

L.N. of 2007

**BROADCASTING ACT
(CAP. 350)**

**Broadcasting (Jurisdiction and European Co-operation) (Amendment) Regulations,
2007**

IN exercise of the powers conferred by subarticle (2) of article 37 of the Broadcasting Act, the Prime Minister has made the following regulations:

Citation and entry into force.

1. (1) These regulations may be cited as the Broadcasting (Jurisdiction and European Co-operation) (Amendment) Regulations, 2007 and shall come into force on 1st March, 2007.

Addition of new sub-regulations. Cap. 387.

2. The following new sub-regulations shall be added to regulation 6:

“(3) For the purpose of this regulation, a free television station is considered to reach a substantial proportion of the public when the Authority is satisfied that such free television service can be received by ninety per centum of the Maltese population free-to-air.

(4) When a broadcaster intends to broadcast on an exclusive basis a major event in terms of this regulation, the said broadcaster shall ensure that it offers the rights to broadcast that same major event to a free television station at a reasonable market rate.

(5) In determining what constitutes a reasonable market rate, the following factors shall be taken into consideration:

- (a) previous fees, if any, for the major event or similar events;
- (b) time of day for live coverage of the event;
- (c) the period for which rights are offered;
- (d) the revenue potential with the live or deferred coverage of the event; and
- (e) such other matters as may appear to be relevant.

(6) The Authority may, where it considers it to be in the public interest, direct the broadcaster who is the exclusive rights holder to provide it in writing within such specified period as it may determine, with a copy of the agreement or arrangement between the said broadcaster and such other person from whom such broadcaster has obtained the exclusive broadcasting rights to transmit a major event.”.

Addition of new regulations.

3. The following new regulations shall be added after regulation 6 of the principal regulations:

“Regulation of short news reporting.

7. (1) The right to short news reporting of an event where exclusive rights for their television broadcast have been acquired shall be regulated in terms of this regulation.

(2) For the purposes of this regulation:

“event” means an event of high interest to the public which is transmitted on an exclusive basis by a primary broadcaster;

"exclusive rights" means the rights acquired by a broadcaster contractually, from the organizer of an event or the owner of the premises where the event takes place, the authors or other right holders, with a view to the exclusive television broadcast of the event by that broadcaster for a given geographical zone;

"primary broadcaster" means the broadcasting organization which holds the exclusivity for the television broadcast of an event;

"secondary broadcaster" means any broadcasting organization wishing to provide information, by means of short reports, on an event in which the primary broadcaster holds the exclusive rights;

"short report" means brief sound and picture sequences about an event such as to enable the viewers of the secondary broadcaster to have a sufficient overview of the essential aspects of such an event.

(3) In order to enable the public to exercise its right to information, the property right of the primary broadcaster shall be the subject of limitations, in accordance with terms and conditions set out hereafter.

(4) Any secondary broadcaster shall be entitled to provide information on an event by means of a short report. Such access shall be granted:

(a) by allowing the secondary broadcaster to freely choose short extracts from the primary broadcaster's signal. Unless impossible for reasons of practicality, the secondary broadcaster shall identify the source of the extract as originating from the primary broadcaster; or

(b) by having access to the site to cover the event, for the purpose of producing a short report.

(5) For the implementation of the foregoing arrangements, the following aspects shall be taken into consideration:

- a) if an organised event is composed of several organizationally self-contained elements, each self-contained element shall be deemed to be an event;
- b) if an organized event takes place during several days, it shall give the right to produce at least one short report for each day; and
- c) the short report shall be used exclusively by the secondary broadcaster and only in regularly scheduled news bulletins.

(6) Short extracts should not:

- (a) exceed 90 seconds;
- (b) be transmitted before the event is concluded or, for sports events, before the end of a single day's play, whichever is the earlier;
- (c) be screened later than 24 hours after the event;
- (d) be used to create a public archive;
- (e) omit the logo or other identifier of the primary broadcaster.

(7) The primary broadcaster shall be entitled to appropriate compensation for technical costs incurred. In any event, no financial charge shall be required of the secondary broadcaster towards the cost of television rights.

(8) If the secondary broadcaster is granted physical access to the site, the event organiser or site owner shall be able to charge the secondary broadcaster for any necessary additional expenses incurred. Such charge shall be reasonable.

(9) Should the event organizer or site owner refuse or impede the secondary broadcaster to gain physical access to the site, the event organizer or site owner shall be liable to an offence in terms of article 38 of the Broadcasting Act.