

LAW OF UKRAINE ON MEDIA

Law of Ukraine “On Media”



13 December 2022 - adopted by the Verkhovna Rada of Ukraine (the Parliament)

29 December 2022 - signed by the President of Ukraine Mr Volodymyr Zelenskyy signed.



Ukraine’s implementation of two EU-related commitments

- under the EU-Ukraine Association Agreement (AA) on audiovisual policy*
- under confirming Ukraine’s EU candidacy*



Developed based on the provisions of:

- the **reviewed EU Directive on Audiovisual Media Services**,*
- standards of the Council of Europe in the media area*

The Law is aimed at ensuring:



implementation of the right to freedom of expression



the right to receive comprehensive, reliable and prompt information



pluralism of opinions and free dissemination of information; media equality and independence



protection of the rights of users of audiovisual media services and the national interests of Ukraine



principles of transparency, fairness and impartiality; promoting a competitive environment



legal status, procedures for the formation, activities and remit of the National Council



Key aspects of the Law:

- Independence of the Media NRA
- Scope of application
- Licensing and registration
- Co-regulation
- Liability
- Media literacy
- Wartime regulation
- New definitions and determinations

Independence of the Media NRA

The independence of the Media Regulator provides :

- ✓ **increasing the scope of powers regarding the possibilities of effective response to violations of consumer rights in the media area**
- ✓ **principles of financial independence**
- ✓ **detailed procedure for formation of the NRA**

The Law defines the **powers of the National Council, namely**

- ✓ **Performs market analysis, researches consumer expectations, concentration, etc.**
- ✓ **Establishes basic standards in the media within the framework of co-regulation**
- ✓ **Monitors compliance with media market standards**
- ✓ **Takes measures to restore consumer rights in the event of media violations**

The Law defines the **rights** of the National Council, namely :

- ✓ **Conducting checks**
(scheduled, unscheduled, additional)
- ✓ **Involvement of competent authorities to carry out expertise in the area of media**
- ✓ **Decision-making according to competence**
- ✓ **Demand elimination of violations as soon as possible**
- ✓ **Requested necessary information from stakeholders, concluded agreements, and memorandums, including international ones**

Scope of applications

Scope of application*

The Law applies to such media entities :

- entities in the audiovisual media area
- entities in the print media area
- entities in the online media area
- providers of audiovisual services
- video sharing platform providers
- providers of electronic communications services for broadcasting needs operating the radio frequency spectrum

** The Law does not regulate journalistic activity*

Scope of application

To entities in the audiovisual media area are assigned:

- TV broadcasting
- Radio Broadcasting
- On-demand audio media service
- On-demand audiovisual media service

Scope of application

There are special types of audiovisual media services:

- **public audiovisual media services** – audiovisual media services provided in accordance with the Law of Ukraine “On Public Media of Ukraine”
- **international broadcasting audiovisual media services** – audiovisual media services provided outside of Ukraine in accordance with the Law of Ukraine “On the international broadcasting system of Ukraine”
- **local public audiovisual media services and community audiovisual media services**

Licensing and registration

Licensing and registration

Licensing is foreseen only for those media that operate the radio frequency resource.

Registration is foreseen for entities that do not operate the radio frequency resource.

Licensing and registration

Licensed exclusively :

- broadcasting using the radio frequency spectrum (terrestrial broadcasting)
- providers of electronic communication services for broadcasting needs using the radio frequency spectrum

Licensing and registration

Voluntary registration is provided for:

- entities in the area of online media
- entities in the area of print media*

** After the end of the war*

Licensing and registration in the media area

The following actors are subject to mandatory registration:

- print media actors*
- broadcasting entities that do not operate radio frequency spectrum
- entities in the area of audiovisual media on demand
- audiovisual services providers
- video sharing platforms providers

**after the war*

CO-REGULATION

Co-regulation in the media area

Co-regulation aims to:

combine the functions and means of state regulation and sectoral self-regulation in order to ensure the participation of media actors in the development and determination of requirements for the content of information disseminated by the media, and to prevent censorship and abuse of freedom of speech

Co-regulation in the media area

The goal of co-regulation:

*drafting the requirements for the dissemination of information, which according to the legislation shall be regulated by adopting codes (rules) for the creation and dissemination of such information**

****With this, media actors voluntarily undertake the obligation to comply with such requirements, and the National Council recognizes that such requirements are sufficient to ensure the public interest***

Co-regulation in the media area

Co-regulatory bodies:

*are formed by licensees and registrants, as well as their public associations and associations of enterprises in the form of public unions**

