed as follows:

- a. Resident member of the Council (hereinafter "Civil Society Council members") shall be nominated by individuals and organizations with legal residence in Kosovo including but not limited to the registered journalist associations, broadcasting associations, and comprising non-governmental organizations involved with the media, protection of freedom of speech and human rights, as well as representatives from academic circles and from the legal community which will respect gender requirement and representation of ethnic communities in Kosovo.
- b. The Executive Chief of the IMC shall initiate the nomination procedure for the Civil Society Council members, by issuing a public invitation not later than 3 (three) months before the expiration of the term of office of the Civil Society Council Member. (As an exception to this, for initial terms of Civil Society Council members, under the present law, the Temporary Media Commissioner shall initiate the nomination procedure within two weeks upon promulgation of this law.
- c. Public Invitation shall be widely announced to Kosovo printing and broadcasting media in the official languages in Kosovo to which are specified the required qualifications for the Council Member in compliance with the Law.
- d. The Executive Chief of the IMC – within 30 days from submission of invitation for proposals commences the Public meeting to announce the list of nominees.
- e. Chief Executive of IMC – within 15 days from Public Meeting shall submit to an Ad Hoc Committee set up by the President of the Assembly, a list of more qualified nominees in conformity with qualifications required to the invitation for nominations. The list shall be composed of double candidates for vacancies to the Council. Ad hoc Committee of the Assembly shall be composed of one representative from each party represented to the Assembly. The committee shall debate non publicly to elect through consensus four members of Council from the Civil Society. Electing of members shall reflect gender equality, representation of Communities in Kosovo as well as the capacity and honesty required by Broadcasting Regulator.
- f. Ad Hoc Committee recommends to the Assembly of Kosovo the list for nomination of members to Council from Civil Society, not later then (10) days of their evaluation by Committee.
- g. The Assembly of Kosovo is obliged to ratify in a pro forma act the appointment of Civil Society Council members within thirty (30) days after nominations have been formally submitted.

- h. Written consent of the Civil Society Council member concerning acceptance of nomination shall be attached to the nomination, as well as his or her statement confirming that there are no obstacles for his or her appointment, referred to in Article 4.7 of the present law.
- i. In case the term terminates before the expiration of the appointment period of the Civil Society Council member, or when a Civil Society Council member has died or resigned, the procedures specified in (b) – (h) above shall be followed, with the exception that the public invitation shall be issued within thirty (30) days of the vacancy. The appointment shall be ratified for the period until the expiration of the former member's term of office.

4.5. Should the term of any member of the Council be terminated, or should a member die or resign, the Council may adopt valid decisions even before the ratification of a new member's appointment. However, if the number of the members is less than 50% of the Council members, the Council shall not have power to make decisions until there is at least over 50% of the members for ratification.

4.6. Persons selected for the appointment as members of the Council shall possess relevant knowledge and experience that will enable them to make a significant contribution to the function of the Council.

4.7. No person may be a member of the Council if he or she:

- a. Is permanently employed in the civil service of Kosovo;
- b. Holds an elected public office;
- c. Is a member of the an executive body of a political party;
- d. Has direct or indirect financial interest or represents this interest or works in any of the telecommunications or broadcasting industries;
- e. Has been convicted, after due process in accordance with internationally accepted standards of a crime involving violence or dishonesty, for which he or she has not been officially and lawfully pardoned; or
- f. Is engaged in activities that could be perceived as being in conflict with the functions of the Council.

4.8. The appointment of authorities to the Council should reflect the civil and multiethnic society in Kosovo, and both genders should be represented.

Duration of Council Appointments
Article 5

5.1. Terms of appointment for international Council members shall be as follows:

- a. The initial term of appointment for one international member shall be eighteen (18) months;
- b. The initial term of appointment for another international member shall be twelve (12) months;

5.2. The terms of five (5) resident members shall be as follows;

- a. All resident members of the Council shall be appointed for a term of two (2) years;
- b. As an exception to Article 4.2 (a) of this Law, the initial term of two (2) Civil Society Council members shall be one (1) year for each of them, and shall be elected through a lottery drawn by the Temporary Media Commissioner in a Public Meeting.
- c. Each appointment made after the initial appointments shall be for two-year terms.

