

F99000003038
TRANSMITTAL LETTER

To: Qualification/Tax Lien Section
Division of Corporations

SUBJECT: ENTE PUBLICO RTVE, CORPORATION
(Name of corporation - must include suffix)

Dear Sir or Madam:

The enclosed "Application by Foreign Corporation for Authorization to Transact Business in Florida", "Certificate of Existence", and check are submitted to register the above referenced foreign corporation to transact business in Florida.

Please return all correspondence concerning this matter to the following:

Miguel A. Martin, Esq.

(Name of Person)

M. A. Martin & Associates, P.A.

(Firm/Company)

848 Brickell Avenue, Suites 830

(Address)

Miami, Florida 33131

(City/State/Zip)

99 JUN 14 PM 4:00
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SECRETARY OF STATE
DIVISION OF CORPORATIONS

Should you need to call someone concerning this matter, please call:

100002895441--9

-06/04/99--01081--002

*****78.75 *****78.75

Miguel A. Martin at (305) 374-4422

(Name of Person)

(Area Code & Daytime Telephone)

STREET ADDRESS:

Qualification/Tax Lien Section
Division of Corporations
409 E. Gaines St.
Tallahassee, FL 32399

MAILING ADDRESS:

Qualification/Tax Lien Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Enclosed is a check for the following amount:

- ☐ \$70.00 Filing Fee ☒ \$78.75 Filing Fee & Certificate of Status ☐ \$78.75 Filing Fee & Certified Copy ☐ \$87.50 Filing Fee, Certificate of Status & Certified Copy

F99-3038

Name	06-14
Availability	
Document	
Examiner	
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Carrier	
Approved Agent	
W.P. V...	

LAW OFFICES

M. A. MARTIN & ASSOCIATES, P.A.

MIGUEL A. MARTIN*

RENEE ADWAR

JOHN NACHAZEL, OF COUNSEL**

*ADMITTED IN FLORIDA AND SPAIN

**ADMITTED ONLY IN

NEW YORK AND MASSACHUSETTS

SUITE 830
848 BRICKELL AVENUE
MIAMI, FLORIDA 33131
TELEPHONE (305) 374-4422
FAX (305) 530-9956
E-MAIL: a.martin@ix.netcom.com

June 11, 1999

Florida Department of State
Qualification / Tax Lien Section
Division of Corporations
409 East Gaines Street
Tallahassee, Florida 32399
Attn.: Ms. Tammy / Client

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 JUN 14 PM 4:00

RE: Ente Publico RTVE, corporation

Dear Sirs:

As per our conversation with The Department of State and instructions given by Mr. Shann, enclosed please find a set of photocopies of the Articles of Incorporation and its translation to English along with a copy of the application and our letter dated June 3, 1999 previously sent by Federal Express (enclosed please find copy of the Airbill).

We will appreciate if you could please expedite the authorization process since our clients are pending on the approval of the same to begin transacting business in Florida.

If any questions arise or any further documentation is needed please do not hesitate to contact our office.

Very truly yours,


Judith Freundt
Office Manager

JF/bf
Enclosures



FLORIDA DEPARTMENT OF STATE

Katherine Harris
Secretary of State

June 10, 1999

JUDITH FREUNDT
M.A. MARTIN & ASSOCIATES, P.A.
848 BRICKELL AVENUE, SUITE 830
MIAMI, FL 33131

SUBJECT: ENTE PUBLICO RTVE, CORPORATION
Ref. Number: W99000013523

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DIVISION OF CORPORATIONS
99 JUN 14 PM 4:00

We have received your document for ENTE PUBLICO RTVE, CORPORATION and your check(s) totaling \$78.75. However, the document has not been filed and is being retained in this office for the following:

Please provide an English translation for the entity's name in your cover letter.

A certificate of existence, dated no more than 90 days prior to the delivery of the application to the Department of State, duly authenticated by the secretary of state or other official having custody of the records in the jurisdiction under the laws of which it is incorporated/organized, must be submitted to this office. A translation of the certificate under oath of the translator must be attached to a certificate which is in a language other than the English language. A photocopy of this certificate is not acceptable.

If you have any questions concerning the filing of your document, please call (850) 487-6020.

Tammi Cline
Document Specialist

Letter Number: 599A00031333

**APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT
BUSINESS IN FLORIDA**

IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO
REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA.

ENTE PUBLICO RTVE, CORPORATION

1. _____
(Name of corporation; must include the word "INCORPORATED", "COMPANY", "CORPORATION" or words or abbreviations of like import in language as will clearly indicate that it is a corporation instead of a natural person or partnership if not so contained in the name at present.)

2. SPAIN
(State or country under the law of which it is incorporated)

3. N/A
(FEI number, if applicable)

4. _____
(Date of incorporation)

5. PERPETUAL
(Duration: Year corp. will cease to exist or "perpetual")

6. UPON RECEIPT OF AUTHORIZATION
(Date first transacted business in Florida.) (SEE SECTIONS 607.1501, 607.1502 and 817.155, F.S.)

7. 848 BRICKELL AVENUE, SUITE 830

MIAMI, FL 33131
(Current mailing address)

8. Commercial
(Purpose(s) of corporation authorized in home state or country to be carried out in state of Florida)

9. Name and street address of Florida registered agent: (P.O. Box or Mail/Drop Box **NOT** acceptable)

Name: MIGUEL A. MARTIN

Office Address: 848 BRICKELL AVENUE SUITE 830

MIAMI, Florida, 33131
(Zip code)

10. Registered agent's acceptance:

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

(Registered agent's signature)

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

12. Names and addresses of officers and/or directors: (Street address ONLY - P.O. Box NOT acceptable)

A. DIRECTORS (Street address only - P.O. Box NOT acceptable)

Chairman: Pío Cabanillas Alonso

Address: 1100 Ponce de León Blvd., Coral Gables, Florida 33134

Vice Chairman: Ricardo García Vicente

Address: 1100 Ponce de León Blvd., Coral Gables, Florida 33134

Director:

Address:

Director:

Address:

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DIVISION OF CORPORATIONS
99 JUN 14 PM 4:00

B. OFFICERS (Street address only - P.O. Box NOT acceptable)

President: Eduardo Olano Codesido

Address: 1100 Ponce de León Blvd., Coral Gables, Florida 33134

Vice President:

Address:

Secretary:

Address:

Treasurer: Eduardo Olano Codesido

Address: 1100 Ponce de León Blvd., Coral Gables, Florida 33134

NOTE: If necessary, you may attach an addendum to the application listing additional officers and/or directors.

13. _____
(Signature of Chairman, Vice Chairman, or any officer listed in number 12 of the application)14. _____
EDUARDO OLANO CODESIDO:
(Typed or printed name and capacity of person signing application)

LAW OFFICES

M. A. MARTIN & ASSOCIATES, P.A.

MIGUEL A. MARTIN*

RENEE ADWAR

JOHN NACHAZEL, OF COUNSEL**

*ADMITTED IN FLORIDA AND SPAIN

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848 BRICKELL AVENUE
MIAMI, FLORIDA 33131
TELEPHONE (305) 374-4422
FAX (305) 530-9956
E-MAIL: a.martin@ix.netcom.com

June 3, 1999

Florida Department of State
Qualification/Tax Lien Section
Division of Corporations
409 East Gaines Street
Tallahassee, Florida 32399

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 JUN 14 PM 4:00

RE: RTVE

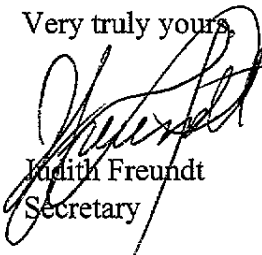
Dear Sir or Madam:

Enclosed please find original application requesting authorization to do business in Florida for the above referenced corporation along with original Articles of Incorporation and its translation in English with a set of photocopies for each document.

Also enclosed please find check number # 1662 in the amount of \$78.75 payable to Florida Department of State covering the costs for the processing of the application and the certificate. We will appreciate that once you are done with the documents you return the originals to our office.

If any questions arise please do not hesitate to contact our office.

Very truly yours,


Judith Freundt
Secretary

JF/bf

Enclosures

SECRETARY OF STATE
BOULEVARD OF THE
CABINET DE MADRID

ESTATUTO
DE LA
RADIO Y LA
TELEVISION



90 JUL 14 PM 4:00

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DIVISION OF CORPORATIONS

ESTATUTO DE LA RADIO Y LA TELEVISION

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DIVISION OF CORPORATIONS
99 JUN 14 PM 4:00

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990911 PM 1:00

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SECRETARY OF STATE
DIVISION OF CORPORATIONS

Deposited here: 14 Sep 1980
RECEIVED SECRETARY OF STATE OF CALIFORNIA

LEY 4/1980, DE 10 DE ENERO, DE ESTATUTO DE LA
RADIO Y LA TELEVISION

(«BOE» núm. 11, de 12 de enero de 1980)

DON JUAN CARLOS I, REY DE ESPAÑA

A todos los que la presente vieren y entendieren,
Sabed: Que las Cortes Generales han aprobado y Yo vengo
en sancionar la siguiente Ley:

La necesidad de establecer unas normas claras y precisas con rango de Ley para el funcionamiento de la radio y la televisión procede de la Constitución y del pluralismo político que proclama como valor del ordenamiento jurídico. La radiodifusión y la televisión, configuradas como servicio público esencial, cuya titularidad corresponde al Estado, se concibe como vehículo esencial de información y participación política de los ciudadanos, de formación de la opinión pública, de cooperación con el sistema educativo, de difusión de la cultura española y de sus nacionalidades y regiones, así como medio capital para contribuir a que la libertad y la igualdad sean reales y efectivas, con especial atención a la protección de los marginados y a la no discriminación de la mujer.

En la elaboración del presente Estatuto se ha partido de la Constitución, de la experiencia de otros países con sistemas democráticos de la misma orientación y de la propia realidad de cuya regulación se trata.

Desde el punto de vista orgánico, las competencias de la radiodifusión y la televisión, cuya titularidad estatal permanece, se encomienda al Ente público RTVE, cuya naturaleza administrativa responde al principio de descentralización funcional, pero cuya gestión se somete a las normas del Derecho privado. Dentro del Ente público se establecen, para una más eficaz gestión, las Sociedades estatales Radio Nacional de España, Radio Cadena Española y Televisión Española.

