

**LAW No. 04/L-044
ON THE INDEPENDENT MEDIA COMMISSION**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo;

Approves:

LAW ON THE INDEPENDENT MEDIA COMMISSION

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

The purpose of this Law shall be to establish the powers of the Independent Media Commission (hereinafter "IMC") in order to promote the development of a viable market of audiovisual media services, serving all citizens of the Republic of Kosovo.

**Article 2
Definitions**

1. Terms used in this Law shall have the following meanings:

1.1 **Audiovisual media service** - a service under the editorial responsibility of the programming service provider and the general principle of which is the provision of programmes aiming at informing, entertaining or educating the overall public through electronic communication networks.

1.2. **Media service provider** - a natural or legal person with an editorial responsibility for selection of the audiovisual contents of the media service provider and establishment of the way of its organization.

1.3. **Programme** - a package of motional pictures with sound or no sound that represents a separate unit within the schedule or catalogues of programmes determined by media service provider the form of which is comparable to the television broadcasting form and content. Examples of such programmes include the feature-length movies, sports events, comedies, documentaries, children programmes and original dramas.

1.4. **Editorial responsibility** - the exercise of an effective control over selection of programmes and their listing in chronological order in the course of television broadcasting, or in a schedule in the course of audiovisual media service on request.

1.5. **Broadcasting** - the original dissemination of broadcasting programmes diffusive net connection through terrestrial transmitters, cable, digital broadcasting, satellite any other electronic broadcasting means, with code or no code designated to for public consumption and reception through radio and television or any other particular electronic equipment for dissemination, without inclusion of individual communications;

1.6. **Broadcaster** - 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.

1.7. **Television broadcasting** - an audiovisual media service provided by an audiovisual media provider for simultaneous watching based on the listing schedule.

1.8. **Digitalization** - a transferring process from the analogue programme broadcasting to a digital/numeric one.

1.9. **Network operator** - any legal entity, which provides any type of programme broadcasting network or a broadcasting service to the public, possession and corresponding of licences or authority issued by IMC.

1.10. **Broadcasting Frequency Plan** - the schedule of radio and television broadcast frequencies assigned by the competent authority for telecommunication to the Independent Media Commission and which is managed by the Independent Media Commission.

1.11. **Broadcasting Frequency Spectrum** - those frequencies that are available for assignment to radio and television broadcasters for their use, in compliance with standards of International Union of Telecommunication, but which does not include other frequencies, such as those used by:

1.11.1. telecommunication common carriers, for example, for data, audio and video material such as mobile telephony and pagers; and

1.11.2. broadcasting not intended for the general public, such as police, military and emergency channels;

1.12. **Commercial audiovisual communication** - views with sound or no sound, which are produced with purpose of direct or indirect promotion of goods, services or views of a natural or legal entity that carries an economic activity. Such views are incorporated or included in a programme in return to payment in monetary value or equivalent to it. Types of commercial audiovisual communication include, *inter alia*, the TV commercial audiovisual communication, sponsorship, teleshopping and placement of products.

1.13. **Advertising** - any form of public announcement broadcasted whether in return to payment or 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.

1.14. **Sponsorship** - any contribution by a legal or natural person not being engaged in the broadcasting activities or in the production of audiovisual works, to the direct or indirect funding of any programme, but intending the promotion of name, trade mark, image or other activities of such person.

1.15. **Teleshopping** - a direct broadcasting of public offers with a view to the supply of goods or services, including immovable property, rights and liabilities, in return to payment.

1.16. **Placement of products** - any form of commercial audiovisual communication, containing or referring to a product, service or trade mark showed within a programming, usually in return to payment in monetary value or equivalent to it.

1.17. **Protection of juveniles in television broadcasting** - the guarantee of children's protection from the programme contents which can negatively influence on their physical, mental, emotional and moral development, and especially those showing pornography and undue violence.

1.18. **Copyright protection** - the respect of the international right and practice in relation to the copyright protection, including but not limited to entertaining audio and visual entertaining materials.

1.19. **Video upon request** – non-linear audiovisual media services – audiovisual media service provided by media service provider for visual programmes in the certain moment determined by users and the request of the individual based on the catalogues of programmes selected by media services provider.

1.20. **Private broadcasting entity** - any licensed audiovisual media service or operator whether an NGO or commercial business;

1.21. **Public broadcaster** - the Radio and Television of Kosovo.

1.22. **Independent production** – any registered commercial entity, that has the status of legal person which in compliance with the Law shall realize projects and respective audiovisual works, of public interest.

CHAPTER II INDEPENDENT MEDIA COMMISSION

Article 3 Powers of the IMC

1. Independent Media Commission shall be an independent body for regulation, management, and oversight of the broadcasting frequency spectrum. IMC shall regulate the rights, obligations and responsibilities of natural and legal persons that provide audio and audiovisual media services.

1.1. IMC shall draft the Strategy for transferring into Digital broadcasting in Republic of Kosovo, as well as other strategic documents for audiovisual media services, for approval by the Government.