Removal from Council and Conduct of Members
Article 6

6.1. The Assembly of Kosovo may remove a member from the Council where it considers that any of the grounds for removal set out in Articles 6.2, 6.3 and 6.4 applies to the member. A 60 percent majority vote of the Assembly is needed for the removal of a Council member.

6.2. The Council members shall be consistent to the applicable Law in Kosovo and best European practices, and are not allowed to seek and accept instructions in the course of performance of their duties from any other authority, except from the Council.

6.3. The Council members shall not abuse their position for personal gain, or for the benefit of any other party or entity other than the IMC. Council members shall not accept any form of compensation from sources other than the IMC budget for performance of their duties on the Council.

6.4. A council member shall be removed from the Council if he or she:

- a. fails to fulfill his requirements under Article 4.7 , 6.2 and 6.3 of the present Law;
- b. proves in continuity to fail in performance of duties as member of Council;
- c. uses his or her appointment for personal benefit, or for the benefit of any other party or entity other than the IMC.

Procedures of the Council
Article 7

7.1. The oldest Council member shall convene the first Council meeting within thirty (30) days following the appointment approvals made by the Assembly of Kosovo.

7.2. The Council shall, by the majority votes, elect its Chairperson and Vice-Chairperson from among the members of the Council.

7.3. The terms of appointment for the Chairperson and Vice-Chairperson shall be one (1) year, and anyone of them may be re-elected by the majority of the votes of the Council.

7.4. The Chairperson shall convene meetings of the Council at least once in three (3) months. At the discretion of the Chairperson or at the request of more than 50% of the members, the Chairperson shall convene meetings required by the Council to perform its functions.

7.5. A quorum for meetings of the Council and taking of decisions shall be reached with more than 50% of the Council members.

7.6. The Executive Chief shall attend meetings of the Council as a non-voting member.

7.7. No longer than three (3) months following its constitution, the Council shall, in one of its first sessions, determine, in an open and transparent manner, its own rules of procedure, required to perform its functions.

PART C: THE OFFICE OF THE EXECUTIVE CHIEF

Functions of the Office of the Executive Chief
Article 8

8.1. Under the direction of the Executive Chief, the Office of the Executive Chief shall administer all broadcasting policy aspects determined by the Council, within the framework of a budget established in accordance with the present Law.

8.2. The Office of the Executive Chief may make recommendations to the Council regarding policy matters, and matters relating to budget and administration.

8.3. The Office of the Executive Chief shall prepare the annual budget proposal of the IMC which will be submitted it to the IMC Council for its approval. The budget shall provide necessary means for administrative expenditures, expenses for personnel, capital expenses, programming expenses according to budget procedures determined by competent governmental fiscal authority. Financial administration of the IMC shall be subject to audit procedures established by the competent governmental fiscal authority.

8.4. The Office of the Executive Chief within the framework of the present Law and the policies established by the Council, shall determine process of evaluation for broadcast license applications, recommends specific technical and non-technical conditions in connection with the issuance of licenses as set forth in the present Law and recommends sanctions through any mechanism available according to applicable law. Licenses issued by

the Temporary Media Commissioner prior to the entry into force of the present Law shall remain valid until will expire or be replaced by a IMC license in compliance with herein Law.

8.5. The office of the Executive Chief shall recommend to the Council a plan for allocating broadcast frequencies, taking into account community needs and market capacity. The Office of the Executive Chief shall recommend to the Council, for its approval, criteria for allocation of broadcast frequencies, in accordance with Chapter III of the present Law.

8.6. The office of the Executive Chief conducts the annual duties performance of Public Broadcaster in order to prove that Public Broadcaster fulfils its own obligations. All documents pertaining to Public Broadcaster functions including the budget and any of duties performance review – shall be made public. The IMC Council through the Executive Chief may request a management and/or financial audit of Public Broadcaster when it deems to be reasonable and factually grounded. Office of the Executive Chief performs the same annual review for each of Private Broadcaster which takes public funds. Responsibilities and actions in neither way shall not impact the independence of Broadcaster.

The Executive Chief Article 9

9.1. The Executive Chief shall be responsible for all managerial aspects of the Executive Chief's Office in accordance with policies established by the Council and within the framework of the budget established by this Law. The Executive Chief shall manage the day-to-day operations of the Executive Chief's Office and shall be responsible for the financial management of the IMC.