Como elementos más significativos de la Ley, cabe destacar los principios inspiradores de las actividades en materia de radiodifusión y televisión que figuran en el artículo cuarto; la designación parlamentaria de los miembros del Consejo de Administración del Ente público RTVE, respecto de los cuales se adoptan medidas tendientes a garantizar su profesionalidad y un alto grado de independencia; la distribución de competencias entre el Consejo de Administración, órgano de nueva creación, y el Director general; la posibilidad de establecer un canal de televisión de titularidad estatal para el ámbito territorial de

cada Comunidad Autónoma y bajo su gestión, que se complementa con un significativo grado de participación en los órganos territoriales de RTVE; el acceso a los espacios de radiodifusión y televisión por parte de los grupos sociales y políticos más significativos; la regulación del derecho de rectificación que, por primera vez, se establece en nuestro ordenamiento jurídico para los medios de comunicación de masas que son objeto de esta Ley; la limitación y control de la publicidad, así como la creación, en fin, de una Comisión parlamentaria del Congreso de los Diputados para ejercer el control de la actuación de las tres Sociedades estatales dependientes del Ente público RTVE.

Desde el punto de vista de la organización interna del Ente público y de sus Sociedades, cabe poner de relieve, por una parte, que los presupuestos y financiación de los mismos se sujetan a unas normas que garantizan un eficaz control y, por otra parte, que el personal procedente de los Organismos autónomos que se extinguen pasa a integrarse en el nuevo Ente público y sus Sociedades con respeto de sus derechos adquiridos, garantizándosele una importante representación en los Consejos asesores, de manera que su voz será oída antes de adoptar decisiones que le afecten.

La finalidad última de la Ley es la de crear una estructura organizativa que, inspirada en los principios que informan la Constitución, sea suficientemente ágil como para encauzar los objetivos al principio expresados en una sociedad que, como toda sociedad moderna, está en permanente transformación.

CAPITULO PRIMERO

Principios generales y ámbito de aplicación

Artículo primero

Uno. Los medios de comunicación social a que se refiere el presente Estatuto son la radiodifusión y la televisión.

Dos. La radiodifusión y la televisión son servicios públicos esenciales cuya titularidad corresponde al Estado.

Tres. Se entiende por radiodifusión la producción y difusión de sonidos mediante emisiones radioeléctricas a través de ondas o mediante cables, destinadas mediate o inmediatamente al público en general o bien a un sector del mismo, con fines políticos, religiosos, culturales, educativos, artísticos, informativos, comerciales, de mero recreo o publicitarios.

Cuatro. Se entiende por televisión la producción y transmisión de imágenes y sonidos simultáneamente, a través de ondas o mediante cables destinados mediate o inmediatamente al público en general o a un sector del mismo con fines políticos, religiosos, culturales, educativos, artísticos, informativos, comerciales, de mero recreo o publicitarios.

Artículo segundo

Uno. El presente Estatuto y sus disposiciones complementarias de orden técnico constituyen las normas básicas del régimen de los servicios públicos de radiodifusión y televisión y serán de aplicación general en todo el territorio nacional.

Dos. El Gobierno podrá conceder a las Comunidades Autónomas, previa autorización por Ley de las Cortes Generales, la

gestión directa de un canal de televisión de titularidad estatal que se cree específicamente para el ámbito territorial de cada Comunidad Autónoma.

Tres. La organización y el control parlamentario del tercer canal regional previsto en el párrafo anterior, así como de la radiodifusión y televisión en el mismo ámbito territorial, se articulará orgánica y funcionalmente de acuerdo con los criterios establecidos en los artículos quinto a doce y veintiséis del presente Estatuto, y según Ley de la Comunidad Autónoma por el Gobierno previo informe de los servicios técnicos del Ente público Radiotelevisión Española (RTVE), en aplicación de los acuerdos y convenios internacionales y de las resoluciones o directrices de los órganos internacionales a los que España pertenece y que vinculen al Estado español.

Artículo tercero.

El presente Estatuto se interpretará y aplicará con arreglo a los criterios de respeto, promoción y defensa de los valores del ordenamiento constitucional.

Artículo cuarto.

La actividad de los medios de comunicación social del Estado se inspirará en los siguientes principios:

- a) La objetividad, veracidad e imparcialidad de las informaciones.
- b) La separación entre informaciones y opiniones, la identificación de quienes sustentan estas últimas y su libre expresión, con los límites del apartado cuatro del artículo veinte de la Constitución.
- c) El respeto al pluralismo político, religioso, social, cultural y lingüístico.
- d) El respeto al honor, la fama, la vida privada de las personas y cuantos derechos y libertades reconoce la Constitución.
- e) La protección de la juventud y de la infancia.
- f) El respeto de los valores de igualdad recogidos en el artículo catorce de la Constitución.

CAPITULO II

Organización

SECCION I -DEL ENTE PUBLICO RTVE

Artículo quinto.

Uno. Las funciones que corresponden al Estado como titular de los servicios públicos de radiodifusión y televisión se ejercerán a través del Ente público RTVE.

Dos. RTVE, como Entidad de Derecho público, con personalidad jurídica propia, estará sometida exclusivamente a este Estatuto y a sus disposiciones complementarias. En sus telecomunicaciones jurídicas externas, en las adquisiciones patrimoniales y contratación estará sujeta, sin excepciones, al Derecho privado. Las funciones que se atribuyen al Ente público Radiotelevisión Española se entenderán sin perjuicio de las atribuidas en este Estatuto al Gobierno, o a las Cortes Generales y de las que en período de campaña electoral desempeñe la Junta Electoral Central.

SECCION II.—DE LOS ORGANOS DEL ENTE PUBLICO RTVE

Artículo sexto.

El Ente publico RTVE se estructura, a efectos de su funcionamiento, administración general y alta dirección en los siguientes órganos:

- a) Consejo de Administración.
- b) Consejeros asesores de Radio Nacional de España (RNE), Radio Cadena Española (RCE) y Televisión Española (TVE).
- c) Director general.

SECCION III.—DEL CONSEJO DE ADMINISTRACION

Artículo séptimo

Uno. El Consejo de Administración estará compuesto por doce miembros, elegidos para cada Legislatura, la mitad por el Congreso y la mitad por el Senado, mediante mayoría de dos tercios de la Cámara, entre personas de relevantes méritos profesionales.

Dos. Las vacantes que se produzcan serán cubiertas por la Cámara correspondiente de acuerdo con el procedimiento establecido en el párrafo anterior.

Tres. Los acuerdos del Consejo de Administración se adoptarán por mayoría de miembros presentes, salvo en los supuestos en que el presente Estatuto exija mayoría cualificada.

Cuatro. La condición de miembros del Consejo de Administración será incompatible con cualquier vinculación directa o indirecta a Empresas publicitarias, de producción de programas filmados, grabados en magnetoscopio o radiofónicos, casas discográficas o cualquier tipo de Entidades relacionadas con el suministro o dotación de material o programas a RTVE y sus Sociedades. También será incompatible con todo tipo de prestación de servicios o relación laboral en activo con RTVE y sus Sociedades.

Cinco. La Presidencia del Consejo de Administración será puramente funcional y se ejercerá de forma rotativa por meses entre sus miembros.

Seis. Los miembros del Consejo de Administración cesarán en sus cargos al término de la correspondiente Legislatura, aunque seguirán ejerciendo sus funciones hasta la toma de posesión de los nuevos Vocales.

Artículo octavo.

Uno. Corresponderán al Consejo de Administración las siguientes competencias:

- a) Velar por el cumplimiento, en la programación, de lo dispuesto en el capítulo primero de la presente Ley.
- b) Emitir su parecer sobre el nombramiento del Director general, que para ser afirmativo deberá formularse por acuerdo de dos tercios de sus miembros. Si no se alcanzara la mayoría indicada, se entenderá que el Consejo de Administración se abstiene de emitir su parecer sobre el nombramiento de Director general, dándose por cumplido el trámite.
- c) Recibir notificación previa del nombramiento y cese de los Directores de RTVE y de sus Sociedades.
- d) Aprobar, a propuesta del Director general de RTVE el plan de actividades del Ente público, fundado los principios bá-

sicos y las líneas generales de la programación, así como el plan de actuación de las distintas Sociedades de RTVE.

e) Aprobar la Memoria anual relativa al desarrollo de las actividades de RTVE, así como de las Sociedades estatales establecidas en este Estatuto.

f) Aprobar, con carácter definitivo, las plantillas de RTVE y sus modificaciones, así como las de sus Sociedades.

g) Aprobar el régimen de retribuciones del personal de RTVE y de sus Sociedades.

h) Aprobar el anteproyecto de presupuesto de RTVE y de sus Sociedades.

i) Informar los proyectos de disposición que se proponga dictar el Gobierno en materia de publicidad.

j) Dictar normas reguladoras respecto a la emisión de publicidad por RTVE atendidos el control de calidad de la misma, el contenido de los mensajes publicitarios y la adecuación del tiempo de publicidad a la programación y a las necesidades de los medios.

k) Determinar semestralmente el porcentaje de horas de programación destinadas a los grupos políticos y sociales significativos, fijando los criterios de distribución entre ellos en cumplimiento de lo establecido en el artículo veinte de la Constitución.

l) Conocer y resolver en la forma prevista en el apartado dos del artículo veinticinco los conflictos que puedan plantearse en relación con el derecho de rectificación.

m) Determinar anualmente el porcentaje de producción propia que deberá incluirse en la programación de cada medio.

n) Conocer de aquellas cuestiones que, aun no siendo de su competencia, el Director general de RTVE someta a su consideración.

Dos. Los acuerdos a que se refieren los apartados d), f), g), h) y k) se adoptarán por mayoría de dos tercios de los miembros del Consejo de Administración. Por lo que se refiere al apartado d), bastará la mayoría absoluta de miembros del Consejo de Administración una vez haya transcurrido un mes sin recaer acuerdo por mayoría cualificada. Por lo que respecta al apartado h), y en el caso de que no se alcance acuerdo por mayoría de dos tercios, el anteproyecto de presupuesto se remitirá al Gobierno en el plazo legal, haciendo constar el sentido del voto de cada uno de los miembros del Consejo de Administración.

SECCION IV.—DE LOS CONSEJOS ASESORES

Artículo noveno.

Uno. Los Consejos Asesores de RNE, RCE y TVE estarán compuestos por los siguientes miembros:

- a) Cinco representantes de los trabajadores designados por las secciones de las Centrales Sindicales más representativas, según criterios de proporcionalidad.
- b) Cinco representantes designados por el Instituto de España, de acuerdo con el Consejo de Administración, entre personas con relevantes méritos culturales.
- c) Cinco representantes de la Administración Pública, designados por el Gobierno.
- d) Cinco representantes de otras tantas Entidades autónomas o preautonómicas, designados por éstas en la forma que

reglamentariamente se determine y que garantice la presencia sucesiva de todas en cada Consejo Asesor

Dos. El Consejo Asesor de cada medio será convocado al menos semestralmente por el Consejo de Administración y emitirá opinión o dictamen cuando le fueren expresamente requeridos por el Consejo de Administración y en todo caso, con respecto a las competencias que sobre programación se atribuyen en el artículo octavo al Consejo de Administración.