2. The Independent Media Commission, in addition to its powers established under the Constitution, shall also exercise the following powers:

2.1. it shall issue licences to the public and private broadcasters and shall renew the licences, granting the licensed subjects the right to use the frequencies in Broadcasting Frequency Spectrum as well as it shall licence all audiovisual media services;

2.2. it shall impose sanctions on licensed subjects that breach the Commission's regulations or terms and conditions of the licence;

2.3. it shall review the Broadcasting Frequency Plan on periodical basis, it shall do the necessary amendments and it shall notify the respective authority - TRA in relation to any amendments in the Frequency Plan;

2.4. it shall approve the licensing conditions and it shall establish links with applications for licensing and re-licensing and it shall grant the right to use the frequencies according to Broadcasting Frequency Plan;

2.5. it shall collect taxes for the use of broadcasting frequencies from subjects licensed for audiovisual media services and the network operators;

2.6. it shall issue sub-legal acts to regulate broadcasting and audiovisual media services, which are needed to perform its functions in compliance with international standards.

2.7. it shall review the proposal for the IMC annual budget and it will forward it to the Assembly for its final approval through the respective Ministry;

2.8. it shall submit to the Assembly of the Republic of Kosovo, by March 31st of the current year an annual report, including full data in relation to the establishment and application of broadcasting policy, issuance of licenses and complaints, sanctions imposed and decisions thereof, financial activities, other broadcasting activities and the objectives for the next year. The annual report shall be public after its endorsement by the Assembly of the Republic of Kosovo;

2.9. it shall appoint the Chief Executive Officer of Executive Office pursuant to Article 17 of this Law;

2.10. it shall adopt the Code of Ethics for the IMC members and staff;

2.11. it shall issue the necessary sub-legal acts for implementation of the present Law.

Article 4 Jurisdiction of IMC

1. IMC shall have the jurisdiction on media services providers as following:

1.1. which are established and that the editorial decisions have been issued in Republic of Kosovo; and

1.2. when the media service provider has the central office in Republic of Kosovo but, the editorial decisions have been taken in EU countries or in other countries.

Article 5 Duties and responsibilities of IMC

1. Duty and responsibility of the IMC shall be to foster and maintain a fair and open system for licensing and regulating the audiovisual media services and for managing Broadcasting Frequency Spectrum in accordance with the best international standards.

2. An additional objective of the IMC, which is subject to its primary objective, shall be to contribute towards professionalism of audiovisual media services.

3. Without prejudice to the achievement of these objectives, the IMC shall support the freedom and pluralism of audiovisual media services.

Article 6 Independence of the IMC

Members and staff of the IMC shall not receive instructions by any person or other entity, including the governmental entities. The independence the IMC shall be respected at all times and no person or entity shall be permitted to influence on any of the members of the IMC in the course of exercising their duties.

Article 7 Transparency

1. The IMC, through a transparent process, shall give an opportunity to public to have access to licences and sub-legal acts issued by the IMC, as well as to public decision resulting therein.
2. The IMC shall give an opportunity to public to have access to documentation and records on cases and decisions of IMC and the Appeals Board.
3. Public access to the IMC documentation shall be in accordance with the Law on Access to Public Documents and the best international practices.
4. All meetings of the IMC shall be open to public, other than specific cases otherwise provided for by legislation into force.

Article 8 Public Consultations

1. Before the approval of the strategy, licencing plan and sub-legal acts for implementation of this Law, IMC shall be obliged to make the decisions, respectively the drafts of sub-legal acts available to a wide spectrum of interested entities.
2. The public and interested parties shall have available no less than fifteen (15) working days to give comments on the draft. The IMC shall have to take into consideration the public opinions on the proposed acts.

Article 9 Broadcasting Policy

1. The Broadcasting Policy defined by IMC shall be in accordance with recognized international broadcasting and human rights standards, the relevant EU legislation and especially the European Commission Directive AVMS, having full respect for democracy and the rule of law and the protection of the freedom of expression.
2. The Broadcasting Policy shall be in accordance with the relevant legislation of the Republic of Kosovo, including the best international practices.
3. The Broadcasting Policy established by the Council shall protect and 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 programmes, promote the financial viability and technical quality of broadcasting in Kosovo, promote the use of new technology and respond to the public right to know and be informed accurate and informative programming.
4. The Broadcasting Policy shall promote locally produced programmes, educational and cultural programmes, especially youth programmes. The programmes shall reflect the requirements for equality between citizens and communities living in Kosovo.
5. The Broadcasting Policy shall promote broadcasting of the European produced programming, originating from the EU Member States, as well as produced programming from the third European states included in the European Convention Television without Frontiers of on the European Council.
6. The Broadcasting Policy shall promote application of provisions that will prevent the monopoly of broadcasting in Kosovo, in order to promote a fair broadcasting competition for rendering audiovisual media service.

Article 10
Composition of the IMC

1. The IMC shall be composed of seven (7) members.
2. Members of the IMC shall be distinguished personality from various fields, such as culture, art, justice, cinematography, journalism, business and management, public relations, international relations and media and information technology.
3. Members of the IMC shall be individuals with high human, professional and moral credibility and authority. Members of the IMC shall be fully committed, objective and impartial in exercising their functions.
4. Members of the IMC shall be appointed and act in their professional capacity and shall not represent any other interest outside the IMC. They shall not seek or accept any instruction in relation to the IMC activities from any person or entity outside the IMC.
5. The composition of members of the IMC shall reflect the multiethnic and diverse gender character of Kosovo. At least two (2) members of the IMC shall be appointed from among the non-Albanian communities and at least two (2) members shall be of female sex. At least two (2) members of the IMC shall have professional qualifications in the field of financing, business management and justice.
6. Members of the IMC shall be prohibited to abuse their position for their own personal benefit or for the benefit of their close family, any party or other entity.