9.2. The Council shall appoint the Executive Chief following an announcement and an open and competitive process, in which at least, two of three of the Council members agree on his/her selection. The term of appointment shall be three (3) years. Any appointment may be renewed with the concurrence and decision made by at least, two of three of the Council members.

9.3. No person may become or remain Executive Chief if he or she:

- a. Is permanently employed in the civil service of Kosovo;
- b. Holds or seeks an elected public office;
- c. Is a member of the executive body of a political party;
- d. Has direct or indirect financial interest in telecommunications or broadcasting industries;
- e. Has been convicted, after a due proceedings in accordance with internationally accepted standards, for a crime involving violence or dishonesty, for which he or she has not been officially and lawfully pardoned; or
- f. Is engaged in activities that are considered to be in conflict with the functions of the Council.

9.4. The Council may remove the Executive Chief from the Office, with the concurrence of at least, two of three of the Council members' votes, when:

- a. The Executive Chief loses his legal capacity to continue holding his or her office pursuant to Article 8.3;
- b. The Council ascertains that the Executive Chief proves in continuity to fail in performance of his/her duties according to herein Law.

9.5. In Case the Executive Chief dies, resigns or is removed from office, the Council shall appoint a staff member from the Office of the Executive Chief to perform provisionally this position until the Council elects a new Executive Chief.

Staff of the Office of the Executive Chief Article 10

10.1. The Executive Chief shall, within the budget of the IMC, appoint staff as required to fulfill the responsibilities of the Office of the Executive Chief.

10.2. The Executive Chief and his staff shall neither seek nor accept instruction from any other authority in the performance of their duties other than the IMC, except from the Media Council and the Media Appeals Board, unless set out otherwise by the Law.

10.3. The Executive Chief and staff shall not use their appointments for personal benefit, or for the benefit of any other party or entity other than the IMC.

10.4. The Executive Chief and the Staff of the Commission shall be members of civil service. This shall be without prejudice to the independent exercise of their functions as staff of the IMC. The Commission employs its officials according to the need to carry out its duties effectively according to this law. The staff selection shall be based on merit and professional ability and this process shall be carried out in an open, competitive and non-discriminatory fashion. The work practices of the staff shall be in accordance with those of the civil service and the level of payment shall be harmonized to the greatest extent possible with the civil service.

CHAPTER III LICENSING OF BROADCASTERS

PART A: BROADCASTING LICENCE APPLICATIONS AND RENEWALS

Broadcasting Licenses Article 11

11.1. A broadcasting license shall be required for exercising broadcasting in Kosovo according to the provisions of this Law, which is issued by the Commission.

11.2. Broadcasting licenses and license renewals, including the digital and cabling transmission, shall be for a term of seven years for the radio and ten years for the television.

11.3. Broadcasting licenses issued by the Temporary media Commissioner remain valid until the IMC shall have adopted an open and fair procedure of issuing a long term license as defined by this law. Upon approval by the Council of the long term licensing process, all existing licenses and all the newly qualified candidates shall be considered for long term licenses by the Commission within six months from the date of approval of the licensing process.

11.4. Licenses shall not be transferable without prior authorization and written approval of the IMC.

11.5. Licensed Broadcasters shall act in accordance with the best European practices Complying the broadcasting policies and conditions determined by IMC.

Applications for Broadcast Licenses Article 12

12.1. Applications for broadcasting licenses shall be made to the IMC through the Office of the Executive Chief, in accordance with the present Law procedures to be established and published by the Council. With regard to license applications and procedures related to them, there shall be provided the necessary information to the IMC, in order to determine compliance of an applicant with the requirements set forth in this Law.

12.2. A broadcasting license may only be issued to an individual or entity which fulfils the requirements stated by this Law and criterion which could be determined by IMC according to a fair and open procedure of competition.

12.3. A broadcasting license shall not be issued or shall not continue to be granted to:

- a. A political party, a group or organization be managed by an individual who holds an elected post or is member of an executive body of a political party;
- b. An individual, or entity be managed by an individual, who has been convicted due process in accordance with international standards, for a crime involving violence or dishonesty, for which he or she has not been lawfully pardoned.