SECCION V.-DEL DIRECTOR GENERAL DEL ENTE PUBLICO

Artículo diez.

Uno. El Director general será nombrado por el Gobierno, oído el Consejo de Administración.

Dos. El mandato del Director general será de cuatro años, salvo disolución anticipada de las Cortes Generales. En este supuesto continuará en su cargo hasta la designación de Director general.

Tres. El Director general será el órgano ejecutivo de RTVE y asistirá con voz y voto a las reuniones de su Consejo de Administración, con la sola excepción de las cuestiones que le afecten personalmente.

Cuatro. El cargo de Director general será incompatible con el mandato parlamentario y con cualquier vinculación directa o indirecta a Empresas publicitarias, de producción de programas filmados, grabados en magnetoscopio o radiofónicos, casas discográficas o cualquier otro tipo de Entidades relacionadas con el suministro o dotación de material o programas a RTVE y sus Sociedades.

Artículo once

Corresponderán al Director general las siguientes atribuciones:

- Cumplir y hacer cumplir las disposiciones que rijan el Ente público, así como los acuerdos adoptados por el Consejo de Administración en las materias que sean competencia de este órgano colegiado.
- Someter a la aprobación del Consejo de Administración con antelación suficiente el plan anual de trabajo y la Memoria económica anual, así como los anteproyectos de presupuestos del Ente público y de las Sociedades estatales.
- Impulsar, orientar, coordinar e inspeccionar los servicios de RTVE y de las Sociedades estatales y dictar las disposiciones, instrucciones y circulares relativas al funcionamiento o a la organización interna de las mismas, sin perjuicio todo ello de las competencias del Consejo de Administración.
- Actuar como órgano de contratación de RTVE y de sus Sociedades.
- Autorizar los pagos y gastos de RTVE y de sus Sociedades.
- Organizar la dirección y nombrar con criterios de profesionalidad al personal directivo de RTVE y de sus Sociedades notificando con carácter previo dichos nombramientos al Consejo de Administración de RTVE.
- La ordenación de la programación de conformidad con los principios básicos aprobados por el Consejo de Administración.

Artículo doce.

Uno. El Gobierno podrá cesar al Director general, oído el Consejo de Administración, mediante resolución motivada por alguna de las siguientes causas:

- Imposibilidad física o enfermedad superior en su duración a seis meses continuos.
- Incompetencia manifiesta o actuación contraria a los criterios, principios u objetivos a que se refieren los artículos tercero y cuarto de este Estatuto.
- Condena por delito doloso.

Dos. El Gobierno podrá cesar al Director general a propuesta del Consejo de Administración adoptada por mayoría de dos tercios y fundada en alguna de las causas establecidas en este artículo.

SECCION VI.-DE LA ORGANIZACION TERRITORIAL DE RTVE

Artículo trece.

RTVE, a través de su organización territorial, deberá elaborar una propuesta de programación específica de radio y televisión que será emitida en el ámbito territorial de la nacionalidad o región que corresponda, salvaguardando el porcentaje y distribución de las horas establecidas para la programación nacional que el Gobierno fijará anualmente a propuesta conjunta del Consejo de Administración y del Director general de RTVE.

Artículo catorce.

Uno. En cada Comunidad Autónoma existirá un Delegado territorial de RTVE nombrado por el Director general de RTVE, oído el órgano representativo que con estos fines se constituya en la Comunidad Autónoma. En su caso, existirá también un Director de cada uno de los Medios (RNE, RCE y TVE) nombrados por el Director general de RTVE.

Dos. El Delegado territorial estará asistido por un Consejo Asesor nombrado por el órgano de gobierno de la Comunidad Autónoma, y cuya composición se determinará por ley territorial. El Consejo Asesor estudiará las necesidades y capacidades de la Comunidad Autónoma en orden de la adecuada descentralización de los servicios de radio y televisión y en especial de la Sociedad estatal RCE, y formulará, a través del Delegado territorial, las recomendaciones que estime oportunas al Consejo de Administración de RTVE.

Artículo quince.

El Delegado territorial, previa audiencia del Consejo Asesor de la Comunidad Autónoma, elevará al Director general de RTVE una propuesta anual sobre la programación y el horario de emisión en el ámbito territorial correspondiente. El Director general de RTVE, junto con su informe, someterá la propuesta al Consejo de Administración de RTVE.

CAPITULO III

Modos de gestión

SECCION I -GESTION PUBLICA

Artículo dieciséis.

Uno. La gestión de los servicios públicos de radiodifusión y televisión que corresponde al Ente público RTVE, se regirá por las disposiciones de este Estatuto y se realizará mediante la adscripción de los servicios comunes que reglamentariamente se establezcan.

Dos. De los acuerdos que dicten los órganos de gobierno del Ente público RTVE y de las pretensiones que en relación con ellos se deduzcan conocerá la jurisdicción que en cada caso corresponda sin necesidad de formular la reclamación previa en vía gubernativa.

SECCION II - GESTION MERCANTIL

Artículo diecisiete.

Uno. La gestión del servicio público de radiodifusión se realizará por las siguientes Sociedades estatales:

- Radio Nacional de España (RNE).
- Radio Cadena Española (RCE), que comprenderá las emisoras bajo el indicativo REM-CAR y CES.

Dos. La gestión del servicio público de Televisión, se realizará por una Sociedad estatal, que se denominará Televisión Española (TVE).

Artículo dieciocho.

El capital de las Sociedades a que se refiere el artículo anterior será íntegramente estatal, pertenecerá en su totalidad al Ente público RTVE y no podrá enajenarse hipotecarse, gravarse, pignorar o cederse en cualquier forma onerosa o gratuita.

Artículo diecinueve

Uno. Las Sociedades estatales, encargadas de la gestión de los servicios públicos de Radiodifusión y Televisión, estarán regidas por el Derecho privado, sin más excepciones que las recogidas en el presente Estatuto.

Dos. Establecerán en sus Estatutos el cargo de Administrador único, que será el Director del Medio, nombrado y separado por el Director general, previa notificación al Consejo de Administración. Los Directores de los Medios, bajo la supervisión del Director general, serán responsables de la programación.

Tres. El cargo de Director de un Medio será incompatible con cualquier vinculación directa o indirecta a Empresas publicitarias de producción de programas filmados, grabados en magnetoscopio o radiofónicos, casis discográficas o cualquier otro tipo de Entidades relacionadas con el suministro o dotación de material o programas a RTVE y sus Sociedades.

Artículo veinte.

Uno. El Gobierno, a propuesta del Director general, y de acuerdo con el Consejo de Administración de RTVE, podrá crear

Sociedades filiales en las áreas de comercialización, cable y medios análogos, con objeto de garantizar la más eficaz gestión.

Dos. La organización y gestión de la red de difusión se acomodará en todo caso a las exigencias que derivan de la supremacía del interés del Estado en la propia red.

Tres. Las Sociedades filiales que se creen serán, en todo caso, de capital íntegramente estatal y con los privilegios y prohibiciones a que se refieren los artículos anteriores.

CAPITULO IV

Programación y control

SECCION I -DIRECTRICES DE PROGRAMACION

Artículo veintiuno.

El Gobierno podrá fijar periódicamente las obligaciones que se derivan de la naturaleza de servicio público de RTVE y, previa consulta al Consejo de Administración, hacerlas cumplir.

Artículo veintidós.

El Gobierno podrá hacer que se programen y difundan cuantas declaraciones o comunicaciones oficiales de interés público estime necesarias, con indicación de su origen. Por razones de urgencia, apreciadas por el propio Gobierno, estos comunicados y declaraciones tendrán efecto inmediato.

SECCION II.-PERIODOS Y CAMPANAS ELECTORALES

Artículo veintitrés.

Durante las campañas electorales se aplicará el régimen especial que prevean las normas electorales. Su aplicación y su control se defieren a la Junta Electoral Central, que cumplirá su cometido a través del Consejo de Administración y del Director general.

SECCION III.-PLURALISMO DEMOCRATICO Y ACCESO A LOS MEDIOS DE COMUNICACION

Artículo veinticuatro.

La disposición de espacios en RCE, RNE y TVE se concretará de modo que accedan a estos medios de comunicación los grupos sociales y políticos más significativos. A tal fin, el Consejo de Administración, de acuerdo con el Director general, en el ejercicio de sus respectivas competencias, tendrán en cuenta criterios objetivos, tales como representación parlamentaria, implantación sindical, ámbito territorial de actuación y otros similares.

SECCION IV.-DERECHO DE RECTIFICACION

Artículo veinticinco.

Uno. Quien sufra lesión directa y expresa en sus legítimos intereses morales, en virtud de datos o hechos concretos contrarios a la verdad y difundidos a través de una información radiofónica o televisiva, podrá solicitar por escrito en el

plazo de siete días desde la dilución de la información que sea transmitida la correspondiente rectificación.

Dos. La petición de rectificación, que deberá acompañarse de la documentación en que se apoye o contener la indicación del lugar en que ésta se encuentre, se dirigirá al Director del Medio que haya de proceder a su transmisión.

Tres. La denegación de la rectificación por parte del Director del Medio de que se trate podrá ser recurrida en el plazo de cinco días a través del Director general de RTVE ante el Consejo de Administración de RTVE, que resolverá sin que haya lugar a recurso administrativo alguno.

Cuatro. La difusión, en su caso, de la rectificación que acuerde el Consejo de Administración se sujetará a las exigencias que derivan de la naturaleza del medio y a las necesidades objetivas de la programación.

Cinco. Acordada la rectificación habrá de ser emitida en plazo no superior a siete días.

SECCION V CONTROL PARLIAMENTARIO DIRECTO

Artículo veintidós.

Se constituirá una Comisión Parlamentaria del Congreso de los Diputados de conformidad con lo que disponga el Reglamento de la Cámara. Esta Comisión ejercerá el control de la actuación de RNE, RCE y TVE de tal modo que no implique el funcionamiento de los medios.

CAPITULO V

Presupuestos y financiación.

Artículo veintitres.

El presupuesto del Ente público RTVE se ajustará a lo previsto en la Ley General Presupuestaria, sin perjuicio de las singularidades previstas en este Estatuto.

Artículo veinticuatro.

Uno. RNE, RCE y TVE tendrán presupuestos separados, que adjuntos a los Presupuestos Generales del Estado serán objeto de aprobación por las Cortes Generales.

Dos. Las Sociedades filiales a que se refiere el artículo veintidós del presente Estatuto estarán sujetas a igual régimen presupuestario.

Artículo veintinueve.

Uno. El presupuesto de cada medio y, en su caso, de cada Sociedad filial, se elaborará y gestionará bajo el principio de equilibrio presupuestario.