Article 11
Selection of Members of the IMC

1. Members of the IMC shall be appointed by the Assembly of Kosovo through an open and transparent procedure.
2. Candidates for members of the IMC shall be selected according to the following procedures:
 - 2.1. within sixty (60) days prior to expiry of the term of office of the member of IMC or after the announcement of the vacancy for other reasons, the IMC shall make a public announcement within a period not shorter than the deadline set forth by Law;
 - 2.2. an ad-hoc Committee of the Assembly of Kosovo shall consider the received applications;
 - 2.3. within a timeframe of twenty-one (21) days after the closing date for applications, the Ad-Hoc Committee shall, following the interviews, recommend two (2) candidates for each position of member of the IMC, who are considered to be more suitable based on their competencies, professional background, integrity and commitment to the IMC scope;
 - 2.4. pursuant to the Rules of Procedure of the Assembly of Kosovo, the Assembly shall appoint one of the recommended candidates with majority of votes of the Assembly deputies being present and voting.

Article 12
Non-compliance to be Member of the IMC

1. Persons who cannot be members of the IMC shall be:
 - 1.1. employees of the IMC and their close family relatives;

- 1.2. former employees being employed with the IMC in the last two (2) years;
 - 1.3. persons holding elected or appointed public office (public officials) or persons that used to be in these positions in the last two(2) years;
 - 1.4. if he or she is a member of an executive body of a political part or persons that used to be in these positions in the past two (2) years;
 - 1.5. if he or she is a member of an executive body of a public enterprise;
 - 1.6. if he or she has a financial interest or represents such interest, worked or used to work in any broadcaster in telecommunication or broadcasting business and in the IMC in the last two (2) years;
 - 1.7. if he or she has been convicted of a criminal offence punishable by over six (6) months.
 - 1.8. owners or co-owners of broadcasting media or advertising businesses and member of their close family or even the employees in these media;
 - 1.9. if he or she is engaged in such activities that can be considered to be in contradiction and represent a conflict of interest with the IMC functions, as established under the applicable law on prevention of the conflict of interest.
2. A member of the IMC or a member of his or her close family shall not engage in business activity with the IMC institution.

Article 13 Term of Office of Members of the IMC

1. The term of office of the members of IMC shall be as follows:
 - 1.1. two (2) members of the IMC shall be appointed for a term of two (2) years;
 - 1.2. three (3) members shall have a term of three (3) years, and
 - 1.3. two (2) members shall have a term of four (4) years.
2. Duration of the term of the members shall be established through draw.
3. The term of Chairperson and Vice-Chairperson shall be of two (2) years and they can be re-elected only for another term.
4. Members of the IMC shall be engaged according to their duties and responsibilities and according to the IMC sessions and meetings.
5. Member of the IMC can be re-elected only for another subsequent term.

Article 14 Removal from the IMC and Conduct of Members

1. A member shall be removed from the IMC where it is proven that any of the grounds for removal set out in sub-paragraph 3.3, 3.4 and 3.5 of paragraph 3 of this Article exist and which can apply to the respective member.
2. A member shall be removed from the IMC according to the following procedure:

- 2.1. a proposal for removal comes from the IMC upon the request of majority of members of the IMC and/or any other external initiative;
 - 2.2. the Assembly of Kosovo, with majority, shall decide whether to remove or not a member of the IMC.
3. A member shall be removed from the IMC if he or she:
- 3.1. is professionally incapable – proves in continuity to fail in performance of duties as member of the IMC;
 - 3.2. is mentally or physically incapable to perform the duties as member;
 - 3.3. fails to carry out his or her duties for a consequent period of more than three (3) months without the IMC approval;
 - 3.4. is convicted of a criminal offence punishable by imprisonment of more than six (6) months;
 - 3.5. fails to fulfil his or her requirements under sub-paragraphs 1.3, 1.4 and 1.5 of paragraph 1 of Article 12 of the this Law;
 - 3.6. unjustified absence from work for more than one (1) month;
 - 3.7. has been actively engaged in political activities after his or her appointed as a member of the IMC.
4. Members of the IMC can give a resignation by notifying in writing the IMC at least three (3) months in advance.

Article 15 **Rules of Procedure of the IMC**

1. The oldest IMC member shall convene the first IMC meeting within fifteen (15) days following the appointment of members of the IMC.
2. The IMC shall be considered to have been constituted if at least two-thirds (2/3) of members of the IMC are present at the initial meeting.
3. The IMC Chairperson shall convene regular meetings of the IMC at least once a month. Meetings of the IMC can also be convened at the request of at least four (4) members of the IMC. The IMC meeting can be convened on more frequent basis, as appropriate.
4. The quorum for meetings of the IMC shall be four (4) members.
5. Meetings of the IMC shall be chaired by the Chairperson in accordance with Rules of Procedure of the IMC.
6. In absence of the IMC Chairperson, the meeting shall be chaired by the IMC Vice-Chairperson.
7. The IMC proceedings in the course of voting and deliberation shall be open, unless otherwise provided.
8. The IMC shall, pursuant to the present Law, be obliged to report on its performance to its founder, on regular and extraordinary basis.

9. The IMC regular reporting on its performance shall be done on periodical basis – once in three (3) months and in the end of each year. Extraordinary reporting shall be done upon the request of the founder.

10. The other procedures on the IMC activities shall be established under the Rules of Procedure of the IMC.

11. The Council shall, by the majority votes, elect its Chairperson and Vice-Chairperson from among the members of the IMC in the first meeting, if at least two-thirds of the IMC members are present in the first meeting.