12.4. The Office of the Executive Chief, when making recommendations for licenses to the Council, shall take the following factors into account in assessing applications submitted for broadcasting licenses:

- a. The nature and extent of the applicant's financial resources;
- b. The financial viability of the applicant's proposal;
- c. The technical capacity of the applicant to deliver a quality transmission;
- d. The need to provide varied programming for all the citizens in Kosovo;
- e. The degree to which the offered program contributes to the development of its own program production;
- f. Other competing applications; and
- g. Any other accepted applications.

12.5. The Office of the Executive Chief shall maintain a register of broadcasting licenses, including applicable conditions for each license. The register shall be available for public inspection.

Issuance of Broadcasting Licenses Article 13

13.1. When the Council proposes issuance of further broadcasting licenses, it shall widely publish a notice to this effect through the Office of the Executive Chief. The notice shall include all relevant information about proposed broadcasting licenses, the process for submitting applications, information required from applicants, the methodology and criteria for assessing broadcasting license applications, or any other applicable application fee.

13.2. IMC through licensing shall allocate necessary frequencies for Public Broadcaster making possible to offer radio television frequencies covering to a maximal possible level for population of Kosovo.

13.3. The Council shall, within one hundred and twenty (120) days following the closing date for applications, decide on a competitive basis whether to issue a broadcasting license to an applicant or not, according to the rules set in Article 11 and 12. The Council may, upon the proposal of the Office of the Executive Chief, in exceptional circumstances, extend the one hundred twenty (120) day limit. When the closing date is extended, the Office of the Executive Chief shall inform all applicants and the public of the extension and the reasons for it.

13.4. The Office of the Executive Chief shall provide applicants and other interested parties with an effective opportunity to make their representations before the Council.

Licensing Process shall be Fair and Transparent Article 14

14.1. The process for assessing broadcasting license applications and license renewals shall be fair and transparent.

14.2. IMC decisions shall provide written reasons to all applicants whose applications for a broadcasting license or renewal are refused and they shall be submitted to applicants through Office of the Executive Chief.

License Renewals Article 15

15.1. Except where the Council considers, upon the recommendation of the Executive Chief, that a license should not be renewed due to a breach of material provisions by a private broadcaster with respect to its license conditions, the broadcaster shall be entitled to request that the license be renewed by the Office of the Chief Executive, no later than twelve (12) months prior to the expiration date of the existing license.

15.2. When a license is renewed, the Council may, upon recommendation of the Office of the Executive Chief, make amendments to the conditions of license, subject to an affirmative vote of more than half of the members of the Council.

Annual License Fees Article 16

16.1. Upon recommendation of the Executive Chief, the Council shall establish a license fee schedule for various classes of broadcasting licenses that shall be payable annually by the licensees. In establishing the schedule, the Office of the Executive Chief shall consider prevailing and projected market conditions. The license fee shall be the same within each class of license. The fee schedule shall be submitted for approval to the Council.

16.2. The Office of the Executive Chief shall review and may amend the schedule of license fees every two (2) years.

16.3. Annual license fees shall be collected by the Office of the Executive Chief. The monies collected shall be deposited in their entirety to an IMC account designated by the competent governmental authority for fiscal matters. The Office of the Executive Chief shall be responsible for maintaining the records of all license fee payments. This process shall be subject to normal auditing procedures as established by the competent governmental authority for fiscal matters.

Advertisement Article 17

17.1. One of the functions of the IMC is the oversight of a transition process, during which the public broadcaster is financed from its broadcasting fees. During the transition, reliance on Kosovo Consolidated Budget (KCB) funds and on advertising shall be reduced with the increase of the collections from prior fee of Public Broadcaster, with the objective of eliminating KCB as a revenue source, and minimizing or eventually eliminating, if practicable, advertising, including sponsorships and teleshopping, as a revenue source. The IMC manages transition in such a manner as to not jeopardize the ability of public or private broadcasters to function as a viable entities. It shall also manage use of advertising per the following clauses.

17.2. IMC shall establish an advertising ethic code for broadcasters in accordance with best European practices.

17.3. The IMC shall be responsible for ensuring that the public broadcaster does not charge for advertising at rates lower than the prevailing market rates for similar advertising sold by private broadcasters. The IMC shall adopt such other regulations as may be required to prevent unfair or monopolistic business practices by any broadcaster.

