DIGITAL BROADCASTING ACT (ZDRad)

I. GENERAL PROVISIONS

Article 1
(Content of the Act)


Article 2
(Purpose of the Act)

The purpose of this Act shall be to maintain the efficient use of the radio frequency spectrum, which pursuant to international and national legal acts is intended for television and radio programme broadcasting in compliance with available technological options.

Article 3
(Definition of terms)

(1) The terms used in this Act shall have the following meanings:

1. Broadcasting shall mean a radiocommunications service in which the digital terrestrial transmission and dissemination of radio or television programming are intended for direct, open-space reception by the general public.

2. Innovative services shall mean services offered in a multiplex system which are not intended for digital transmission and dissemination of television or radio programming.

3. Complementary services shall mean services linked to television or radio programmes transmitted digitally and disseminated in a multiplex system that can be technologically and reasonably provided along with television or radio programming.

4. Owner of infrastructure shall mean a legal or natural person that owns any part of the electronic communications infrastructure appropriate for digital broadcasting or innovative services.

5. Multiplexing shall mean that part of a digital telecommunications broadcasting system for handling multiple digital input channels and transmitting them together.

6. Operator of a multiplex system shall mean a natural or legal person that manages or intends to manage a multiplex system and public communications network for digital broadcasting and that has notified the Post and Electronic Communications Agency of the
Republic of Slovenia (hereinafter: Agency) of this pursuant to legal provisions of the act regulating electronic communications.

7. Service provider shall mean a legal or natural person that satisfies the conditions for disseminating programme content in the form of digital television or radio programming in compliance with the act regulating media or under the terms of an international treaty binding on the Republic of Slovenia.

8. Mobile telephone service shall mean transmitting digital radio and television programming so as to enable reception on mobile telecommunications terminal equipment with a lower resolution than normal digital broadcasting.

9. High-definition television shall mean a form of digital television that enables at least 720 lines of resolution in the picture and a horizontal-to-vertical aspect ratio of 16:9.

(2) Other terms used in this Act shall have the same meaning as in the act regulating electronic communications or the act regulating media.

Article 4
(Subsidiary application of the act regulating electronic communications and the act regulating media)

The act regulating electronic communications shall apply to issues in the area of electronic communications which are not separately regulated by the present Act, whereas the act regulating media shall apply to issues in the area of media.

II. PLANNING AND SET UP OF NETWORKS FOR DIGITAL BROADCASTING

Article 5
(Frequency planning of networks)

(1) Geographical areas for digital broadcasting in which the frequency planning of networks is based shall be laid down by the Agency by issuing a general act.

(2) The setting up of a network shall be planned by the multiplex system operator.

(3) The planning of networks for digital broadcasting shall be frequency-based to enable the most efficient allocation of the radiofrequency spectrum in compliance with available technological options. The frequency planning of networks should be based principally on implementation of the radio frequency spectrum with single-frequency networks, if possible.

Article 6
(Time planning of networks)

The Agency shall, by the general act from the first paragraph of the preceding article, estimate the time frame for network set up.

Article 7
(Obligations of the multiplex system operator)

The multiplex system operator shall plan and set up a network for digital broadcasting in compliance with the public tender requirements for allocation of radio frequencies for
broadcasting, with the general act of the Agency from the first paragraph of Article 5 hereof, and with other provisions hereof.

**Article 8**

_Meaning of standards and adopted professional criteria_

In planning networks for digital broadcasting, the Agency and the multiplex system operator shall take into consideration internationally adopted standards in the area of digital broadcasting.

(2) In planning networks for digital broadcasting, the Agency and the multiplex system operator shall not without a valid reason ignore professional criteria adopted by the competent bodies of the Republic of Slovenia or the European Union.

**Article 9**

_Shared use of infrastructure suitable for digital broadcasting_

(1) The Agency shall encourage contractual arrangements for the shared use of property and capacities for digital broadcasting in compliance with the act regulating electronic communications.

(2) If a multiplex system operator is deprived of access to viable alternatives due to environmental protection or issues of public health, public security or spatial planning, including requirements for the economical use of space, and is unable to reach an agreement with the operators or owners of infrastructure on the shared use referred to in the preceding paragraph, the Agency shall decide on the matter via procedures pursuant to the provisions of the act regulating electronic communications.