12. Voting for election of the IMC Chairperson shall be done in secret ballots.

13. Member of the IMC can, no more than twice, propose and vote for the same candidate for the IMC Chairpersons and/or Vice-Chairperson.

14. Conditions, criteria and further procedures for the IMC activities shall be regulated by the Rules of Procedure of the IMC.

15. The Chief Executive Officer shall attend meetings of the IMC as an observer and non-voting member.

CHAPTER III EXECUTIVE OFFICE

Article 16 Functions of the Executive Office

1. The Executive Office shall be operational within the IMC, which shall assist the Commission in performance of duties and responsibilities of the IMC.

2. The Executive Office shall be managed by the Chief Executive Officer who shall directly report to the IMC and Chairperson.

3. The Chief Executive Officer and the staff of the Executive Office shall be civil servants.

4. Under the direction of the Chief Executive Officer, the Executive Office shall carry out all duties and responsibilities determined by the IMC, within the framework of the budget established in accordance with this Law.

5. The Executive Office shall prepare a proposal for the annual budget of the IMC and shall submit it to the IMC for approval.

6. The Executive Office shall be responsible to carry out other functions and responsibilities as established by separate sub-legal act of IMC.

Article 17 Chief Executive Officer of the Executive Office

1. The Chief Executive Officer shall, among the other duties, be responsible for:

1.1. management of civil servants in the IMC;

1.2. management of finance and other financing sources;

- 1.3. providing advices and policies to the IMC;
- 1.4. ensuring enforcement of decisions, policies and other measures of the IMC in an effective and efficient manner;
- 1.5. make sure that enforcing measures of the IMC are regularly monitored and remedies are taken in case of obstructions;
- 1.6. management of the information flow within the IMC;
- 1.7. cooperation and coordination of actions with other institutions, and
- 1.8. other duties and responsibilities as established by the IMC, this Law or other sub-legal acts.

Article 18
Appointment of the Chief Executive Officer

1. Appointment of the Chief Executive Officer shall be done in accordance with provisions of legislation on civil service.
2. Rights and responsibilities established for the senior managers in civil service shall also apply *mutatis mutandis* to the Chief Executive Officer of the IMC.

Article 19
Non-compliance with the Appointment of the Chief Executive Officer of the IMC

1. In addition to exceptions provided for under legislation on Civil Service, no person can be appointed as a Chief Executive Officer, if he or she:
 - 1.1. is a member of an executive body of a political part or persons that used to be in these positions in the past two (2) years;
 - 1.2. if he or she has a financial interest or represents such interest, works or used to work in any broadcaster in telecommunication or broadcasting business in the past two (2) years;
 - 1.3. is an owner or co-owner of broadcasting media or advertising businesses and member of his close family,
 - 1.4. is engaged in such activities that can be considered to be in contradiction and represent a conflict of interest with the IMC functions, as established under the applicable law on prevention of the conflict of interest.

Article 20
Staff of the Executive Office

1. The Chief Executive Officer shall, within the budget of the IMC, following an announcement and through an open and competitive process pursuant to legislation on Civil Services, recruit the staff of the Executive Office of IMC.
2. The Chief Executive Officer and the staff of the Executive Office shall neither seek nor accept instruction from any other authority in the performance of their duties other than the IMC and the Media Appeals Board, unless otherwise provided for by Law.

**CHAPTER IV
LICENSING OF AUDIOVISUAL MEDIA SERVICE PROVIDERS**

**Article 21
Broadcasting licences and their renewal**

1. A broadcasting license shall be required for exercising broadcasting in Kosovo according to the provisions of this Law, which shall be issued by the IMC.
2. Broadcasting licenses and their renewal shall be for a term of seven (7) years for the radio broadcasting and ten (10) years for audiovisual media services and network operators providing audiovisual media services.
3. Licenses shall not be used and be transferable without prior authorization and written approval of the IMC.
4. Licensed entities should act in accordance with the best international practices and broadcasting polices and in full compliance with all sub-legal acts and terms and conditions of the licence, as established by the IMC.

**Article 22
Applications for Broadcasting Licences**

1. Applications for broadcasting licenses shall be made to the IMC in accordance with the provisions of this Law and procedures to be established and published by the IMC.
2. A broadcasting license may only be issued to a legal person which fulfils the requirements stated by this Law and criteria which may be determined by IMC according to a fair and open procedure of competition.
3. A broadcasting license shall not be issued nor shall continue to be granted to:
 - 3.1. a political party, a group or organization which is managed by an individual who holds an elected post or is member of an executive body of a political party;
 - 3.2. a legal person that is managed by an individual, who has been convicted in a process in accordance with international standards, for a crime involving violence or fraud, for which he or she has not been lawfully pardoned.
4. The IMC shall take the following criteria into account in assessing applications submitted for broadcasting licenses:
 - 4.1. the capacity of own programming development;
 - 4.2. the origin and extent of applicant's financial resources;
 - 4.3. the financial viability of the applicant's proposal;
 - 4.4. the technical capacity of the applicant to deliver a quality transmission;
 - 4.5. the need to provide varied programming for all the citizens in Kosovo.
5. The IMC can, by a sub-legal act, approve and apply licensing and renewal criteria depending on the type and class of the licence to be issued.

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

Article 23

Issuance of licenses for audiovisual media services

1. When the IMC decides to issue new broadcasting licenses for audiovisual media services, it shall widely publish a notice to this effect through the Executive Office. The notice shall include all relevant information about proposed licenses for audiovisual media services, the process for submitting applications, information required from applicants, the methodology and criteria for assessing license applications for audiovisual media services, and any other applicable fee for application and category of license.