17.4. In setting out a policy for the public broadcaster's access to advertising, including sponsorships, the Council shall establish limits in such a way that does not undermine the ability of either the public or private broadcasters to operate viably. Limitations on advertising shall include the number of minutes per day, number of minutes per hour, number

of minutes during prime time broadcasting, and other limitations as the Council shall deem appropriate.

Reporting Requirements Article 18

18.1. Broadcaster shall present annual report to IMC which shall include information concerning programming and action in compliance with license conditions, shall present a detailed financial report and such other information as for set to the Law. Annual reports shall be submitted no later then 90 days following the end of the year and are reported through Office of the Executive Chief to IMC.

18.2. The Office of the Executive Chief may request further information if it deems that the information provided in the annual reports is incomplete.

18.3. Unless otherwise provided by the law, the IMC shall not disclose to any person commercially sensitive information that is provided in a broadcaster's annual report.

PART B: BREACH OF LICENCE CONDITIONS AND SANCTIONS

Breach of Conditions of License Article 19

19.1. The Office of the Executive Chief shall monitor broadcasters and may initiate and receive complaints with regard to a broadcaster's failure to comply with its conditions of license, code of conduct and other legal acts in accordance to herein Law.

19.2. The Office of the Executive Chief shall investigate complaints for alleged breaches of license conditions, code of conduct and other legal acts in accordance to herein Law, unless a complaint is considered to be manifestly ill founded or frivolous.

19.3. The Office of the Executive Chief shall provide a broadcaster with written notice on any allegation for the breach of license conditions, code of conduct and other legal acts in accordance to herein Law and shall ensure that the broadcaster has a reasonable opportunity to make representations and produce evidence.

19.4. Upon completion of an investigation, the Office of the Executive Chief shall inform the Council of its findings and makes recommendations. The Council shall render a decision in writing, along with indications of any sanctions to be imposed. Against the imposed sanctions the broadcaster shall have the right to seek reconsideration from the Media Appeals Board.

Sanctions Article 20

20.1. The Council may, upon recommendation of the Office of the Executive Chief, issue a written warning or impose one or more of the following sanctions on a broadcaster for the

breach of license conditions, code of conduct and other legal acts in accordance to herein Law:

- a. Order the broadcaster to publicly broadcast details of the nature and extent of the breach of conditions of license, code of conduct and other legal acts in accordance to;
- b. Require the broadcaster to broadcast a correction or apology;
- c. Impose a fine of not less than 500 Euro and not more than 50.000 Euros;
- d. Require suspension of a part or all of the broadcaster's program schedules for a specified period of time;
- e. Change broadcaster's license conditions;
- f. Terminate or refuse the continuing of broadcast license.

20.2. A decision of the Council to impose one or more of the sanctions in the Articles above shall become effective, when:

- a. no admissible appeal was filed against a decision of the Council within period of time permitted for appeals in the Media Appeals Board, according to Articles 24.1., and
- b. an admissible appeal is filed within a certain deadline and a decision made by the Media Appeals Board and supports the decision of the Council. However, in exceptional circumstances, if decided by the Council, the imposed sanction shall become immediately effective. An appeal does not prevent executing of decision.

20.3. Where a broadcaster fails to respect a sanction, the Council may take the necessary action as permitted by the applicable law to enforce the sanction through the Office of the Executive Chief.

20.4. Fines payable under Article 20.1(c) shall be collected by the Office of the Executive Chief on behalf of the Kosovo Consolidated Fund. The monies collected shall be deposited in their entirety as general revenue in a government account designated by the competent governmental authority for fiscal matters. The Office of the Executive Chief shall be responsible for maintaining the records of all fine payments. This process shall be subject to normal auditing procedures as established by the competent governmental authority for fiscal matters.

20.5. Relevant broadcasting equipment shall be confiscated from anyone who is operating without a valid broadcasting license. Such a broadcasting entity cannot appeal to the Media Appeals Board.

20.6. Sanctions set out in Articles 20.1(d), (c), and (f) shall not apply to the Public Broadcaster, but if according to the opinion of the Council and following the recommendation from the Office of the Chief Executive that the Public Broadcaster breaches its own license conditions, code of conduct and other legal acts in accordance with the present Law, the Council can make recommendations it deems to be necessary.

20.7. All decision of the Council made under this Article, including any other imposed sanctions, shall be widely published upon the decision being made.