Dos. La contabilidad se ajustará a las normas legales aplicables a las Sociedades anónimas.

Artículo treinta.

Uno. Se rendirán cuentas periódicamente de la gestión presupuestaria ante la Comisión Parlamentaria a que se refiere el artículo veintidós del presente Estatuto.

Dos. En los términos que establezca su Ley orgánica, el Tribunal de Cuentas informará a la Comisión Parlamentaria

sobre la gestión económica y presupuestaria, tanto del Ente público RTVE como de las Sociedades estatales RNE, RCE y TVE y, en su caso, de las Sociedades filiales que se creen.

Artículo treinta y uno.

Sin perjuicio del presupuesto del Ente público RTVE y de los presupuestos de las Sociedades anónimas estatales, se establecerá un presupuesto consolidado con el fin de evitar déficit de caja eventuales o definitivos y de permitir su cobertura mediante el superávit de los Organismos y Entidades integradas en este presupuesto consolidado.

Se autoriza, por virtud del presente Estatuto, el régimen de minoración de ingresos respecto del presupuesto del Ente público RTVE.

Artículo treinta y dos.

Uno. El Ente público RTVE se financiará con cargo a los Presupuestos Generales del Estado y mediante los ingresos y rendimientos de las actividades que realice.

Dos. La financiación de las Sociedades gestoras de los servicios públicos de Radiodifusión y de TVE se realizarán del siguiente modo:

- a) RCE, mediante subvenciones consignadas en los Presupuestos Generales del Estado e ingresos comerciales propios.
- b) RNE, mediante subvenciones consignadas en los Presupuestos Generales del Estado e ingresos comerciales propios.
- c) TVE, mediante subvenciones consignadas en los Presupuestos Generales del Estado, la comercialización y venta de sus productos, una participación limitada en el mercado de la publicidad y, en su caso, mediante una tasa o canon sobre la tenencia de receptores que inicialmente sólo gravará la de los televisores en color.

Artículo treinta y tres.

El régimen de contratación de las Sociedades anónimas estatales se sujetará en todo caso al derecho privado, sin excepción en cuanto a los actos separables y al régimen de responsabilidad contractual o aquiliana.

CAPITULO VI

Patrimonio

Artículo treinta y cuatro.

Uno. Tanto el patrimonio del Ente público RTVE, como el de las Sociedades de capital íntegramente estatal, tendrán la consideración de dominio público, como patrimonio afecto al servicio público correspondiente y, en su consecuencia, estarán exentos de toda clase de tributos o gravámenes, tanto del Estado u otros Entes públicos como de las Comunidades Autónomas u otros Entes locales. No tendrán valor ni efecto jurídico los pactos mediante los cuales se pretenda cambiar el sujeto pasivo del tributo.

Dos. Aparte de los servicios de contabilidad e intervención del Estado en la gestión económica y en particular en la contratación de los créditos y en la aprobación de los gastos, el

Ente público RTVE, así como las Sociedades estatales, se sule-
tarán al control del Tribunal de Cuentas, en los términos que
establezca su Ley orgánica.

Tras. Sin perjuicio de las facultades que corresponden al
Ministerio de Hacienda, el Inventario General será controlado
por el Ente público RTVE

CAPÍTULO VII

Personal

Artículo treinta y cinco.

Uno. Las relaciones laborales en el Ente público RTVE y en
las Sociedades estatales a que se refiere el presente Estatuto se
regirán por lo dispuesto en la legislación laboral con sujeción
al principio de autonomía de las partes.

Dos. La pertenencia al Consejo de Administración o a las
Comisiones Asesoras no generará en ningún caso derechos labo-
rales respecto de RTVE y sus Sociedades.

Tres. Los funcionarios que se incorporen al Ente público
RTVE o a cualquiera de las Sociedades estatales lo harán
en situación de destino si perteneciesen a Cuerpos Generales.
Si perteneciesen al Cuerpo General de Técnicos de Información
y Turismo quedarán también adscritos en situación de des-
tino y los pertenecientes a otros Cuerpos Especiales, salvo
los de Intervención y Abogacía del Estado, lo serán en situación
de supernumerarios en el Cuerpo de origen. Se autoriza, a estos
efectos, al Director general de RTVE, sin perjuicio de las com-
petencias del Consejo de Administración, para solicitar la ad-
scripción de destino o la comisión de servicio de los funcio-
narios de los Cuerpos Generales o Especiales que estime nece-
sarios para el desarrollo de las tareas encomendadas al Ente
público RTVE en este Estatuto.

Cuatro. El ingreso en situación de fijo en RTVE y en las So-
ciedades estatales que se creen sólo podrá realizarse mediante
las correspondientes pruebas de admisión establecidas y convo-
cadas por el Director general de RTVE, de acuerdo con el Con-
sejo de Administración.

Artículo treinta y seis

Uno. Se fomentará especialmente el desarrollo de la forma-
ción profesional como sistema de promoción en los distintos Me-
dios del Ente público RTVE, a través del Instituto Oficial de
Radio y Televisión.

Dos. El Gobierno, a iniciativa propia o a propuesta de las
Comunidades Autónomas, podrá crear con carácter de filial, y
en el ámbito del territorio de aquellas, los correspondientes ins-
titutos oficiales de Radio y Televisión.

DISPOSICION ADICIONAL PRIMERA

La gestión del servicio público de radiodifusión se realizará
también asumiendo la situación actual por las Sociedades pri-
vadas a quienes se conceda o prorrogue durante los próximos
diez años dicha gestión en los términos que establezca la le-
gislación vigente y los acuerdos internacionales suscritos por
España. En todo caso, corresponde al Gobierno la atribución
de frecuencias y potencias de conformidad con tales acuerdos.

DISPOSICION ADICIONAL SEGUNDA

Uno. Queda suprimido el actual Organismo autónomo RTVE,
quedando subrogado el Ente público RTVE, y en cada caso la
Sociedad estatal que corresponda en su patrimonio, créditos
activos y pasivos, material, presupuestos, subvenciones y do-
taciones.

Dos. Se realizará inventario actualizado de todos los bienes
muebles e inmuebles integrados en el patrimonio de RTVE.

DISPOSICION ADICIONAL TERCERA

Las Sociedades gestoras de los servicios públicos de Radio-
difusión y Televisión podrán emitir obligaciones sin las limita-
ciones impuestas por el artículo ciento once de la Ley de So-
ciedades Anónimas de diecisiete de julio de mil novecientos
cincuenta y uno. El régimen de emisión de estas obligaciones
se regulará según lo dispuesto en la citada Ley, sin más excep-
ciones que la anteriormente consignada. Ello no obstante, las
obligaciones que se emitan por estas Sociedades, podrán ser
computadas como títulos públicos a los efectos prevenidos en
la Ley Presupuestaria de cuatro de enero de mil novecientos
setenta y siete, siempre que así lo autorice el Gobierno por
Real Decreto.

DISPOSICION ADICIONAL CUARTA

En lo que respecta a televisión, RTVE en un principio ar-
ticulará en la forma prevista en este Estatuto la programación
específica destinada a cada nacionalidad o región de forma
complementaria a la programación nacional que se emita por
las dos cadenas existentes. Posteriormente, extendida la cober-
tura técnica de ambas cadenas a todo el territorio español, el
Gobierno, en los términos previstos en el artículo segundo del
presente Estatuto, autorizará a RTVE a tomar las medidas ne-
cesarias para la puesta en funcionamiento de un tercer canal
regional para el ámbito territorial de cada Comunidad Auto-
noma.

DISPOSICION ADICIONAL QUINTA

Una vez constituidas legalmente, y con las condiciones que
se determinen, las asociaciones de radioyentes y de especta-
dores, dos representantes de las mismas designados al efecto
formarán parte de los Consejos a que se refiere el artículo no-
veno de este Estatuto.

DISPOSICION ADICIONAL SEXTA

El personal de Radiotelevisión Española y de sus Sociedades
que acceda al Consejo de Administración y que, como conse-
cuencia del artículo séptimo, apartado cuatro, de esta Ley, tu-
viera que abandonar su puesto de trabajo, tendrá garantizada
la reserva de plaza y se computará su antigüedad como si se
tratara de excedencia forzosa o especial.

DISPOSICION ADICIONAL SEPTIMA

La adscripción administrativa del Ente público RTVE se esta-
blecerá por Real Decreto.

DISPOSICION TRANSITORIA PRIMERA

Uno. El Consejo de Administración, a propuesta del Director General, o a través de éste, de los Directores de los distintos medios, y oídos los Comités de Empresa, realizará la adscripción del personal actualmente existente en RTVE a cualquiera de las Sociedades estatales. A partir del momento de la adscripción, la Sociedad a que se refiera queda subrogada a todos los efectos en la relación jurídica previamente existente entre RTVE y el personal de referencia. Se respetarán, en todo caso, la categoría profesional, la antigüedad y los derechos económicos adquiridos por el personal. Asimismo se respetarán los derechos sociales reconocidos actualmente al personal del Organismo autónomo RTVE, adecuándolos, en todo caso, a la aplicación del presente Estatuto.

Dos. El personal laboral del Organismo autónomo RTVE, que se adscriba a las Sociedades estatales, en el supuesto de que alguna de ellas se extinguiera o procediera a la reducción de plantilla, se integrará en cualquiera de las Sociedades restantes o en los Organismos del Ente público RTVE.

DISPOSICION TRANSITORIA SEGUNDA

El régimen de adscripción del actual personal funcionario que preste sus servicios en el Organismo autónomo RTVE, será regulado por Real Decreto. Sin perjuicio de ello, la adscripción a un destino se realizará por el Consejo de Administración a propuesta del Director General del Ente público RTVE.

DISPOSICION TRANSITORIA TERCERA

Los funcionarios del Estado adscritos actualmente a la Dirección General de Radiodifusión y Televisión, tanto de escala propia del Cuerpo Especial de Técnicos de Información y Turismo como de Cuerpos Generales o de otros Cuerpos Especiales, con destino en dicha Dirección General, pasarán al Ente público RTVE, en situación de activo, conservando la plenitud de derechos, ejercitando la correspondiente opción en el plazo de tres meses a partir de la entrada en vigor del presente Estatuto.

DISPOSICION TRANSITORIA CUARTA

La constitución de las nuevas Sociedades, encargadas de la gestión de los servicios públicos de radiodifusión y televisión, así como la integración en las mismas de los Organismos actualmente existentes, será regulada por Real Decreto. En cualquier caso, se integrarán como servicios comunes adscritos al Ente público RTVE, la red de difusión, el Instituto de Radio y Televisión Española y la Orquesta y Coros de RTVE, y cuantas concesiones de radiodifusión, con uno u otro nombre, vengán, en lo sucesivo, por transcurso del tiempo y no sean prorrogadas o renovadas por el Gobierno. El Organismo autónomo NO-DO quedará extinguido, integrándose en todos los efectos en el Ente público RTVE.