(3) The Agency shall assess such deprived access to viable alternatives on the grounds stated in the preceding paragraph on the basis of a claim from an interested party within 30 days of receiving such claim.

(4) The provisions of this article shall not apply if the owner of the infrastructure suitable for digital broadcasting is the Ministry of Defence or Ministry of the Interior.

**III. MULTIPLEX SYSTEM MANAGEMENT**

**Article 10**

_Multiplex system operator as manager_

A multiplex system shall be managed by a multiplex operator that has obtained a frequency intended for digital broadcasting, mobile television or innovative services.

**Article 11**

_Multiplex system operator as content provider_

A multiplex system operator can also be a content provider, but is thus obliged to perform the activities of a multiplex system operator through a legally independent company or keep separate financial accounts for activities associated with multiplex system management.

(2) The provisions of the preceding paragraph shall not be applied if the multiplex system operator provides only complementary services.
If the multiplex system provider is also a content provider, the provisions regarding incompatibility of performing telecommunications activities and radio or television activities shall not apply.

**Article 12**
**(Prohibition of discrimination)**

(1) The multiplex system operator in a particular geographical area shall be obliged to ensure all content providers equal and non-discriminatory conditions for accessing the multiplex system managed by the multiplex system operator in respect of the right to disseminate programmes using digital broadcasting technology in the relevant geographical area.

(2) The provision laid down in the preceding paragraph shall also apply if the multiplex system operator is at the same time a content provider.

V. ASSIGNMENT OF RADIO FREQUENCIES FOR MULTIPLEXING

**Article 13**
**(General provisions)**

(1) Radio frequencies for multiplexing shall be assigned by the Agency in accordance with the radio frequency allotment plan by a decision and according to the procedure laid down by the Electronic Communications Act, unless otherwise specified by the present Act.

(2) The provision of point 1 of the fourth paragraph of Article 34 of the Electronic Communications Act (OG RS, No 13/07 – official consolidated version) shall not apply to radio frequencies envisaged for digital broadcasting.

**Article 14**
**(Preliminary implementation of a public tender)**

The Agency can implement a public tender and assign radio frequencies for multiplex systems during the period when such frequencies are still being used for analogue television broadcasting if their anticipated disablement is in compliance with the present Act, even if all conditions for termination or revoking decisions on the assignment of radio frequencies for analogue television broadcasting have not yet been fulfilled. In this event, the Agency is obliged to ensure implementation of the same frequencies for digital broadcasting no later than within 12 months following the selection of a multiplex system operator.

**Article 15**
**(Special arrangements for the purposes of public broadcasting)**

(1) A public tender shall not be required when assigning radio frequencies for a single multiplex system with geographical coverage of the entire territory of the Republic of Slovenia which is intended primarily for public broadcasting in compliance with the act regulating public broadcasting.

(2) Public broadcasting may freely make use of the free capacity of the multiplex system from the preceding paragraph; however, it may in no case disregard the prohibition of discrimination in compliance with the present Act.
(3) The provisions from the preceding paragraph shall not apply if the multiplex system referred to in this article is the only active multiplex system with geographical coverage of the entire territory of the Republic of Slovenia. In this case, the public broadcasting entity shall, against payment and in the framework of the above free capacity, provide for the transmission of programmes with the right to disseminate content using digital broadcasting technology in the entire territory of the Republic of Slovenia.

(4) If the multiplex system referred to in this article is the only active multiplex system with geographical coverage of the entire territory of the Republic of Slovenia, the public broadcasting entity can only be issued a decision on the assignment of radio frequencies for a successive multiplex system if there are no other tenderers.

**Article 16**

*(Decision on the initiation of a public tender)*

(1) The decision on the initiation of a public tender on the assignment of radio frequencies for a multiplex system shall, in addition to the required elements provided by the act regulating electronic communications, contain all essential specifications of the multiplex system for which a radio frequency is tendered, such as frequency, area of coverage, channel capacity, extent of reserve capacity and other elements in compliance with the present Act.

(2) The provisions of the second and third paragraphs of Article 40 of the Electronic Communications Act (OG RS, No 13/07 – official consolidated text) shall not apply to the decision on initiation of a public tender on the assignment of radio frequencies for a multiplex system.

