

SUBSIDIARY LEGISLATION 350.04**EUROPEAN BROADCASTING
COOPERATION REGULATIONS**

*Substituted by:
L.N. 485 of 2020.*

15th December, 2000;
1st May, 2004

*LEGAL NOTICE 158 of 2000, as amended by Legal Notices 258 of 2000,
323 of 2010 and 485 of 2020.*

1. The title of these regulations is the European Broadcasting Cooperation Regulations.

*Citation.
Substituted by:
L.N. 485 of 2020.*

2. (1) For the purposes of these regulations -

"the Act" means the Broadcasting Act;

"broadcaster" means a broadcaster of a television broadcasting service;

"producers who are independent of broadcasters" means any person who -

(a) is not an employee (whether or not on temporary leave of absence) of a broadcaster;

(b) does not have a shareholding greater than 15% in a broadcaster:

Provided that a company shall not be considered as an independent producer if a broadcaster has a shareholding greater than 15% in such company.

*Interpretation.
Amended by:
L.N. 323 of 2010.
Cap. 350.*

(2) Expressions used in these regulations shall have the same meaning assigned to them in the Act.

3. All audiovisual media services transmitted by media service providers in Malta shall comply with the rules of the system of law applicable to audiovisual media services intended for the public in Malta as contained in the Broadcasting Act and in subsidiary legislation made thereunder.

*Scope of regulations.
Substituted by:
L.N. 323 of 2010.
Cap. 350.*

4. (1) A broadcaster shall reserve for European works within the meaning of subregulations (1) to (7), a majority proportion of its transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, shall be achieved progressively, on the basis of suitable criteria.

*Broadcasting of European networks.
Amended by:
L.N. 323 of 2010.
Renumbered by:
L.N. 485 of 2020.*

(2) Broadcasters shall -

(a) either reserve at least 10% of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping;
or

(b) reserve at least 10% of their programming budget,

for European works created by producers who are independent of broadcasters. This proportion shall be achieved progressively having regard to the broadcasters' informational, educational, cultural and entertainment responsibilities to the viewing public. Such proportion shall be achieved on the basis of suitable criteria and by earmarking an adequate proportion for works transmitted within five years of their production.

(3) For the purposes of this regulation, "European works" means:

- (a) works originating in Member States of the European Union, hereinafter referred to as "Member States";
- (b) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions in sub-regulation (4);
- (c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements;

Provided that the application of the provisions of paragraphs (b) and (c) shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned.

(4) The works referred to in sub-regulation (3)(a) and (b) are works mainly made with authors and workers residing in one or more of the States referred to in the said paragraphs, provided that they comply with one of the following three conditions:

- (a) they are made by one or more producers established in one or more of those States; or
- (b) production of the works is supervised and actually controlled by one or more producers established in one or more of those States, or
- (c) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

(5) Works that are not European works within the meaning of sub-regulation (3) but that are produced within the framework of bilateral co-production treaties concluded between Member States and third countries shall be deemed to be European works provided that the co-producers from the Community supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.

(6) A broadcaster shall draw up and send to the Broadcasting Authority an annual report which shall include:

- (a) a statistical statement on the achievement of the proportions referred to in subregulations (1) and (2)

also showing separately the proportion of programmes originally produced in the Maltese language in respect of the television programme services broadcast by the said broadcaster;

- (b) the reasons for failure to attain any of the said proportions in cases where the broadcaster has not attained this aim;
- (c) the measures adopted or envisaged in order to achieve the said proportions.

5. (1) Broadcasters shall not broadcast on an exclusive basis events which are regarded by the Authority as being of major importance for society in such a way as to deprive a substantial proportion of the public of the possibility of following such events via live coverage or deferred coverage on free television. The Authority shall draw up a list of designated events, national or non-national, which it considers to be of major importance for society and it shall do so in a clear and transparent manner in due time. In so doing the Authority shall also determine whether such events should be available via whole or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage.

Transmission of major events.
Amended by:
L.N. 323 of 2010.
Renumbered by:
L.N. 485 of 2020.

(2) It shall not be lawful for broadcasters to exercise the exclusive rights purchased from the 19th of December 2007 onwards in such a way that a substantial proportion of the public in another Member State is deprived of the possibility of following events which are designated by that other Member State in accordance with provisions in their legislation transposing paragraph 3 of Article 3j of the Directive by whole or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage on free television as determined by that other Member State in accordance with legislation transposing the said provision of the Directive.

6. Without prejudice to the provisions of article 16(4) of the Act, or to the conditions of any broadcasting licence, any violation of the provisions of regulations 5 and 6 shall constitute an administrative offence and shall be cognizable by the Broadcasting Authority in terms of article 41 of the Act.

Administrative offences.
Renumbered by:
L.N. 485 of 2020.