2. The IMC shall, through licensing, allocate sufficient frequencies that are available according to the frequencies plan for Kosovo, for Public Broadcaster making possible to offer radio television frequencies covering to a maximal possible level for population of Kosovo.

3. The IMC shall, within thirty (30) days following the closing date for applications, decide on a competitive basis whether to issue a license to an applicant or not, according to the rules set in Article 21 and 22 of this Law.

4. The IMC may, in exceptional circumstances, extend the deadline up to a maximum of sixty (60) days. When the closing date is extended, the Executive Office shall inform all applicants and the public of the extension of deadline and the reasons for thereof.

5. The Executive Office shall provide applicants and other interested parties with an effective opportunity to make their representations before the IMC.

6. The activity of providing the audio and/or audiovisual media services by order may be carried out by legal or natural persons that meet the requirements determined in sub-legal acts issued by the IMC.

Article 24

Licensing Process

1. The process for assessing license applications for audiovisual media services and license renewals shall be fair and transparent.

2. The IMC decisions shall provide reasons in writing to all applicants whose applications for a license for audiovisual media services or renewal are refused and they shall be submitted to applicants through the Executive Office.

Article 25

Renewal of Licenses

Except where the IMC considers that a license should not be renewed due to a breach of material provisions by a private audiovisual media service provider with respect to its license conditions, the applicant shall be entitled to request that the license be renewed by the Executive Office within six (6) months prior to the expiration date of the existing license and at minimum sixty (60) days prior to the expiration of the licence.

Article 26
Annual Licence Fees

1. The IMC shall establish a license fee schedule for various classes of broadcasting licenses that shall be payable annually by the licensees. In establishing the level of annual payment for licence, the IMC shall consider prevailing and projected market conditions.
2. The license fee shall be the same within each class of licences.
3. The IMC shall review and may amend the schedule of license fees every two (2) years.
4. Annual license fees shall be collected by the Executive Office. The money collected shall be deposited in their entirety to an IMC account designated by the competent governmental authority for fiscal matters.
5. The Executive Office 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.

Article 27
Commercial Communications

1. Audiovisual communication should be easily identifiable such as they are. Isolated advertising spots and those of teleshopping, beside those in broadcasting sports events, shall remain exception.
2. The secret commercial audiovisual communication shall be prohibited.
3. Commercial audiovisual communications cannot use subliminal techniques.
4. Commercial audiovisual communications may not prejudice:
 - 4.1. respect to human dignity;
 - 4.2. discrimination on the basis of gender, race, ethnic origin, nationality, religion or faith, disabilities, age and sexual orientation;
 - 4.3. prejudging behaviour towards health or security or environment protection.
5. There shall be prohibited all forms of commercial audiovisual communications regarding the cigarettes and other products of tobacco.
6. Commercial audiovisual communications regarding alcoholic drinks should not be directed in a specific way to the young persons and shall not encourage the over use of such drinks.
7. There shall be prohibited the commercial audiovisual communication for medical products and medical treatments that can be taken only with doctor's prescription.
8. Commercial audiovisual communications shall not:
 - 8.1. cause physical or ethic damage towards juveniles;
 - 8.2. encourage directly the juveniles to buy or rent a product or service through inexperience use or their credulity;

8.3. encourage directly the juveniles to convince their parents or others to buy goods or services that are advertised;

8.4. embrace the special trust that the juveniles enjoy from parents, teachers or other persons;

8.5. show in unreasonable way the juveniles in dangerous situations.

9. Advertisements and teleshopping shall enter between programmes in audiovisual programmes. Advertising spots and teleshopping may enter even during audiovisual programmes, but only in the way that the integrity of programmes, taking into consideration natural breaks within, as well as duration and nature of programme, as well as the rights of rights holders, shall not be prejudged.

10. No advertisement or teleshopping shall enter during broadcasting religious ceremonies.

11. Children programmes, when their duration is less than thirty (30) minutes, shall not be interrupted by advertising spots and/or teleshopping. Children programmes may be interrupted by advertisements or/and teleshopping once in each determined period of at least thirty (30) minutes, provided that the foreseen duration of programme to be longer than thirty (30) minutes.

12. Teleshopping for medicines, medical products and medical treatment shall be prohibited.

13. Advertising and teleshopping for alcohol and alcoholic drinks should be in compliance with the following criteria:

13.1. cannot be orientated especially towards the juveniles, or particularly, to show the juveniles consuming those drinks;

13.2. cannot associate the consumption of alcohol with the best physical performance or with driving;

13.3. should not create the impression that the consumption of alcohol contributes successfully in society or sexual successes;

13.4. should not pretend that alcohol has therapeutic qualities or that it is stimulant, calming or the way of solution of personal conflicts;

13.5. should not encourage careless consumption of alcohol, or present negatively the abstinence or content from consumption;

13.6. should not emphasize the high alcoholic level as a positive quality of drinks.

14. Duration of advertisement spots and teleshopping spots within a certain time hour, except television channels exclusively committed to advertising and teleshopping, as well as television channels exclusively committed to self-promotion, may not be longer than twelve (12) minutes. Duration of advertising and teleshopping for Public Broadcasting shall be regulated by sub-legal acts issued by IMC.

15. Provision of paragraph 14 of this Article shall not be applicable for notifications performed by television broadcaster regarding its programmes and secondary products deriving directly from these programmes, notifications of sponsorship and ranking of products.