**Article 17**

*(Tender for obtaining radio frequencies for a multiplex system)*

(1) In addition to the other required elements that comprise the application for assignment of radio frequencies stipulated by the act regulating electronic communications or that result from contract documents, the tenderer shall also enclose in the tender for obtaining radio frequencies for a multiplex system a time frame and spatial plan for the setting up of a network.

(2) The provisions of the preceding paragraph shall also apply *mutatis mutandis* in the tender for radio frequencies for innovative multiplexing services and the tender for radio frequencies for mobile television services.

(3) Notwithstanding the provision of the third paragraph of Article 44 of the Electronic Communications Act (OG RS, No 13/07 – official consolidated text), the Agency itself shall review and evaluate the tenders received.

**Article 18**

*(Content of the decision on the assignment of radio frequencies for a multiplex system)*

(1) A decision on the assignment of radio frequencies for a multiplex system shall comprise, in addition to the other required elements provided by the act governing general administrative procedure and the act regulating electronic communications, apart from the name of the programme and the conditions and requirements regarding programme content which must be met in order to use radio frequencies, the elements provided by the present Act.
(2) If in the public tender a condition for obtaining radio frequencies for a multiplex system is the anticipated reservation of a part of the capacity of the multiplex system for complementary services, the decision on the assignment of radio frequencies for the multiplex system shall also contain a description of the content and purpose of such reserve capacity.

(3) If in the public tender a condition for obtaining radio frequencies for a multiplex system is the anticipated reservation of a part of the capacity of the multiplex system for obligatory inclusion of certain television or radio programming, the decision on the assignment of radio frequencies for the multiplex system shall also include a description of the content and purpose of such reserve capacities.

(4) If in the public tender a condition for obtaining radio frequencies for a multiplex system is the anticipated reservation of all or part of the capacity of the multiplex system for constant transmission of high-definition television programming or when a part of the capacity of the multiplex system is reserved for enabling occasional transmission of high-definition television programming from different content providers in a single multiplex system under equal and non-discriminatory conditions, the decision on the assignment of radio frequencies for the multiplex system shall also include a description of the content of such reserve capacity and its method of use.

(5) The provisions of the third and fourth paragraphs of this article shall not apply in issuing a decision on the assignment of radio frequencies for innovative multiplexing services and in issuing a decision on the assignment of radio frequencies for mobile television services.

Article 19
(Duration of validity, amendment, extension, revocation and termination of a decision on the assignment of radio frequencies for multiplex systems and the transfer of rights to use radio frequencies)

As regards duration of validity, amendment, extension, revocation and termination of a decision on the assignment of radio frequencies for a multiplex system and the transfer of rights to use radio frequencies for multiplexing, the provisions on validity, amendment, extension, transfer, revocation and termination of a decision on the assignment of radio frequencies stipulated by the act regulating electronic communications shall apply, unless otherwise specified by the present Act.

Article 20
(Amendment of a decision on the assignment of radio frequencies for a multiplex system)

In addition to the instances stipulated by the act regulating electronic communications, the Agency may \textit{ex officio} amend a decision on the assignment of radio frequencies for a multiplex system in the case of new complementary services or new or amended innovative services or for widening the scope of capacities reserved for high-definition television or when amending technical parameters in order to improve coverage of a certain area.

Article 21
(Revocation of a decision on the assignment of radio frequencies for a multiplex system)
(1) In addition to the instances stipulated by the act regulating electronic communications, the Agency may *ex officio* revoke a decision on the assignment of analogue radio frequencies in the case of Article 31 of the present Act.

(2) For revoking a decision on the assignment of radio frequencies for a multiplex system, the provision of the third paragraph of Article 54 of the Electronic Communications Act shall not apply (OG RS, No 13/07 – official consolidated text).

**Article 22**

*(Special provisions on the transfer of the right to use radio frequencies for a multiplex system)*

If the operator of a multiplex system intends to terminate operations, the operator can submit an application for transferring the right to use radio frequencies for the multiplex system. If the operator fails to do so at least three months prior to the planned termination of operations, an application for transferring the right to use radio frequencies for the multiplex system may be submitted by any service provider, innovative service provider or mobile television service provider in this multiplex system.

