

SUBSIDIARY LEGISLATION 350.33**BROADCAST DISTRIBUTION SERVICES
REGULATIONS**

1st January, 2013*

LEGAL NOTICE 468 of 2012.

- 1.** The title of these regulations is the Broadcast Distribution Services Regulations. Citation.
- 2.** In these regulations, unless the context otherwise requires: Interpretation.
"the Act" means the Broadcasting Act; Cap. 350.
"the Authority" means the Broadcasting Authority;
"broadcast distribution network" means an electronic communications network used for the distribution of broadcast content;
"broadcast distribution service" means any transmission service provided over a broadcast distribution network;
"channel" means a signal path of specified bandwidth for conveying information over a broadcast distribution system;
"licensee" means an operator or any person licensed by the Authority to operate a radio station or a television station or a teleshopping television station or such number of stations on a broadcast distribution network as provided in article 10(6) of the Act;
"operator" means any person who operates a broadcast distribution network or provides a broadcast distribution service or who operates a broadcast distribution network and provides a broadcast distribution service;
"own-broadcast" means those programmes, including channels, which are originated by an operator rather than retransmitted from satellite or free-to-air broadcast radio or television stations or both radio and television stations;
"network" shall have the same meaning as is assigned to it by article 16B(3) of the Act;
"programming services" means the full range of entertainment and information programming offered by a broadcast distribution service.
- (2) Words and expressions used in these regulations which are also used in the Act shall have the same meaning as is assigned to them in the Act.
- 3.** (1) No person shall provide a broadcast distribution service without a licence issued by the Authority. Licence for a broadcast distribution service.
(2) The application form for a broadcast distribution service

*see regulation 1(2) of these Regulations, as originally promulgated.

licence is set out in Schedule I.

(3) Subject to the provisions of article 10 of the Act, the Authority may grant a broadcasting licence to an operator to allow him to broadcast such programme genres on his own-broadcast channel or channels over his broadcast distribution network as the Authority may from time to time approve. Without prejudice to the generality of the foregoing, such programme genres may include the following:

- (a) programme and other information with respect to the broadcast distribution network and its programming;
- (b) previews of programmes that will be shown on the broadcast distribution network;
- (c) cinematographic films;
- (d) sports and similar programming;
- (e) weather data and general information. Such general information shall not, without the previous approval of the Authority, include news or news related programmes;
- (f) general entertainment;
- (g) sound only signals.

Conditions under which a broadcast distribution service may be issued.

4. The provisions of the Act which set out the conditions under which a broadcasting service is licensed, including those contained in the First Schedule to the Act, shall *mutatis mutandis* apply to a broadcast distribution service:

Provided that the Authority may from time to time supplement such conditions or adapt such conditions to the specific exigencies of a broadcast distribution service.

Licence fees.

5. The Authority shall levy those licence fees from a licensee as set out in Schedule III.

Submission of programme schedules.

6. A licensee shall provide the Authority with programme schedules in such format, at such intervals and containing such information as the Authority may establish.

Typology of broadcast distribution service licences.

7. Subject to article 10 of the Act, the Authority may license a broadcast distribution service to offer such own-broadcast radio services or own-broadcast television services or both such own-broadcast radio services or own-broadcast television services over a broadcast distribution network and such retransmitted radio or television services or both such retransmitted radio and television services as it may approve.

Channel line up.

8. (1) An operator shall, not later than 1st February, 2013, submit a request the Authority to approve his broadcast distribution service's channel line up. The operator shall forward an application form as set out in Schedule II with the information of the channel line up.

(2) The Authority may either approve or reject the request.

(3) When the Authority approves the request, it may impose such reasonable conditions as it may deem fit.

(4) When the Authority refuses to approve such request, the Authority shall give reasons for its decision.

(5) Whenever an operator proposes to change the channel line up as approved by the Authority, the operator shall comply with the provisions set out in sub-regulation (1) and the Authority shall comply with the provisions of sub-regulations (2) to (4).

9. An operator shall provide such number of free services to the Authority as it may establish in order to enable it to carry out its monitoring functions. Such free service shall mean the installation and provision of an operator's programming services.

Provision of free installation and service.

10. (1) Station sponsorship shall be prohibited.

Station sponsorship.

(2) For the purpose of this regulation "station sponsorship" means the naming of channels after sponsors.

11. (1) The Authority shall be responsible for the supervision over the programming standards.

Programming services.

(2) The operator shall with regard to any programmes own-broadcast by it and not retransmitted comply with the provisions of the Act regarding programming standards in the same manner as that law applies to broadcasting stations providing similar services.

(3) The Authority may, for reasons of protection of public morals, direct the operator to cease retransmitting any programme or channel.

12. (1) Subject to article 10(6) of the Act, the operator's own-broadcast channels may carry advertisements, teleshopping and sponsorship in terms of the Act and any subsidiary legislation made thereunder.

Advertising, teleshopping and sponsorship.