DISPOSICION TRANSITORIA QUINTA

Hasa tanto se constituyan los órganos del Ente público RTVE y las Sociedades estatales, continuará aplicándose la legislación actualmente vigente, excepto en el régimen pre-

supuestario y en el de la adquisición patrimonial y contratación de bienes y servicios, a los que será de aplicación lo previsto en el presente Estatuto. A tal fin, el Gobierno queda facultado para dictar las disposiciones complementarias precisas.

DISPOSICION TRANSITORIA SEXTA

Lo previsto en este Estatuto con respecto a las Comunidades Autónomas será de aplicación a los Entes preautonómicos con sujeción a las exigencias técnicas de los distintos medios.

DISPOSICION FINAL

Se autoriza al Gobierno, previa audiencia del Consejo de Estado, a dictar las disposiciones reglamentarias precisas para el desarrollo de lo previsto en este Estatuto, sin perjuicio de las facultades reglamentarias autónomas reconocidas en el mismo y de las instrucciones y circulares que el Ente público RTVE pueda dictar para el correcto y coordinado funcionamiento de las Sociedades estatales.

Por tanto,

Mando a todos los españoles, particulares y autoridades, que guarden y hagan guardar esta Ley.

Palacio Real, de Madrid, a diez de enero de mil novecientos ochenta.

JUAN CARLOS R

El Presidente del Gobierno,
ADOLFO SUAREZ CONZALEZ

**Essential Legal
Dispositions
for
Radio and Television
broadcasting in Spain**

rtve

Secretaría General

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The General Secretariat of the Public Corporation RTVE, wishing to join in the European Year of Cinema and Television, place our basic and fundamental legislation at the disposal of specialist on audiovisual subjects. This legislation has also been translated into English and French, so as to promote the "flow of information" to which McBride made reference, in a desire to achieve the very much sought goal of a "Television Without Frontiers".

At the same time, and with the aim of contributing to a wider spread of our legislation in Latin American countries, we have not only produced a pamphlet in Spanish with all the aforementioned rulings, but have also very much under way our project of compilation of all current legislation in the field of radio and television in Spain, which may render easier the interchange of technical information with a view to the 5th Centenary of the Discovery. Our regulations may perhaps suggest some ideas to the legislators on the other side of the Atlantic in this ever-changing field of radio and television. It is common knowledge that, up to a few years ago, our country was the one who came closest to our Spanish-speaking brethren in the field of radio broadcasting, since we had a coexistence of public and private radio - a unique case in Europe. Private television has not yet been inaugurated, but it has already been authorized, and therefore our identity with Latin America will soon be complete.

The task of legislators becomes ever more exciting. Legislative techniques, which are so important in the broad field of Law, acquire special relevance when it comes to these matters. It is necessary to closely and conscientiously examine prevailing socio-economic reality before the drafting of any norms, and in cases like the present this has always proved to be a great commitment, both from a political and a technological point of view - we should not lose sight of the meteoric progress that has been achieved in this field. Political and technical viewpoints must be grouped and regulated by Law, without neglect of any of these fundamental factors: an arduous task.

From the Royal Decree of January 24, 1908, in which the legislator asserted under Article I: "... and other similar processes which have been invented or which may be invented in the future", reflecting the intelligence and astuteness of the legislator in attempting to foresee the unforeseeable, up to the latest book published at the time when this preface was written, "La radio televisión como servicio público esencial" (*) - in which an analysis is made of all the elements which make up the juridical system of radio and television, the permanent task of the law professional is to interpret legislation in order to achieve a more just and fairer application. With this objective in view - among others - we are publishing this pamphlet which we trust will prove useful to professionals.

THE GENERAL SECRETARY OF
THE PUBLIC CORPORATION RTVE



José Antonio Ferrer-Sama

(*) "Radio and television as an essential public service".

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**The Telecommunications Act. no. 31 of
December 18th 1987.**

**JUAN CARLOS I
KING OF SPAIN**

Know all men by these presents, that Parliament has passed and I hereby approve the following Act.

PREAMBLE

This Act is a response to the need to create for the first time in Spain a basic legal framework containing the guidelines to which provision of the different categories of telecommunications must be adjusted, at the same time as clearly defining the functions and responsibilities of the Public Administration and of the public and private sectors.

In this context, it is necessary to highlight the dynamic nature of telecommunications, given their implications for all the strata and sectors making up the technological/industrial fabric of a developed country. However, the diffusion and heterogeneity of the regulations in this field has, traditionally, made it difficult to develop new services and to expand others.

The Act seeks to deal with current problems at the same time as tending to lay down the bases for the future of our telecommunications, in order to make them a cornerstone of the technological and economic development of this country. Therefore, the provision of telecommunications services is defined within a framework open to free competition and the incorporation of new services.

The Act is divided into four sections, eight Additional Provisions, one Repeal Provision, a Final Provision and an Annex of definitions.

As a general principle, the Act defines telecommunications as essential services owned by the State and reserved to the public sector; it defines the public radio-electric domain and organizes its utilization, at the same time as providing for the exclusion of certain services from that system.

The Act likewise classifies telecommunications services into a variety of groups and deals with each in different articles, so as to distinguish the service received by the user in each case, and the legal treatment given to said groups.

Rules for the unrestricted acquisition of terminals by the user, in the provision of the services, are introduced in the Act, provided that the terminal equipment connected to the points concerned has obtained the certificates of approval and of compliance with the pertinent technical specifications.

An innovation in the Act is the regulation of value-added services which serve to meet specific new telecommunications needs, particularly connection for data processing systems, which will facilitate the expansion of this new market.

For integrated service planning, investment rationalization and integrated operation of the existing networks, there is provision for approval by the Government of the National Telecommunications Plan.

Finally, the Telecommunications Advisory Board is set up, as the Government's senior advisory body in the field, and the criteria are fixed for the conclusion of a new agreement with the Spanish National Telephone Company.

PART I

General Provisions

Article 1.

1. The purpose of this Act is to regulate telecommunications and any communication by means of cables, together with radio commu-

nication; the authority therefor is the exclusive province of the State, in accordance with Article 149.1.21 of the Constitution, within the framework of an integrated policy for the sector which will ensure that it is planned, coordinated and developed consistently

2. Civilian telecommunications services are intended to meet public and private telecommunications needs through a homogeneous set of resources with technical specifications and of a standard which are suitable for the purposes defined.

3. For the purposes of this Act, the terms defined in the Annex shall have the meaning assigned to them there.

Article 2.

1. In accordance with the provisions of Article 128.2 of the Constitution, and with the terms of this Act, telecommunications are deemed to be essential services owned by the State and reserved to the public sector, except as provided for in Articles 9, 10, 21 and 22 hereinbelow.

2. Telecommunications services shall be organized in such a way as to efficiently guarantee the secrecy of communications, as provided for in Article 18.3 of the Constitution.

Article 3.

The State shall guarantee the range and general use of public telecommunications services in accordance with the resources available and in the service conditions defined in the current legislation.

Article 4.

Regulation of the provision of telecommunications services shall take account of plans and recommendations adopted in the bodies of the International Telecommunications Union, the European Economic Community and other international bodies in virtue of the conventions and treaties to which Spain is a signatory.

Article 5.

1. Telecommunications services pursuing activities which are essential to national defence constitute an integral part of said defence.

2. In accordance with the provisions of the legislation on national defence, the Ministry of Transport, Tourism and Communications is the body of the State Civil Administration with authority to implement national defence policy in the telecommunications sector, under the coordination of the Ministry of Defence and pursuant to the provisions of this Act.

Within the framework of the functions connected with civilian defence, it is the province of the Ministry of Transport, Tourism and Communications to study, plan, program, propose and implement such aspects as may be connected with the Ministry's contribution to national defence in the telecommunications field.

For these purposes, the Ministries of Defence and of Transport, Tourism and Communications shall coordinate the planning of the Armed Forces' telecommunications system so as to ensure, as far as possible, their compatibility with the civilian services. Likewise, they shall prepare the technological coordination programs required to facilitate the congruency, certification, coordination and utilization, whether jointly or otherwise, of civilian and military resources, systems and networks in the telecommunications field. Such inter-ministerial bodies as may be deemed fit shall be set up to study and report in the field, with the composition and authority to be defined in regulations.

3. In the civil defence field, and in its specific relation to telecommunications activity, the Ministry of Transport, Tourism and Communications shall collaborate with the Interior Ministry and the relevant bodies in the Regions with authority in this field, in the terms provided for in the civil defence legislation.

4. Telecommunications service centres, establishments and offices shall have the measures and means for security, surveillance, dissemination of information, risk prevention and protection to be defined by the government, acting on the recommendation of the Ministries of Defence, of the Interior, or of Transport, Tourism and Communications within the scope of their individual authorities, both in normal or in crisis situations and in those cases provided for in the Civil Defence Act, in the Organic Act regulating States of Alarm, Emergency or Siege, and in times of war.

Article 6.

1. The Administration shall promote the participation of consumer and user associations, pursuant to the General Consumer and Users Protection Act. For these purposes, said associations shall be given a hearing in the establishment of the general terms of the contracts of Companies operating a monopoly.

2. The Administration shall keep users informed of the telecommunications services available to them at any time, and of any amendments thereto.

3. The Regulations on the provision of each service shall establish users' rights and duties; the dissemination and implementation thereof shall be safeguarded by the Administration.

Article 7.

1. With its inherent powers of administration and control, the State shall be responsible for the management of the public radio-electric domain; this will be done subject to the provisions of the International Treaties and Agreements, and following the instructions and recommendations of the International Telecommunications Union.

2. For the defence of the said public domain, and notwithstanding the radio-electric protection of installations and the imposition of rights-of-way, the Administration shall, in regulations and within the limits defined in Additional Provision Four hereinafter, establish the limitations on property and rights-of-way necessary for the radio-electric protection of the Administration's installations, as required for the control of use of the radio-electric spectrum. It may also grant such radio-electric protection to earth satellite stations, radio-astronomy and astrophysical research centres and similar facilities when this is necessary to the good operation of the public service, or pursuant to International Agreements.

3. Reservation of the public radio-electric domain in favour of one or more persons or entities other than the public administrations shall be subject to a royalty intended for the protection, organization, management and control of the radio-electric spectrum, in the terms provided for in Additional Provision Nine.

4. The management and administration of the radio-electric frequency spectrum, and the allocation of frequencies, shall be the province of the Ministry of Transport, Tourism and Communications. Similarly, this Ministry shall be responsible for the technical approval of radio-electrical broadcasts, the identification, location and elimination of prejudicial interference, and the detection of breaches, irregularities and disruptions in telecommunications systems.