**Article 23**

*(Payment for the use of radio frequencies for a multiplex system)*

(1) Holders of decisions on the assignment of radio frequencies for a multiplex system shall be obliged to pay an annual fee to the Agency for the use of the assigned radio frequencies as stipulated by the act regulating electronic communication. (2) The specified fee for the efficient use of a limited natural resource ensuring optimal use of assigned radio frequencies shall be paid for radio frequencies used for mobile television services or innovative services. The minimum amount of such fees and the manner of their payment shall be fixed by a ruling adopted by the Government of the Republic of Slovenia. In determining the level of fees and the method of payment thereof, account shall be taken of the supply and demand for tendered frequencies, the development of the market to which the tendered frequencies apply and the level of such payments in other European Union Member States, but the amount may in no case be so high as to hinder the development of innovative services and market competition. (3) The revenue referred to in the preceding paragraph shall be used only to encourage the transition from analogue to digital broadcasting as provided by the present Act.

V. RESTRICTIONS ON THE OPERATION OF A MULTIPLEX SYSTEM

**Article 24**

*(General provision)*

The operation of a multiplex system may be restricted to the extent and in cases stipulated in the present Act.

**Article 25**

*(Obligatory inclusion of certain television and radio programming in a multiplex system)*

(1) The multiplex operator in a particular geographical area must ensure inclusion in the multiplex system of all content providers that are entitled to disseminate their television or radio programming using digital broadcasting technology for that area to the extent of the capacity of the multiplex system prescribed for that purpose by the Agency.
(2) In each public tender for the assignment of radio frequencies for a multiplex system, the Agency may reserve a part of the tendered capacity of the multiplex system for dissemination of special television and radio programming as stipulated by the act regulating media.

(3) In order to be entitled to disseminate programming according to the preceding paragraph, the providers of special programming shall previously have obtained the right to disseminate such programming using digital broadcasting technology as stipulated by the act regulating media.

(4) The provisions of this article shall not apply in public tenders for the assignment of radio frequencies for innovative multiplexing services and mobile television multiplexing services.

**Article 26**

*(Restrictions relating to the right to disseminate programming using digital broadcasting technology)*

(1) The Agency cannot grant the right to disseminate programming using digital broadcasting technology in compliance with the act regulating media if there is no reserve capacity for this on the operating or tendered multiplex systems.

(2) The Agency shall initiate the procedure for revocation of the decision on granting the right to disseminate television or radio programming in a particular area *ex officio* unless within three months from the beginning of operation of the multiplex system the holder of rights begins disseminating and broadcasting television or radio programming for which the holder obtained this right in a multiplex system in this area, provided that all technical and legal conditions have been fulfilled.

(3) The provisions of this article shall not apply in a public tender for granting radio frequencies for innovative multiplexing and mobile television multiplexing.

**Article 27**

*(Inclusion of complementary services)*

(1) In a public tender for assignment of radio frequencies for a multiplex system, the Agency may determine that a specific part of the capacity of the multiplex system shall be reserved for complementary services.

(2) If the Agency acts according to the preceding paragraph, it shall be obliged to determine in the decision on initiation of a public tender that part of the capacity which a multiplex operator shall reserve for complementary services and define which complementary services shall take precedence over others. The operator shall be obliged to take into account available technological options and user needs.

**Article 28**

*(Restrictions for the purposes of high-definition television)*

(1) In a public tender for assignment of radio frequencies for a multiplex system, the Agency may determine that all or part of the capacity of the multiplex system shall be reserved for the dissemination of programmes using high-definition television technology.
(2) In a public tender for assignment of radio frequencies for a multiplex system, the 
Agency may decide that a part of the capacity of the multiplex system for enabling occasional 
transmission using high-definition television technology shall be reserved for different 
providers in this multiplex system. This part of the capacity of the multiplex system shall be 
used for dissemination of the current capacities of individual television channels of this 
multiplex system that usually broadcast programming at lower resolution for the purpose of 
transmitting programmes using high-definition television technology. Part of the capacities so 
reserved shall be available under equal and non-discriminatory conditions for the transmission 
and dissemination of any programming of all providers in this multiplex system.

(3) If the Agency acts according to the first and second paragraphs of this article, it shall be 
obliged to determine in the decision on initiation of a public tender that part of the capacity 
which shall be reserved by the operator of the multiplex system. Part of the capacity of the 
multiplex system so reserved must enable a content provider with its own part of the capacity 
of the multiplex system to transmit and disseminate programmes using high-definition 
television technology.