(2) Channels which are being retransmitted by the operator over the broadcast distribution network shall be carried together with the original advertising, sponsorship and teleshopping. Advertisements and teleshopping may not be blocked without the permission of the originating station and may only be replaced by the operator if agreement is reached with the originating station and with the previous consent in writing of the Authority.

13. The provisions of these regulations shall not apply to digital radio which shall continue to be regulated by the Digital Radio Broadcasting Regulations.

Exclusion of digital radio. S.L. 350.29.

SCHEDULE I

[Regulation 3(2)]

APPLICATION FORM FOR AN 'OWN BROADCAST'
DISTRIBUTION SERVICE

GENERAL INSTRUCTIONS

- (a) Applications should be typed. Seven copies of this completed form are required. Only add separate sheets where it is indicated you may do so; otherwise responses must be kept within the space allocated. Appendices giving additional information, or any other material (e.g. cassettes, publicity documents), should not be enclosed unless specifically requested. Failure to comply with these requirements will render the application liable to disqualification. Following the presentation of this application form to the Broadcasting Authority any contact between the applicant and the Authority should only be at the instigation of the Authority.
- (b) This form, when completed, should be addressed to the Chairman of the Broadcasting Authority.

PART I - GENERAL INFORMATION

- 1a. NAME, ADDRESS AND TELEPHONE NUMBER(S) OF MAIN ORGANISER(S) OF THIS APPLICATION
(for contact purposes: maximum two persons).

Name (1)

(2)

Address

Telephone
(daytime)

mobile

fax

e-mail

1b. LEGAL STATUS OF APPLICANT
(see Article 10 of the Broadcasting Act)

2. CONTENT AND GENRES OF PROGRAMMING
This is your 'Promise of Performance'. Briefly describe the genres of programming that will be broadcast on this station.

3a. MANAGING DIRECTOR

Name: Age:

Address:

Nationality:

Background/Experience:

Telephone:

Mobile:

Fax:

e-mail:

4. STAFFING

- 4a. EXECUTIVES / SENIOR STAFF (including those mentioned at Section 3) - give name, age, address and nationality (if not Maltese) of any individuals so far appointed or identified for station management or other senior staff posts. Briefly describe personal background and relevant previous experience, and state which post the individual would occupy. (Use additional sheets if necessary).

5. PROGRAMMING

- 5a. During which hours of the day do you intend to broadcast? (If different from day to day, please list each day of the week separately).

6. EDITORIAL RESPONSIBILITY - EDITOR

6a. Who will be registered under the Press Act as the person responsible for editorial content of the broadcast distribution service?

Name and surname:

Address:

Tel.:

Fax:

e-mail:

Mobile no.:

Changes to the above have to be notified to the Authority three working days prior to effecting any such changes.

It is to be noted that all charges issued by the Authority's Chief Executive for any breach of the Constitution, Broadcasting Act and subsidiary legislation made thereunder shall be issued against the Editor. The Editor shall also ensure compliance with the said legislation.

7. THE AUDIENCE

7a. How large an audience do you expect to attract? Will your station appeal especially to particular groups within the population (if so, say which)? What evidence do you have of public demand for the type of programme service you propose? (If specific audience research has been carried out, use this and a maximum of one additional page to summarise main findings of relevance. Do not include full audience research reports with the application).

I certify that, to the best of my knowledge, the details given in this application for a licence to provide digital radio broadcasting services are correct, and that I have read the Broadcasting Act and understand the terms under which licences to broadcast are issued. I understand that, if awarded the licence, tape recordings of all output, apart from commercial tapes, records or discs (with timings), will need to be made and retained for ninety days prior to being recycled and that if phone-ins are part of the station's programming a delay mechanism will need to be installed and instructions given for its use where necessary.

Signature:

Name (in block capitals):

Position within applicant group:

SCHEDULE II

[Regulation 8(1)]

Application Form by an Electronic Service Provider
for Re-Transmission of Broadcasting Services

- (a) List the name of the television channels which will be included in the channel line-up of the electronic service provider.
- (b) List the name of foreign retransmitted radio channels which will be included in the channel line-up of the electronic service provider.
- (c) The list has to be addressed to the Chief Executive. The electronic service provider is requested to send any additional changes to the channel line which may occur from time to time.

Channel Line-Up

List the re-transmitted foreign television broadcasting stations together with the channel line up on the service provided by the electronic service provider.

Name of Channel	Competent Licensing Authority	Channel Number
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Channel Line-Up (cont.)

List the re-transmitted foreign radio broadcasting stations together with the channel line up on the service provided by the electronic service provider.

Name of Channel	Competent Licensing Authority	Channel Number
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SCHEDULE III

[Regulation 5]

Licence Fees

1. Fee to be paid on submission of an application for a broadcast distribution service €5,800
2. Licence fees to be paid on an annual basis by an electronic distribution network shall be as follows:
 - (a) for the first locally originating television broadcasting service €4,000
 - (b) any one other additional station carrying news and/or current affairs €8,000
 - (c) any one other additional station not carrying news/current affairs €400

Provided that only one application fee is applicable whenever an electronic distribution network operator applies for more than one station simultaneously.