Regulations will be passed establishing the technical specifications and operating conditions of the equipment, apparatus and stations using the radio-electric frequency spectrum, together with the requirements to be imposed on their holders.

In any case, radio-electric radiation levels may not involve a danger to public health.

Article 8.

The use of the public radio-electric domain from communications satellites is subject to International Law. Their operation, within the

scope of Spanish sovereignty, is hereby reserved to the State, which may do this in such manner as it may deem fit, in virtue of arrangements with international bodies, or according to any of the direct or indirect management categories provided for in this Act.

PART II

Civilian Telecommunications Services

CHAPTER ONE

Provisions in Common

Article 9.

1. For the purposes of the provisions of this Act, telecommunications services, excluding those for propagation, which are provided within a private property, which do not use the public radio-electric domain, and which have no outside connection, shall not be deemed to be public telecommunications services, provided that such service is held and used by the same individual or legal person, and telecommunications services are not provided to third parties.

2. Likewise, security or intercommunication services which, while not connected to outside networks, nor using the public radio-electric domain, provide services to a building or to a community of owners, shall be excluded from consideration as public telecommunications services.

3. The administrative authorization for the commissioning of these services shall be deemed to be given on a general basis. In any case, the equipment, apparatus or systems providing the medium for the services included in this Article must have the pertinent certifications of approval and of compliance with the relevant technical specifications, in accordance with the procedure provided for in Article 29 hereinafter.

4. The outside connection of the services and installations referred to in the previous points must be done in accordance with the provisions of this Act for each type of service to be connected.

Article 10.

1. Classification as a public telecommunications service shall not extend to those services provided through their own telecommunications networks installed by the following:

a) Railway companies, provided that the networks and services concern rail traffic control.

b) Electrical energy production, transportation and distribution companies, between their technical control offices and the facilities which serve their industrial objectives, as well as between the said facilities and the points of consumption, provided that, for these purposes, they make use of the electrical energy transportation and distribution network itself, and applications concerning activities proper to the said companies are involved.

2. In order for such services to continue to be exempted from classification as public telecommunications services, they must necessarily be used only for the specific purposes referred to in the previous paragraph, and be intended for the exclusive use of the holder or holders of such service.

3. In any case, the establishment of such telecommunications services shall require the prior administrative authorization issued by the Ministry of Transport, Tourism and Communications, in the form to be defined in regulations.

For the granting of said authorizations, a prior report shall be required from the Government Delegation in the operation of the electrical system, in the case of electrical energy production, transportation and distribution companies.

4. The installation of other telecommunications networks by the said entities, or by other entities, shall, for all purposes, be deemed to be telecommunications value-added service networks, from

amongst those included in Article 2¹ hereinbelow, the four first paragraphs of which shall apply there, in full.

5. For the best possible coordination of telecommunications services, the State Administration may require compliance with particular or additional technical specifications in the installation. It may also require the appropriate classification and pertinent technical certification of the undertakings which carry out installation and maintenance services.

The State Administration may, in order to have the information necessary for coordination with the public telecommunications service, pass regulations on the requirements to be met by those applying for administrative authorizations in connection with the projects, and the terms of operation of the installations.

Article 11

Services established by means of official lines, systems or networks will be deemed to be official telecommunications services, understood to be those held by the State Administration and providing service exclusively to bodies of such Administration, or to other public entities, in the conditions to be defined in the regulations.

Article 12

1. In any case, the telecommunications services which the State reserves for its operation on a direct basis, whether itself or through its Public Institutions, through the competent bodies, in accordance with the specific legislation, are as follows:

- Meteorological aid radio-electric services,
- Air navigation aid radio-electric services,
- Sea navigation aid radio-electric services,
- Aerospace navigation aid radio-electric services,

2. Within the scope of its authority, the State shall also operate the following telecommunication services:

- Natural resource exploration radio-electric services,
- Space research radio-electric services,
- Radio-astronomy radio-electric services,
- Human life-saving and safety services at sea,
- Highway telecommunication, information and aid services,
- Such others of similar characteristics to those listed and which, because they affect the safety of human life, State security, or for exceptional reasons of public interest, are established by Royal Decree

In respect of these services, the State may grant licences in the terms to be defined in regulations.

3. Holders of the service referred to in the previous paragraphs shall be responsible for the investment in, and the operation and maintenance of the networks required for the provision of the services for which they are authorized, and shall have the planning resources therefor which guarantee the coordination and integration of such planning into the National Telecommunications Plan, all in the terms which are provided for in Article 28 of this Act.

The holders of the service may conclude agreements with the entities with licences for telecommunications carrier or end services, for the partial or total provision of the telecommunications network required for a given service.

CHAPTER TWO

End and Carrier Services

Article 13

1. End telecommunications services are those telecommunications services which provide complete capacity for inter-user

communication, including the functions of the terminal equipment, and which generally require switching components.

Initially, the following shall form part of said services: city, inter-city and international telephones; automatic mobile telephones; telegrams; telex; teletext, maritime mobile radio-telegraph, telefax, burofax; datafax, videotext, and videotelephones.

End telecommunication services may also include those established by the competent international telecommunications Bodies for provision on a universal basis and, in particular, those defined within the area of the European Economic Community for coordinated introduction in all the member countries.

2. End telecommunications services are provided in monopoly form to the public in general, to the holders of other than public telecommunications services, and to those operating value-added services, in the terms to be defined in regulations.

A Royal Decree shall decide whether each end telecommunication service shall be provided on a direct or indirect management basis.

3. The Technical Regulations on each end telecommunications service referred to in Article 19 hereinbelow must define the points at which the terminal equipment for such service is to be connected. This definition shall contain complete specification of all the technical and operational characteristics which must be met by said terminal equipment.

4. The terminal equipment, whose functions shall be specified in the definition of each end telecommunications service, may be freely acquired from the operating entity or from some other, or assigned by said entities by means of any other valid legal title.

The Technical Regulations shall fix the rate at which the rules for unrestricted user acquisition of terminals for each service shall reach full effect. As an exception, any type of terminal may be retained within the monopoly rules if that makes it possible to better guarantee the quality of the service, and the security or integrity of the network.

5. Irrespective of the system of ownership for the terminal equipment, it shall be an essential condition for its linking to the connection points that it has obtained the relevant certificates of approval and of compliance with the specifications referred to in point 3 of this Article, so as to ensure both the user's safety and the correct operation of the telecommunication network, in accordance with the procedures established in Article 29 below.

Article 14

1. Carrier services are those telecommunications services which provide the capacity required to transmit signals between termination points in defined networks.

There are two categories of such services.

a) Those using switched telecommunications networks to link the said termination points, such as data transmission through packet switching networks, through circuit switching networks, through the switched telephone network or through the telex network.

b) Services using unswitched telecommunications networks. The circuit rental service, amongst others, belongs to this group.

2. The services defined in paragraph 1.a) of this article are offered to holders of telecommunications services not defined as public, and to the entities operating value-added services, or to general use in the terms to be defined in regulations.

3. The services defined in paragraph 1.b) of this article are offered to entities holding value-added services and which hold the appropriate certificate of authorization, in accordance with the provisions of Article 22 hereinbelow, in the terms to be defined in regulations.

4. The network termination points referred to in the definition of carrier services must have their technical and operational characteristics fully specified in the associated Technical Regulations, referred to in Article 19 hereinbelow.

The user may connect any apparatus or equipment owned or leased by it or conveyed to it under any valid legal title by the entity operating the carrier service, or by another entity, to the network termination points, provided that such apparatus or equipment has the associated certificates of approval and of compliance with the said specifications, so as to ensure both the user's safety and the correct operation of the telecommunication network to which it is connected, in accordance with the procedures established in Article 29 hereinbelow.

5. Carrier services are provided on a monopoly basis by means of direct or indirect management by entities which are, in turn, operators of end telecommunications services, except as provided for in the following paragraph, in the terms to be defined in the Technical and Service Regulations on each such service.

Carrier services used as the medium for propagation services or for the transmission of images are operated through the direct management of a public entity assigned the provision of such services in a Royal Decree, or by indirect management through an entity holding end telecommunications services, once the relevant administrative licence has been granted.

The document authorizing the provision of such services must specify each; a general licence will not be valid.

Exceptionally, more than one such entity may be authorized to operate equivalent services, if it has a surplus of installed network capacity, in order to improve the return from such operation. Likewise, provisions may be passed requiring the networks to be interconnected in order to take advantage of such capacity, all within the scope of the provisions of Article 28 hereinbelow.

Article 15.

1. In the indirect management of carrier and end telecommunications systems, the State contracts legislation on the rules for the public service management contract shall be applicable.

2. In addition to the conditions to be defined in regulations, the licensee must hold Spanish nationality. If a corporation, the foreign share in its capital, be this direct or through subsidiaries, shall be subject to the provisions in the legislation on foreign investments in specific sectors; under no circumstances shall such foreign share exceed 25 per cent of the capital.

3. The following rules shall be applicable to the licensing of public services referred to in this Article:

a) The maximum period of duration of such licence shall be thirty years.

b) Operation by indirect management and in monopoly form shall require the presence of a Government Delegate in the Licensee Entity, whose authority shall be defined in regulations and which shall, in any case, include the right of veto of the licensee's resolutions for reasons of public interest.

c) Licences shall not be transferable, nor may the services included therein be sub-contracted, except as to be provided for in the regulations.

d) Licensing of these public services may go hand in hand with the obligation to pay the Administration the annual royalty to be fixed in regulations; such royalty shall be calculated according to the percentage of gross operating returns and shall not, under any circumstances, exceed 1 part per 1000 of such returns.

Article 16.

1. The provision of carrier and end telecommunications services must, in general terms, adjust to the following principles:

a) The area of cover shall be the whole of Spanish territory. However, if the technical conditions, the availability of resources, the penetration of new services or facilities, or other similar

circumstances would make it necessary, there may be points or zones which are exceptional and, provisionally, not covered.

b) Within their scope of cover, service quality margins must be uniform.

c) Different generations of equipment in a single service must be compatible, in order to guarantee the service without interruption.

d) In a given category of service, there must be access for all the terminal equipment which may legally be connected thereto.

e) It must be possible to exchange and send communications through services which allow such use with no further limitations than those imposed by the law, a court order, or which are the consequence of a grave or reiterated breach of contract by the user or subscriber.

f) The secrecy of the communications must be guaranteed in accordance with the provisions of Article 18.3 of the Constitution.

g) Consistent rates must be applied to equivalent services. Said rates shall be approved by the Government, on the recommendation of the Ministry of Transport, Tourism and Communications, and shall be based on the joint consideration of the following criteria:

— The citizen's access to the use of the public services, in equitable and reasonable terms.