(4) A multiplex operator can divide the use of the capacity referred to in the first and 
second paragraphs of this article according to daily transmission time and offer individual 
terms under different conditions. The users of individual terminals can also be designated by 
auction.

VI. TRANSITION FROM ANALOGUE TO DIGITAL BROADCASTING

Article 29
(Concurrent analogue and digital broadcasting)

(1) A period of concurrent analogue and digital broadcasting for all television content 
providers shall begin when the coverage of the population with the signal of at least one 
multiplex system in a single geographical area is at least 90% and all content providers with 
the right to disseminate programming using digital broadcasting technology in this 
geographical area are granted the technical option and right to transmit and disseminate 
programmes in the multiplex system. The Agency shall, by a general act, determine the 
beginning of the concurrent analogue and digital broadcasting period in a particular 
geographical area.

(2) Notwithstanding the provisions of the preceding paragraph, the period of concurrent 
analogue and digital broadcasting shall begin by 1 June 2009 at the latest for all television 
content providers who in a single geographical area are granted the technical option and right 
to transmit and disseminate programming in the multiplex system.

(3) Thereby, holders of decisions on the assignment of radio frequencies for transmission of 
television programming using analogue broadcasting technology that in a particular 
geographical area are granted the option of transmitting and disseminating programme content 
in a multiplex system have the right to disseminate such programming using digital 
broadcasting technology in the equivalent coverage area and for the period specified in the 
decision on the assignment of radio frequencies for transmission using analogue broadcasting 
technology.

(4) In the period of concurrent analogue and digital broadcasting, multiplex system 
operators are obliged to pay an annual fee to the Agency for the use of radio frequencies only
in that part of the capacity of the multiplex system which is not used for transmitting the content of holders of decisions on the assignment of radio frequencies for transmission using analogue technology.

(5) The provision of the preceding paragraph shall not apply to disseminating programme content by service providers using high-definition television technology.

(6) Television content providers may in a particular geographical area disseminate programming concurrently using both digital and analogue technology for 18 months at the most from the beginning of the period of concurrent analogue and digital broadcasting.

(7) For the period of concurrent analogue and digital broadcasting, television content providers shall be obliged to inform the public in their programming of the date of termination of analogue dissemination of their programming in a particular geographical area.

(8) It is deemed that the period of concurrent analogue and digital broadcasting in a particular geographical area shall end on the day of termination of analogue television broadcasting in this geographical area.

(9) The operator of a multiplex system intended for public radio and television broadcasting shall, at least six months prior to terminating analogue broadcasting in a particular geographical area, ensure signal coverage for digital broadcasting to at least the same percentage of the population as that covered by the signal of public broadcasting programming on the day of entry into force of the present Act, but in doing so the percentage of coverage of the digital broadcasting signal in a particular area shall not be less than 95%.

Article 30
(Cessation of decisions on the assignment of radio frequencies for analogue television)

Decisions on the assignment of radio frequencies for analogue television shall cease to apply on the day of termination of analogue television in this geographical area. The Agency shall issue a declaratory decision revoking all decisions on the assignment of radio frequencies for analogue television.

Article 31
(Revocation of decisions on the assignment of radio frequencies for analogue television)

(1) The Agency shall issue ex officio a decision to all providers that by 31 December 2010 are still disposed of a valid decision on the assignment of radio frequencies for analogue television by which such decision on the assignment of radio frequencies for analogue television is revoked.

(2) An appeal against a decision from the preceding paragraph shall not stay its execution.

Article 32
(Assignment of unoccupied frequencies)

The Agency shall, no later than six months after the termination of analogue television, carry out a public tender for assignment of radio frequencies which due to the termination of analogue television are no longer being used.
VII. PROMOTING THE DISSEMINATION OF DIGITAL BROADCASTING

Article 33
(Measures to promote the dissemination of digital broadcasting)

(1) The ministry competent for electronic communications (hereinafter: ministry) shall carry out the following measures for promoting the dissemination of digital broadcasting, in particular:
   1. conferring consumer incentives, and
   2. co-financing the planning and setting up of digital broadcasting networks.