16. Areas of teleshopping should be clearly identified such as they are by optic and acoustic means, as well as they should have uninterrupted duration of at least fifteen (15) minutes.

17. Audiovisual or radio-phonc programmes which can heavily damage the physical, mental or ethic development of the juveniles, particularly programmes that include pornography or undue violation, shall be prohibited.

18. Broadcasting of audiovisual and radio-phonc programmes that may obstruct the physical, mental or ethic development of the juveniles shall be prohibited, except in cases when they are provided by television or radio-phonc broadcaster, choosing the time of broadcasting, or by any technical measure, that the juveniles do not hear or watch such broadcastings in the areas of broadcasting. When those programmes are broadcasted in un-coded way, the broadcaster should insure that they shall be prevailed by a voice remark or shall be identified by the presence of visual symbols during all their duration.

19. IMC will define by sub legal acts the conduct of the broadcaster in the case mentioned in paragraph 17 and 18 of this Article.

20. Provisions of this Law shall be applicable *mutatis mutandis* to television programming channels which are exclusively committed in advertising and teleshopping, as well as to television programming channels which are exclusively committed in self-promotion, notwithstanding paragraph 14 of this Article.

Article 28 Reporting Requirements

1. Licensed audiovisual media services shall present an annual report to IMC, which shall include information concerning programme and action in compliance with license conditions, along with a detailed financial report and such other information as provided for by Law.

2. Annual reports shall be submitted to the IMC no later than March 31st of ongoing year for the previous year.

3. The IMC may request further information if it deems that the information provided in the annual reports is incomplete.

4. Unless otherwise provided by the Law, the IMC shall not disclose to any person commercially and financially sensitive information that is provided in a licensee's annual report.

Article 29 Breach of Conditions of Licence

1. The IMC shall monitor audiovisual media services and may initiate and receive complaints with regard to a failure to comply with its conditions of license, code of conduct and other legal acts in accordance with the present Law.

2. The IMC shall investigate complaints for alleged breaches of license conditions, code of conduct and other legal acts in accordance with this Law.

3. The IMC shall, through the Executive Office, provide a broadcasting entity with written notice on any allegation for the breach of license conditions, code of conduct and other legal acts in accordance with this Law and shall ensure that the broadcasting entity has a reasonable opportunity to make representations and produce evidence.

4. Upon completion of an investigation, the IMC shall issue a decision giving consideration to all facts and circumstance of the relevant case.

5. Against the IMC decisions, the audiovisual media service provider shall have the right to appeal before the Appeals Board within thirty (30) days.

Article 30 Sanctions

1. For the breach of license conditions, code of conduct and other legal acts in accordance with the present Law, the IMC may issue a written warning or impose one or more of the following sanctions to the licensees:

1.1. order the licensed entity 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 with the present Law;

1.2. require the licensee to broadcast a correction or apology through broadcasting;

1.3. impose a fine of not less than one thousand (1000) Euro and not more than one hundred thousand (100.000) Euro;

1.4. require suspension of a part or all of the licensee's programming schedules for a specified period of time;

1.5. change broadcaster's license conditions;

1.6. terminate or refuse the continuation of broadcasting license.

2. The decision of the IMC to impose one or more of the sanctions under the Articles above shall become effective, when:

2.1. no admissible appeal was filed against a decision of the IMC within period of time permitted for appeals in the Appeals Board according to paragraph 5 of Articles 29 of this Law, and

2.2. an admissible appeal is filed within a certain deadline and a decision made by the Appeals Board and supports the decision of the IMC. However, in exceptional circumstances, if decided by the IMC, the imposed sanction shall become immediately effective. An appeal does not prevent executing of decision.

3. Where a broadcaster fails to respect a sanction, the IMC may take the necessary action as permitted by the applicable law to enforce the decision through the competent authorities.

4. Fines payable under sub-paragraph 1.3 of paragraph 1 of this Article shall be deposited in the Kosovo budget.

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 Appeals Board.

6. Sanctions set out in subparagraphs 1.4, 1.5 and 1.6 of paragraph 1 of this Article shall not apply to the public broadcaster.

7. All decisions of the IMC made under this Article, including any other imposed sanctions, shall be published.

8. IMC in order to exercise its functions and enforce its decision shall cooperate with competent bodies for implementation of Law in Kosovo.

CHAPTER V
APPLICABLE PROVISIONS TO ALL AUDIOVISUAL SERVICES

Article 31
Sponsorship

1. Audiovisual media services and programmes that are sponsored shall meet the following criteria:

1.1.their content and, in case of television broadcasting, their schedule in no circumstance should be influenced in the way that it affects the editorial responsibility and independence of media service provider;

1.2.they will not directly encourage the purchase or borrowing of goods and services, particularly giving special promoting reference to these goods and services;

1.3.watchers will be notified clearly for existence of a sponsorship agreement;

1.4.the sponsored programmes will be identified clearly through the name, logo and/or any other sponsor symbol, for example a reference for its product (s) or service (s) or a differing sign that exists there in an appropriate way for the programmes at the beginning, during and/or after the end of the programmes.

2. Audiovisual media services or programmes shall not be sponsored by legal or natural persons, the main activity of whom is manufacturing or purchase of tobacco or other tobacco products.

3. Sponsorship of audiovisual media services or programmes by legal or natural persons, whose activity includes the manufacturing or purchase of medical products and medical treatment, may promote the name or view of natural or legal persons but will not promote special medical products or medical treatments available only by prescription.