— Adjustment to the real service costs, including plant amortization.

2. In particular, all citizens shall be entitled to access to the telephone service, both publicly and as a subscriber at home; for these purposes, the appropriate mechanisms will be established in order to guarantee that this right can effectively be exercised throughout national territory, in the shortest possible period of time.

Article 17.

1. The operation of carrier or end telecommunication services shall go hand in hand with the right to set up the network and infrastructure necessary for the provision of such services, within the scope of the conditions established in Article 28 hereinbelow.

In this sense, the different territorial urban planning documents must take account of the installation of telecommunications services, to which end the body entrusted with their drafting shall seek the pertinent information from the Administration.

2. The operation of carrier or end telecommunication services shall go hand in hand with the right to occupy the public domain insofar as required for the installation of the infrastructure for the public service concerned. In each case, the appropriate authorization shall be granted by the Ministry of Transport, Tourism and Communications, following fulfillment of the following requirements:

a) Submission of the pertinent technical project for approval by the competent body of that Ministry.

b) A positive report from the competent body of the Public Authority heading the domain concerned.

In the case of authorizations for use of the municipal public domain, the provisions of the following Article shall be observed.

The operation of carrier or end telecommunication services shall imply the declaration of public utility for the purposes of the provisions in the expropriation legislation; the special urgent procedure established in Article 52 of the Expropriations Act shall be applied, provided that the following requirements are met:

a) Approval of the associated technical project, by the competent body of the Ministry of Transport, Tourism and Communications.

b) In each specific case, the declaration of public utility; in the case of indirect management and monopoly, this shall be the province of the Government Delegate in the licensee entity. For the purposes of Article 2 of the Expropriations Act, entities operating services referred to in this Article shall be deemed to be beneficiaries of the expropriation.

Article 18.

1. Authorizations for use of the municipal public domain, as referred to in the previous article, must be granted in accordance with the provisions of the Local Government legislation.

2. Underground ducting must be used whenever required in a duly approved urban planning document.

On developable land, the urban body involved or the owner of the urbanization shall be bound to compensate the higher cost of the underground ducting imposed on the entity managing the telecommunication system; in turn, this cost may be passed on to the end user.

When, pursuant to the regulations referred to in this Article, the managing entity operating on urban land is required to do underground ducting work, the higher cost thereof shall be defrayed by the entity in the following proportions:

a) 90 per cent in the case of buildings or lands forming part of the Spanish Historical and Artistic Heritage, in accordance with the specific legislation thereon, or in the case of land in provincial cities or municipalities of more than 100,000 inhabitants which is zoned as urban land in the associated General Scheme and has all the services referred to in Article 78 of the recast text of the Urban Land and Planning Act.

b) 60 per cent in the municipalities referred to in the previous paragraph, when the installation is to be done on land which, although zoned as urban, does not have all the services referred to in the aforementioned Article 78.

c) 60 per cent in the case of buildings or urban ensembles more than one hundred years old and which have particular historic-artistic interest, or in the case of lands located in municipalities of more than 20,000, but not more than 50,000 inhabitants, zoned as urban land in the associated General Scheme, and which have all the services referred to in the aforementioned Article 78.

d) 30 per cent in the municipalities referred to in the previous Article, when the installation is to be done on urban land which does not have all the services indicated, or else in municipalities of more than 10,000 but not more than 20,000 inhabitants, provided that such urban land has all the services.

e) 20 per cent on urban land zoned as such in a General Planning Scheme and which is not included in any of the previous paragraphs.

Article 19.

Operation of carrier and end telecommunications services shall be subject to the passage of the associated Technical and Service Regulations.

These regulations must, in particular, deal with the following aspects:

a) Definition of the carrier services network termination points and the end service connection points, and definition of the terminals which, exceptionally, are an integral part thereof.

b) The establishment of the characteristics, and the procedures to be followed, to connect certified terminals to the service through the connection or termination points of the network concerned.

c) Those general aspects of the rules on the provision of the public service dealing with the obligations of such service, those for maintenance, the installation waiting-periods and the service cover, along with the contractual duties between the user and the entity operating such service; this regulation may not contain provisions which involve a situation of imbalance in the contract, to the user's detriment, between the rights and duties of the parties.

CHAPTER THREE

Value-added Services

Article 20

1. Value-added services are telecommunications services which, while not propagation services nor using carrier or end telecommunications services, add other facilities to the support service or meet specific new telecommunications needs such as, amongst others, access to stored data, delivery of data or data treatment, storage and recovery. This same classification shall extend to services using their own network as support in the terms of Article 23 below.

2. Notwithstanding the provisions of Article 24.4 hereinbelow, value-added services are deemed to be rendered on a concurrent basis. They may be operated by holders of carrier or end telecommunications services, and by any individual or corporation, in the terms provided for in this Act.

Article 21.

Value-added services using solely end telecommunications services or carrier services from those defined in Article 14 1.a) hereinabove as their support shall not be deemed to be public services. The administrative authorization will require prior notification of the commencement of the operation, to the Ministry of Transport, Tourism and Communications. Said authorization shall be deemed to have been granted as a result of the passage of one month without an express administrative resolution having been given; in no case will powers counter to the contents of the Legal Provisions be deemed to have been granted by this principle of "administrative silence".

Article 22.

1. Indirect management of value-added services using carrier services from those defined in Article 14 1.b) hereinabove as their support shall require administrative licensing.

2. Nonetheless, where, in the services referred to in Point 1 of this Article, the holder and user of each service are the same individual or corporation, and said services are not provided to third parties, their operation will require administrative authorization.

3. The Administration will pass regulations to fix the requirements to be imposed on applicants for such administrative licences or authorizations.

Article 23.

1. Value-added services requiring the installation of telecommunications networks other than those of the holders of the end and carrier services shall, in any case, require an administrative licence, which shall not be granted if there are carrier or end telecommunications services which may substitute for the special telecommunications network proposed by the applicant for the licence.

2. The licence will be cancelled if carrier or end telecommunications services are set up which may efficiently substitute for the special telecommunications network introduced. The Administration will establish a period of time during which the licensee may continue to operate its network, in order to amortize it, at the end of that period, the licence will be revoked.

3. These services may be operated by any individual or corporation, with no further limitations than those established in the Laws, and in the terms established for holders of licences for carrier and end telecommunications services in Article 15 hereinabove; said terms shall be applicable in full in this case, except for that of paragraph three, point b).

4. In order to better coordinate telecommunications services, the Administration may require the installations to comply with specific or additional technical conditions. Likewise, it may demand suitable classification and appropriate technical certification of the companies carrying out installation and maintenance services.

5. The Administration will approve the Technical and Service Regulations, and the documentation required, which must include the technical blueprints and the terms of operation of the installations.

Article 24.

1. In any case, entities operating value-added services shall be bound to comply with the specifications for the connection points of the end telecommunications services and the network termination points of the carrier services they use. For these purposes, the equipment connected to the said connection and network termination points must have been granted the associated certificates of approval and of compliance with the said specifications, so as to ensure both the user's safety and the correct operation of the telecommunication network. This obligation extends to all equipment making up the special telecommunications networks referred to in Article 23.1.

2. Value-added services referred to in Articles 22 and 23 above will not be authorized or licensed when the service it is planned to operate constitutes an end telecommunications service which is already in operation, with the exception of videotext, or else a carrier or propagation service.

3. Value-added services provided to third parties must have some feature which distinguishes them from the support service they use; in no case will the mere transfer of the support service be permitted. Regulations may establish the technical performance specifications for each service and, in any case, the maximum value of the quotient arising by dividing the annual sum of costs for the carrier services used by that of the revenues obtained from the operation of the service.

4. As an exception, the Government may exclude certain value-added services from the system of concurrent operation, when any of the following circumstances occurs:

- a) There is no private initiative in the legally established conditions for the provision of a service deemed to be of interest.
- b) The most suitable size of the undertaking means that, in fact, concurrence is impossible.
- c) The public and social interest in the extension of the provisions of the service makes this advisable.

Public telecommunications service licensee entities may be required to provide the services referred to in this paragraph.

5. The Ministry of Transport, Tourism and Communications shall ensure that the entities operating carrier or end telecommunications services at the same time as value-added services on a concurrent basis respect the principle of neutrality in connection with the conditions for the provision of the support services for the said value-added services. For these purposes, said operating entities shall, in addition to other requirements which may be established in the regulations, create separate books for those of their activities subject to the system of tariffs approved by the Government, and for those carried out on a concurrent basis, as well as applying for prior authorization to jointly operate value-added services with other entities.

6. The Ministry of Transport, Tourism and Communications shall set up a Central Register of value-added services, which must contain an entry on all the data to be defined in the regulations in respect not only of the operator of the service but also of the conditions and characteristics of such service.

7. Entities operating value-added services shall be bound to guarantee the secrecy of communications and the principle of

non-discrimination for any potential user of the service, provided that such user is within the area of cover thereof and has sufficient installations for such service, notwithstanding the provisions of the General Consumers and Users Protection Act

CHAPTER FOUR

Propagation Services

Article 25.

1. Propagation services are those telecommunication services in which the communication is done in one direction only, to several reception points at once. The provision of such services on an indirect management basis shall require an administrative licence.

2. Television shall always be deemed to be a propagation service and may not in any case be provided as a final or value-added service.

Television is deemed to be the form of telecommunication which permits the broadcasting or transmission of temporary images by means of electromagnetic waves propagated by cable, satellite, through space without any artificial guide or by any other means.

Notwithstanding the provisions of this Act, the legal rules on television shall be regulated by their specific legislation.

3. The issue or transmission of images through installations unconnected to outside networks and not using the public domain, to provide service in a vehicle, in a building or in a community of owners formed in accordance with the provisions of Act no. 49 of July 21st 1960, or on an urban block of neighbouring properties shall not be deemed to be television.

Similarly, definition as television shall not extend to the mere reception of images for transmission, in the same conditions as listed in the previous paragraph, which shall be governed by the provisions of the legislation on collective antennas, nor to the transmission of images done as part of the end videotelephone service referred to in Article 13 hereinabove.

4. Entities operating propagation services may, in addition, provide value-added services such as, amongst others, teletext, a fixed image with sound and radio facsimile broadcast, provided that they use their own propagation services as support, and in the terms to be established in the pertinent Technical and Service Regulations. If such services are to be provided by indirect management, they must first be granted the administrative licence.

5. Any video-conference service, and all transmissions of images, sounds or texts to production centres, except for mobile links, or from production centres to broadcast or distribution centres, or any other type of carrier service requiring propagation services for the transmission, broadcast or distribution of the associated signals must use the carrier services defined in Article 14 hereinabove.