(2) The measures referred to in the preceding paragraph shall be financed exclusively from one-time payments paid by the operators of innovative multiplex service systems or multiplex systems for mobile television for the efficient use of a natural resource.

Article 34
(Consumer incentives)

(1) The ministry shall, with the funds available, encourage the dissemination of digital broadcasting in the form of consumer incentives by co-financing the purchase of digital television receivers by socially disadvantaged consumers.

(2) The receivers co-financed by the ministry shall be technology-neutral and use open standards of interactivity.

(3) In accordance with this article, recipients of incentives shall solely be persons obliged to pay contributions in compliance with the act regulating public broadcasting but who are exempt from the payment of such contributions.

(4) The ministry shall issue a public invitation for entitled persons to apply for co-financing of the purchase of a digital TV receiver and determine the receivers to be co-financed.

Article 35
(Co-financing the planning and setting up of networks for digital broadcasting)

The ministry may co-finance the planning and setting up of networks for digital broadcasting in areas where, despite signal coverage of 92% of the population in the Republic of Slovenia with at least one multiplex system, users are still unable to receive digitally broadcast programming.

VIII. DISPUTE RESOLUTION

Article 36
(Resolution of disputes)

Disputes between multiplex system operators and disputes between multiplex system operators and content providers, complementary services providers, innovative services providers or mobile television providers shall be resolved by the Agency in accordance with the provisions of the act regulating electronic communications.
IX. SUPERVISION

Article 37
(Supervision and investigative authority over violations)

(1) The Agency shall supervise implementation of the provisions of the present Act and regulations and general acts issued on the basis of the present Act in compliance with the act regulating inspections and the act regulating electronic communications.

(2) The Agency shall decide on violations of this Act and regulations thereof, acting as investigative authority over violations in compliance with the act governing violations.

(3) The Agency may impose a fine for violations in an amount higher than that indicated as the minimum for a specific violation.

X. PENALTY PROVISIONS

Article 38
(Violations)

(1) Any legal person, sole proprietor and self-employed individual shall be fined for an offence with a penalty ranging from EUR 20,000 to EUR 100,000 if that person:

1. sets up a network contrary to the present Act (Article 7);

2. fails to comply with obligations that arise from an Agency decision (second paragraph of Article 9);

3. fails to comply with obligations relating to ensuring separate accounting or fails to perform activities relating to management of a multiplex system by a legally independent company (Article 11);

4. does not enable equal and non-discriminatory conditions for access to a multiplex system (Article 12);

5. uses radio frequencies for a multiplex system without a valid decision on the allocation of radio frequencies (first paragraph of Article 13);

6. fails to act in accordance with a decision on the allocation of radio frequencies for a multiplex system (Article 18);

7. transmits and disseminates programming using analogue broadcasting technology more than 18 months from the beginning of the period of concurrent analogue and digital broadcasting (sixth paragraph of Article 29);

8. as a television content provider in the period of concurrent analogue and digital broadcasting does not notify the public of the date of termination of analogue dissemination and transmission of programming in a particular geographical area (seventh paragraph of Article 29).
(2) A fine ranging from EUR 2,000 to EUR 4,100 shall be imposed on the responsible person of a legal person, a responsible person of a sole proprietor and a responsible person of a self-employed person for committing a violation referred to in the preceding paragraph.

(3) A fine ranging from EUR 500 to EUR 1,200 shall be imposed on an individual for committing a violation referred to in the first paragraph of this article.

**XI. TRANSITIONAL AND FINAL PROVISIONS**

**Article 39**
*(Adoption of implementing regulations)*

The term for adoption of the general act of the Agency referred to in the fifth paragraph of Article 5 shall be three months following the entry into force of the present Act.

**Article 40**
*(Termination of validity)*

On the day of entry into force of the present Act, Article 56a of the Electronic Communications Act (Uradni list RS /Official Gazette of the Republic of Slovenia/, No 13/07 – official consolidated text) shall cease to apply.

**Article 41**
*(Entry into force)*

This Act shall enter into force on the fifteenth day following its publication in the Uradni list RS.

No 326-09/07-3/1

Ljubljana, on 25 October 2007

EPA 1494-IV

President of the
National Assembly
of the Republic of Slovenia

France Cukjati, MD (signed)