20.8. Upon request of the IMC, law enforcement agencies in Kosovo shall assist in the enforcement of its decisions.

CHAPTER IV ESTABLISHMENT OF THE MEDIA APPEALS BOARD

Media Appeals Board Article 21

21.1. The Media Appeals Board (hereafter “Appeals Board”) is established by this Law.

21.2. Media Appeals Board shall be independent in exercising its functions.

21.3. The Media Appeals Board shall adjudicate appeals of parties that are directly affected by the decision regarding:

- a. Granting, denying, non-renewal or revocation of broadcasting licenses;
- b. Imposition or modification of broadcasting license conditions, excluding conditions relating to frequency allocation or other technical criteria;
- c. The issuance of sanctions; and
- d. Such other matters as may be provided for in an administrative direction, or regulation.

21.4. The deliberations and decisions of the Media Appeals Board shall:

- a. Be in accordance with internationally recognized broadcasting and human rights standards;
- b. Be consistent with the intent and purpose of relevant Security Council resolution; and
- c. Respect democracy and the rule of law and protect freedom of expression.

21.5. The Media Appeals Board may uphold, modify or rescind any decision of the Council regarding the appeal.

Composition of the Media Appeals Board Article 22

22.1. The Media Appeals Board shall be composed of three members, two of them shall be residents of Kosovo (hereafter “local members of the Board”) and one shall be an international.

22.2. Persons selected to be appointed as members of the Media Appeals Board shall have relevant knowledge and experience and shall have the required qualification to be nominated to the Legal Office or to become qualified Legal Advisor.

22.3 The international member of the Media Appeals Board shall be appointed by the Special representative of the Secretary General, based on the recommendations made by the Deputy Special Representative of the Secretary General for Institution building.

22.4. The local members of the Media Appeals Board shall be designated by the Supreme Court of Kosovo and appointed by the Assembly of Kosovo after public solicitation of nominations by the Council.

22.5 The Special Representative of the Secretary-General shall appoint one of the members as the President of the Appeals Board.

22.6. Following the final status of Kosovo, Media Appeals Board be composed of only local members.

22.7. No person may be member of Media Appeals Board if he or she:

- a. is actively employed in the civil service of Kosovo;
- b. holds elected office;
- c. is a member of the executive body of a political party
- d. has a direct or indirect financial interest in telecommunication or broadcasting industries;
- e. has been convicted, after due process in accordance with internationally accepted standards, for a crime involving violence or dishonesty, for which he or she has not been officially and lawfully pardoned.

22.8. Members of the Media Appeals Board shall not be allowed to request or receive instructions from an authority in course of exercising their duties.

22.9. Members of the Media Appeals Board shall not use their appointment for their personal benefit, or for the benefit of any other party or entity.

22.10. The term of appointment for Media Appeals Board members shall be for a period of three years. Members of the Media Appeals Board may be reappointed for one or more additional terms in accordance with the procedures set out in Articles 22.

Removal from the Media Appeals Board and Conduct of Members Article 23

23.1. Bearing in mind recommendation by the Deputy of the Special Representative of the Secretary General for Institution Building, the Special Representative of the Secretary General may remove an international member from the Media Appeals Board, if he considers that grounds for removal set out in Article 23.3 apply to such a member.

23.2. The Assembly of Kosovo may, upon a vote having the support of a majority of the Members of the Assembly, recommend the removal by the Supreme Court of a local member of the Media Appeals Board. A local member of the Media Appeals Board may be removed by the Supreme Court when the grounds for removal set forth in Article 23.3 apply to such a member.

23.3. A member of the Media Appeals Board shall be removed if he or she:

- a. Becomes ineligible for continued membership pursuant to Article 22.7; or
- b. Fails to exercise his or her duties effectively, or acts in a manner that is inconsistent with the present law or with principles contained in relevant Security Council resolutions.

23.4. Bearing in mind recommendations of the Deputy Special Representative of the Secretary General for Institution Building, the Special Representative of the Secretary General shall appoint a new member to replace any international member who has died, resigned, or is removed from the Media Appeals Board. An appointed shall serve the rest of the term of office of the member being replaced.

23.5. Supreme Court of Kosovo appoint a new member to replace any local member who has died, resigned or has removed, following the procedures as set to the Law. The new member for replacement of vacancy continues the remained period of mandate for member who has been replaced.