4. News and current events programmes will not be sponsored.

5. There is prohibited the showing of sponsoring logos during children's programmes and religious programmes.

6. Provisions of this Article shall be applicable mutatis mutandis to radio media services.

Article 32
Placement of the product

1. There is prohibited the placement of the product.

2. Notwithstanding paragraph 1 of this Article, the placement of the product shall be permitted:

2.1. in cinematographic works, films and serials that are created for audiovisual media services, sports programmes and entertaining programmes, except programmes for children; or

2.2. when there is no payment but only provisions on goods and services offered free of charge, such as products scenes and reward, with the purpose of including them into an audiovisual programme.

3. Audiovisual programmes that contain the placement of products shall meet all the following requirements:

- 3.1. their content and, in case of television broadcasting, their schedule in no circumstance shall be influenced in the way that it affects the editorial responsibility and independence of media service provider;
 - 3.2. they will not directly encourage the purchase or borrowing of goods and services, particularly referring to special promotion of those goods and services;
 - 3.3. they will not express an exaggerated importance to the product in question;
 - 3.4. watchers will be informed clearly for the existence of the placement of products;
 - 3.5. they will be identified in an appropriate way at the beginning and end of the programme, as well as when a programme continues after the advertisement break in order to avoid any watcher confusion.
4. Notwithstanding sub-paragraphs 3.4 and 3.5 of paragraph 3 of this Article shall not be applicable when audiovisual programmes include the placement of products that have not been produced, not even approved by media services provider or by a company interrelated with the media services provider.
5. In every case, audiovisual programmes shall not contain the placement of product of:
- 5.1. tobacco products or cigarettes or placement of the product by natural or legal persons, whose main activity is manufacturing and purchase of tobacco and other tobacco products; or
 - 5.2. special medical products or medical treatment that are given only by prescription.
6. Provisions of this Article shall be applicable only for audiovisual programmes produced after 19 December 2009.

Article 33 **Protection of children and juveniles**

1. IMC will undertake appropriate measures to ensure that television broadcasters by broadcasters under their jurisdiction shall include no programme which might seriously damage the physical, mental and ethic development of juveniles, in particular programmes with a pornographic content or extreme violence.
2. Measures provided from paragraph 1 of this Article shall also have the effect in other programmes which might damage the physical, mental and ethic development of juveniles except the cases when it was ensured, by selecting the time by the broadcaster or by any technical measure, that the juveniles in the area of broadcasting will not see or hear such broadcasting.
3. Meantime, when such programmes are broadcasted in an un-coded way, ICM will ensure that they shall be accompanied by an acoustic remark or shall be identified by the presence of a visual symbol in their duration.
4. Audiovisual media services with payment that may seriously damage the physical, mental and ethic development of juveniles shall be available only in the way that it is ensured that the juveniles, in normal circumstances, will not see or hear such audiovisual media services with payment.

Article 34
Access of persons with disabilities

IMC shall encourage audiovisual media service providers to provide that their services gradually become accessible for humans or persons with hearing and seeing disabilities.

Article 35
The right of reaction in television broadcasting

The right for correcting the broadcasted information, or reply towards a broadcasted information, shall be exercised in compliance with the Broadcasting Ethic Code.

CHAPTER VI
APPEALS BOARD

Article 36
Responsibilities

1. The Appeals Board (hereafter "Appeals Board") shall be independent in exercising its functions.
2. The Appeals Board shall adjudicate appeals of parties that are directly affected by the decision regarding:
 - 2.1. granting, denying, non-renewal or revocation of broadcasting licences;
 - 2.2. imposition or modification of broadcasting license conditions, excluding conditions relating to frequency allocation or other technical criteria;
 - 2.3. the imposition of sanctions; and
 - 2.4. such other matters as may be provided for in sub-legal acts.
3. The Appeals Board may support, modify or repeal any decision of the IMC, acting upon an appeal against a relevant decision.

Article 37
Composition of the Appeals Board

1. The Appeals Board shall be composed of three (3) members.
2. Candidates for members of the Appeals Board shall have:
 - 2.1. bar exam;
 - 2.2. a minimum of five (5) years of professional work experience in the field of advocacy, legal matters, administrative law, media regulation or regulatory policy.
3. Members appointed at the Appals Board shall be eminent personalities with high moral character, impartiality and integrity, and who shall posses and prove a commitment for proper administration of justice.

Article 38
Selection of Members of the Appeals Board

1. Members of the Appeals Board shall be appointed by the Assembly of Kosovo through open and transparent procedures.
2. Candidates for members of the Appeals Board shall be selected according to the following procedures:
 - 2.1. within sixty (60) days prior to expiry of the term of office of a Board member or after the announcement of the vacancy for other reasons, the Assembly of Kosovo shall, in accordance with its rules of procedure, make a public announcement within a period not shorter than the deadline set forth by Law.
 - 2.2. an ad-hoc Committee of the Assembly of Kosovo shall examine the received applications.
 - 2.3. within a timeframe of twenty-one (21) days after the closing date for applications, the Committee shall, following the interviews, recommend two (2) candidates for each position of member of the Appeals Board, who are considered to be more suitable based on their competencies, professional background, integrity and commitment.
 - 2.4. pursuant to the Rules of Procedure of the Assembly of Kosovo, the Assembly shall appoint one of the recommended candidates with majority of votes of the Assembly deputies being present and voting.