****in the manner prescribed by the Law of Ukraine
"On Public Associations"***

Co-regulation in the media area

The list of issues for co-regulation is exhaustive:

- **Protection of children. Setting the classification of programmes, age categories**
- **Prohibition on certain types of information. Prohibited content**
- **Requirements for thematic linear services. The share of the national product**
- **Requirements for certain entities. Online media, video sharing services**

Co-regulation in the media area

The list of issues for co-regulation is exhaustive:

- **Commercial communications. Criteria for malicious advertising**
- **Rights of persons with disabilities. Providing access to information**
- **European products. Setting requirements and the share**
- **Special warnings. Requirements and sketches**

LIABILITY

Liability

Liability reform foresees:

- **Differentiated approach to liability depending on the type of the media and the type of violation**
- **Application of sanctions both directly by the National Council and through the court**
- **Detailing the procedures for considering issues with regard to violation of the requirements of the legislation in the media area**
- **Establishing a statute of limitations for prosecution**

Liability

The typology of offenses defines three clusters – **gross violations**, **significant violations** and **minor violations**:

Sanctions for **gross violations**:

- linear services - a fine of 25% of the license fee or 10-75 minimum wages;
- for print and online media – a fine of 10-15 minimum wages.

Sanctions for **significant violations**:

- linear services - a fine of 10% of the license fee or 5-50 minimum wages;
- print and online media - a fine of 5-10 minimum wages.

Sanctions for **minor violations**:

- linear services - a fine of 5% of the license fee or 1-25 minimum wages;
- print and online media – a fine of 1-5 minimum wages.

Liability

The Law provides for seven types of sanctions:

- **Prescription**, which is applied by decision of the National Council;
- **Fine**, which is applied by decision of the National Council;
- **License revocation** by court decision
- **Cancellation of registration** by decision of the National Council or by court decision
- **prohibition of publication and distribution of a print medium** by decision of the National Council or by court decision
- **Temporary ban on the distribution of an online medium** by decision of the National Council
- **Ban on the distribution of an online media** by decision of the National Council or by court decision

MEDIA LITERACY

Media literacy

The law introduces the definition of media literacy:

Media literacy – skills and knowledge that enable users to use media services efficiently and safely.

- Ensuring the formation and implementation of state policy on media literacy is entrusted to the relevant ministry
- **The main tasks** of the Media NRA in the area of **media literacy** shall be reflected **in the Strategy** of the National Council - **a fundamental** public document that defines **the goals** and **directions** of the National Council

REGULATION DURING THE WAR

Regulation during the war

The law provides for the aspects of regulation during the war:

- The term of the provisions has been extended*
- Adjusted with the latest amendments to the legislation on the prohibition of certain types of content
- The procedures for blocking of services of the aggressor state has been detailed:
OTT services, services of audiovisual services providers, the content of the linear media on video sharing platforms

**5 years after the abolition of the status of the aggressor state*

Regulation during the war

The law provides for the aspects of regulation during the war :

The list of persons who pose a threat to national security shall be formed by the ministry in the fields of culture and arts, on the basis of justified appeals from public authorities:

- the National Security and Defense Council of Ukraine
- the Security Service of Ukraine
- the National Council of Television and Radio Broadcasting of Ukraine

NEW DEFINITIONS

New definitions

The Law provides for new definitions with regard to: **the concept of “European product”**

- for **TV channels of national and regional categories**, except for foreign linear media, European product shall be at least 50 percent of weekly broadcast volume, which is determined without taking into account the news, broadcasts of sports events and games, advertising, TV sales.
- for **TV channels of national and regional categories**, that have **insignificant audience share**, requirements for the share of the European product are established by the National Council together with the co-regulatory body.
- for **nonlinear audiovisual media** (except for nonlinear audial media) European product shall be at least 30 percent of the programme catalog

New definitions

The Law provides for new definitions with regard to:
the concept of “online media”

Online media means the media that regularly disseminates information in text, audio-audiovisual or other form in electronic (digital) form via the Internet on its own website, except for the media that are classified by this Law as audiovisual media

New definitions

As well the provisions of the Law:

- transpose definitions of the EU Audiovisual Media Services Directive
- provide for European criteria for audiovisual media
- promote self-regulation
- establish commitments to the content and quotas with regard to the European product
- provide for the right to reply, etc.

Provisions on*:

- advertising information
- TV sales
- sponsorship
- product placement

* *will be regulated by a separate law*

***The law enters into force
three months after the
date of its publication***

31st March 2023