Procedures of the Media Appeals Board Article 24

24.1. The President of the Media Appeals Board shall convene the first meeting of the Media Appeals Board no later than 30 days following the appointment of all of the Members of the Board.

24.2. The Media Appeals Board shall:

- a. adopt unanimously and publish a procedural framework for hearings, which shall guarantee fair and impartial proceedings in accordance with Article 20.4. This framework shall also include provisions governing procedures for submitting appeals to be reconsidered and investigated by the Media Appeals Board, and the types of evidence that may be admissible during hearings. This information shall be made public. Those rules, any of new rules or any adjustment may be changed or replaced with an unanimous voting of Media Appeals Board and shall be publicly announced.

24.3. Media Appeals Board may delegate its functions to the Office of Executive Chief related to eligibility of complaints and prove evidence under supervision of Media Appeals Board

Lodging of Appeal Article 25

25.1. Appeals shall be submitted to the Media Appeals Board within thirty days time limit upon the issuance of a decision set forth in Article 20.3. An appeal shall be made in writing and a shall be accompanied by such documentation or other evidence as may be required by the Media Appeals Board in accordance with Article 24.2 (a).

25.2. Media Appeals Board shall take into consideration only appeals grounded to relevant legal information which were not available in course of making decision by Council, or grounded to the possibilities on presence of any procedural and substantial mistakes made by the Council in course of making decision. Media Appeals Board with no hearing and following the written recommendation by Executive Chief, may reject the appeals not being grounded to one of both possibilities, or those fallen under provisions determined by the Media Appeals Board in compliance with Article 24.2 are unacceptable due being invalid, malicious or with no ground.

Decisions of the Media Appeals Board Article 26

26.1. Media Appeals Board issues decision in writing related to set forth appeals. The decision shall be submitted to the parties and be published through Office of the Executive Chief.

26.2. Decisions of the Media Appeals Board shall be final, subject to the procedural review of the Supreme Court of Kosovo in accordance with the applicable law.

CHAPTER V FUNDING OF THE IMC AND MEDIA APPEALS BOARD

Sources of Funding Article 27

The IMC and its bodies shall be allocated sufficient funds from the Kosovo Consolidated Budget to allow them to carry out their functions fully and independently. Public authorities shall not use the budgetary process for allocating funds from the Kosovo Consolidated Budget in a manner that interferes with the independence of the IMC. License fees collected pursuant to Article 16 shall be supplementary to budgetary funding allocated from the Kosovo Consolidated Budget.

Financial Support Article 28

The IMC and the Media Appeals Board may be supported by supplementary donations and material means made directly to the IMC and to the Media Appeals Board, which donations shall be recorded in the annual accounts of the IMC, respectively of the Media Appeals Board together with the utilization of such donations for the operations of the organization.

Donor resources shall not affect the independence of the IMC or its entitlements to funds under Article 27.

CHAPTER VI TRANSITIONAL AND FINAL PROVISIONS

Transitional Provisions Article 29

29.1. The functions and powers assigned to the Temporary Media Commissioner pursuant to the UNMIK Regulation No. 2000/36 of 17 June 2000 on Licensing and Regulation of the Broadcast Media in Kosovo shall continue to be in effect until the Council is established and the Executive Chief is appointed in accordance with the procedures of this present law.

29.2. The functions and competences assigned to the Media Appeals Board established under UNMIK Regulation No. 2000/36 shall continue to be carried out by that Media Appeals Board until the appointment of all three members of the Media Appeals Board according to Article 22 of this Law and until the Board has adopted rules of procedure, evidence, and admissibility in accordance with Article 24 of this Law.

29.3. Personnel to the office of Provisional Commissioner of Media in course of adopting the herein Law shall be changed to personnel to the Office of Executive Chief following the Article 10 of present Law.

29.4. The rules, codes, and procedures established by the Temporary Media Commissioner shall remain in force until amended, replaced, or abrogated by the Independent Media Commission in accordance with this Law.

Applicable Law Article 30

The present Law shall supersede any provision in the applicable law that is inconsistent with it.

Entry into Force Article 31

The present law shall enter into force, after adoption by the Assembly of Kosovo, two (2) months after the date of its promulgation by the Special Representative of the Secretary General.

Law No. 02/L-15
21 April 2005

President of the Assembly

Academic Nexhat Daci