Article 39
Non-compliance to be Member of the Appeals Board

1. The following persons cannot be members of the Appeals Board:
 - 1.1. employees of the IMC and their close family relatives;
 - 1.2. former employees being employed with the IMC in the last two (2) years;
 - 1.3. persons holding elected or appointed public office (public officials) or persons that used to be in these positions in the last two (2) years;
 - 1.4. if he or she is a member of an executive body of a political part or persons that used to be in these positions in the last two (2) years;
 - 1.5. if he or she is a member of an executive body of a public enterprise;
 - 1.6. if he or she has a financial interest or represents such interest, works or used to work in any broadcaster in telecommunication or broadcasting operation;
 - 1.7. if he or she has been convicted of a criminal offence punishable by over six (6) months.
 - 1.8. owners or co-owners of broadcasting media or advertising businesses and member of their close family or even the employees in these media;
 - 1.9. if he or she is engaged in such activities that can be considered to be in contradiction and represent a conflict of interest with the Appeals Board functions, as established under the applicable law on prevention of the conflict of interest.

2. A member of the Appeals Board or a member of his or her close family shall not engage in business activity with the IMC institution.

Article 40
Term of Office of Members of the Appeals Board

1. The term of office for members of the Appeals Board shall be for a period of three (3) years.
2. Assembly shall elect the Head of the Appeals Board from among the Appeals Board members.
3. Members of the Appeals Board may be reappointed for only one additional term.

Article 41
Removal from the Appeals Board and Conduct of Members

1. A member shall be removed from the Appeals Board where it is proven that any of the grounds for removal set out in sub-paragraph 3.3, 3.4 and 3.5 of paragraph 3 of this Article exist and which can apply to the respective member.

2. A member shall be removed from the Appeals Board according to the following procedure:

2.1. a proposal for removal comes from the Appeals Board upon the request of majority of members of the IMC and/or any other external initiative;

2.2. the Assembly of Kosovo, with majority, shall decide whether to remove or not a member of the Appeals Board.

3. A member shall be removed from the Appeals Board if he or she:

3.1. is professionally incapable – proves in continuity to fail in performance of duties as member of the Appeals Board;

3.2. is mentally or physically incapable to perform the duties as member;

3.3. fails to carry out his/her duties for a consequent period of more than three (3) months without the Appeals Board approval;

3.4. is convicted of a criminal offence punishable by imprisonment of more than six (6) months;

3.5. fails to fulfil his or her requirements under sub-paragraph 1.3, 1.4 and 1.5 of paragraph 1 of Article 12 of this Law.

3.6. unjustified absence for more than twice in consequent meetings;

3.7. has actively engaged in political activities after his or her appointment as a member of the Appeals Board.

4. Members of the Appeals Board can give a resignation by notifying in writing the Appeals Board at least three (3) months in advance.

Article 42
Procedures of the Appeals Board

1. The Head of Appeals Board shall, in cooperation with the Executive Office, convene the meetings of the Appeals Board.

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

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

Article 43 Filing of Appeal

1. Appeals shall be filed with the Appeals Board within fifteen (15) days from the receipt of a decision of the IMC. An appeal shall be made in writing and shall be accompanied by such documentation or other evidence as may be required by the Appeals Board in accordance with paragraph 2 of Article 42 of this Law.

2. The Appeals Board shall take into consideration only appeals grounded to relevant legal information which were not available in course of making decision by IMC, or grounded to the possibilities on presence of any procedural and substantial mistakes made by the IMC in course of making decision.

3. The Appeals Board may, without hearing, reject the appeals not being grounded to one of both possibilities, or those fallen under provisions determined by the Appeals Board in compliance with paragraph 2 of Article 42 of this Law are unacceptable due being invalid, malicious or with ungrounded.

Article 44 Decisions of the Appeals Board

1. The Appeals Board shall issue a final decision in writing related to appeals filed by the media. The decision shall be submitted to the parties and be published through the Office of the Chief Executive Officer.

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

CHAPTER VII FUNDING OF THE IMC

Article 45 Sources of Funding

1. The IMC shall be funded by the Budget of the Republic of Kosovo. The IMC shall have its own budget line which shall guarantee its independence, and these means shall be permitted to it for use after a plan drafted in advance for development of its regular annual activities.

2. The IMC may receive contributions from donors in compliance with applicable legislation and they should not influence on the IMC independence.

3. The Assembly should be notified of received donor contributions.

4. Indemnification for the Chairperson and members of the IMC and members of the Appeals Board shall be set in accordance with the Law on salaries of senior officers.

**CHPATER VIII
TRANSITIONAL AND FINAL PROVISIONS**

**Article 46
Continuity of Activity**

1. From the day of entry into force of this Law, the current Commission, the Appeals Board and the IMC management shall continue to perform their duties established under this Law until the appointment of new members according to this Law but at latest within three (3) months.
2. All licences issued by IMC in compliance with the previous legislation will continue to be applicable until their regular expiry day. Current licences, after their expiry shall be repeated in compliance with this Law and other sub-legal acts issued by IMC.
3. Within six (6) months after the entry into force of this Law, IMC shall issue sub-legal acts in compliance with this Law.

**Article 47
Digitalization**

Process of transfer into digital broadcasting shall be regulated by a separate Law.

**Article 48
Repeal**

Upon entry into force this Law there shall be repealed the Law No. 02/L-15 on Independent Media Commission and Broadcasting.

**Article 49
Entry into Force**

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

**Law No. 04/L-044
2 March 2012**

Promulgated by Decree No.DL-009-2012, dated 26.03.2012, President of the Republic of Kosovo Atifete Jahjaga.