Should the holder of the propagation service require specific telecommunication networks or transmitters in order to meet its transmission, broadcast or distribution requirements in full or in part, said networks or transmitters shall be subject to the rules established for value-added services requiring the installation of specific networks, regulated in Article 23 hereinabove. The coordination of such networks shall abide by the provisions of Article 28 below.

6. The Government shall pass the associated Technical and Service Regulations for the Propagation Services.

Article 26.

The following shall be of specific application to sound radio broadcasting services:

1. Short and long wave sound radio broadcasting services shall be operated directly by the State or by its public institutions.

2. Medium wave sound radio broadcasting services may be operated on a concurrent basis in the following categories:

a) By direct management by the State or by its public institutions.

b) By indirect management, through a state administrative licence, by individuals or corporations.

3. Metric wave frequency-modulated sound radio broadcasting services may be operated, on a concurrent basis, in either of the following categories:

a) Directly by the Public Administrations or their public institutions with authority in the field, in accordance with the legislation on the mass media and, indirectly, under an administrative licence, by local corporations.

b) By indirect management by means of an administrative licence, through individuals or corporations.

4. The introduction of the public services to which this article refers must always be in accordance with the National Technical Plans which are drawn up for these purposes by the Ministry of Transport, Tourism and Communications for the whole of Spanish territory and approved by the Government.

5. Licences for indirect management of the sound radio broadcasting services shall be granted by the Government, except in the case of those for metric wave frequency-modulated sound radio broadcasting services, which will be granted by the Regional Governments with authority in the field of the mass media.

6. In any case, prior to the commencement of the service, be it managed directly or indirectly, approval must be obtained from the Ministry of Transport, Tourism and Communications for the associated blueprints or technical proposals for the installations and their inspection, and the corresponding Technical and Service Regulations must have been passed.

PART III

Administration of Telecommunications

Article 27.

1. The State Administration shall exercise authority in the matters of telecommunications provided for in this Act, to be implemented in regulations, on the recommendation of the Ministry of Transport, Tourism and Communications, and of other Ministries in the field of their specific authorities.

2. It shall be the province of the Government to approve the National Telecommunications Plan referred to in Article 28 below.

3. It shall be the province of the Ministry of Transport, Tourism and Communications, in coordination with the Ministry of Foreign Affairs, to propose the policy to be followed, and the participation in international telecommunications organizations, as well as relations with national bodies and entities in matters of international telecommunications.

Article 28.

1. The Ministry of Transport, Tourism and Communications shall have the authority to propose the policy on the development and evolution of public telecommunications services, and their associated networks, and to ensure that such policy is implemented.

The Ministry of Transport, Tourism and Communications shall ensure the coordination and interconnection of the existing infras-

tructure and telecommunications networks in the conditions to be defined by the Ministry so as to obtain optimal performance of services and rationalization of investments. All public telecommunications services must be seen by the user to be an integrated network, even though more than one entity provides them.

The said Ministry shall establish the resources which allow entities operating carrier services and the end telecommunications services and propagation services with their own network to cooperate and interconnect as necessary for these purposes.

3. In order to ensure that planning of the services is integrated, the Ministry of Transport, Tourism and Communications shall, in coordination with the State bodies with authority over such services, submit the National Telecommunications Plan to the Government for its approval, and shall ensure that the said plan is implemented; it is to establish, over a period of several years, the development and extension of the networks and services and the introduction of others, in the context of promoting the progressive integration of the telecommunication networks, industrial development, and the introduction of high technology. In any case, it must ensure that the introduction of the said technology does not distort the provision of the existing services, whether from a functional or economic point of view.

4. Entities operating carrier services, end telecommunications services and propagation services with their own network are to collaborate in the preparation of the National Telecommunications Plan. Said entities must, in turn, draw up, submit for approval and implement their own plans, developing the part of the National Telecommunications Plan that concern them. All investments made by these or other entities in the telecommunication networks must be cleared by the abovementioned Ministry, as will be provided for in the regulations.

5. It shall be the province of the Ministry of Transport, Tourism and Communications to draw up the Technical and Service Regulations and to submit them for approval. They will be submitted jointly with the Department responsible in each case when the Technical and Service Regulations refer to those mentioned in Article 12 hereinabove.

6. As provided for in this Act, the Ministry of Transport, Tourism and Communications shall also have authority in questions of administrative licences, authorizations and permits for telecommunication apparatus, stations, systems and civilian services.

7. The State Administration shall promote the development of specific programs and agreements between entities licensed for end telecommunication services or for propagation services with their own networks and the public or private institutions with an interest in the development of telecommunications services. Such agreements or programs shall create the framework and the conditions in which the relations between the parties are to be developed. The State Administration shall define the form and time in which the infrastructure arising therefrom is to be included in the property of the operating entities.

Article 29.

1. The Government shall, on a recommendation from the Ministry of Transport, Tourism and Communications, define and approve the technical specifications which make it possible to guarantee the efficient operation of the telecommunication services and networks, and the correct use of the radio-electric spectrum, in relation with the equipment, apparatus, devices and systems of any type which:

- Use the radio-electric frequency spectrum.
- Can be connected to the public telecommunications networks or send signals to them.
- Are subject to value-added services, or
- May disrupt the normal function of a telecommunication service.

2. The Ministry of Transport, Tourism and Communications shall:

- a) Issue the appropriate certificate of compliance with the abovementioned specifications.
- b) Approve the trial procedures for the verification thereof.

3. Notwithstanding the provisions of the previous points, the Ministry of Industry and Energy shall exercise the authority assigned to it under the current standardization and certification legislation.

The Government will pass regulations creating the appropriate resources by which to ensure the coordination of each action.

4. The technical specifications on the equipment, apparatus and devices used by the Armed Forces shall be fixed by the Ministry of Defence; they must be compatible with the public telecommunications networks so that they can be connected, as provided for in Article 5, section 2, paragraph 3 hereinabove.

5. For the importation, mass production, sale, or display for sale of any apparatus, equipment, device or system, the certificates of approval and of compliance with the technical specifications, referred to in the previous points, must first have been obtained.

Article 30.

Within the scope of the current legislation, and in coordination with the bodies with authority in matters of research and development, the following shall be the province of the Ministry of Transport, Tourism and Communications:

- a) To draw up, manage and, where applicable, implement the Sector Research and Development Programs proper to the Department in matters of telecommunications, within the framework of the provisions of the Scientific and Technical Research General Promotion and Coordination Act.
- b) Jointly with other Departments, to promote Spanish participation in international research and development programs in the telecommunications field, through the Interministerial Science and Technology Commission, within the framework of the provisions of the Scientific and Technical Research General Promotion and Coordination Act.
- c) To propose the policy to be pursued in order to guarantee the correct planning of the telecommunications services.
- d) To promote the introduction of an adequate prototypes policy.

PART IV

Inspection and the Rules on Sanctions

Article 31.

1. The Ministry of Transport, Tourism and Communications shall have the authority both to apply the rules on sanctions and to inspect telecommunications services, apparatus, stations and civilian services.

2. The telecommunications inspection officers shall, in the exercise of their functions, be deemed to be public Authorities, for all purposes, and may apply through the Civil Governors for the support required from the State Security Forces and Corps.

Holders of services and activities referred to in this Act shall be bound to allow the inspection personnel, in the pursuit of their functions, to inspect the apparatus and installations, and such documents, permits or licences as they may be bound to keep or hold.

Article 32.

1. Administrative responsibility for infractions of the rules on telecommunications organization is hereby allocated as follows:

a) In infractions committed in provision of services covered by an administrative licence or authorization, to the individual or corporation holding such licence or authorization.

b) In infractions committed on provision of services without the cover of the associated administrative title, to the individual or corporation carrying out the activity or, on a secondary basis, to the party to whom the equipment and installations are made available under any valid legal title.

c) In infractions committed by users or, in general, by third parties not included in the previous paragraphs but which carry out activities affected by the legislation on the organization of telecommunications, to the individual or corporation to whom the provision which was violated is addressed, or to whom the relevant rules specifically attribute such liability.

2. Administrative liability will be demanded of persons referred to in the previous paragraph, notwithstanding that they may take due action against the persons to whom the infractions may actually be attributed.

Article 33.

1. Infractions of the rules on the organization of telecommunications are hereby classified as very grave, grave and petty.

2. The following shall be deemed to be very grave infractions:

a) The pursuit or activities or provision of services without the administrative clearance when this is legally required, and the use of radio-electric frequencies without authorization, or other than those authorized, except in the cases provided for in point 3) a of this Article.

b) The installation of terminals or equipment which have not been approved or which do not have the technical specification certificate of compliance referred to in Article 29 hereinabove, and which produce very grave damage to the telecommunications networks.

c) The deliberate production of interference defined as detrimental in the International Telecommunications Convention.

d) A refusal of inspection, or obstruction of and resistance to administrative inspection.

e) Breach of the essential conditions of the public telecommunications service licences.

f) The commission, within a term of one year, of two or more grave infractions, sanctioned in a final resolution.

3. The following shall be deemed to be grave infractions:

a) The provision of telecommunications services, not classified as public, without the administrative clearance, when this is specifically required hereby, or the failure to notify, when this is mandatory, and the use of radio-electric frequencies without authorization, or other than those authorized.

b) Breach of the terms of the public telecommunications service licences, unless classified as a very grave infraction pursuant to the provisions of the previous point.

c) The importation, mass production, distribution, sale, or display for sale of equipment or apparatus which do not have the certificates of approval and of compliance with the technical specifications, as provided for herein, or which arise under the international standardization and certification agreements or conventions to which Spain is a signatory, as well as the failure to notify change of title thereto when this is mandatory.

d) The installation of terminals or equipment which have not been approved or which do not have the certificate of compliance with technical specifications as referred to in Article 29 hereinabove, and which produce grave damage to the telecommunications networks.

e) Alteration or manipulation of the technical specifications of the equipment or apparatus, or of their names, labels or identification marks.

f) Changes of location or of the radio-electric specifications of stations of this type, without the appropriate authorization.

g) Breach by the collaborating entities in the field of standardization and certification of the technical specifications and authorizations or arrangements fixed in the regulations for their operation.

h) The installation, in operating conditions, of radio-electric stations with no administrative licence or authorization when this is legally necessary.

i) The mere production of detrimental interference as defined in the International Telecommunications Convention, and which is not included in point 2 of this Article.

j) The emission of false or misleading identification signals.

k) The commission within a term of one year of two or more petty infractions which are sanctioned in a final resolution.

l) Any other infraction of the rules on the organization of telecommunications which involves a grave breach of the obligations of those providing and using telecommunications services, unless they are classified as grave infractions in accordance with the provisions of point 2 of this Article.

4. The following shall be deemed to be petty infractions:

a) The production of any type of unauthorized radio-electric transmission, unless this is classified as a grave or very grave infraction.

b) The mere production of inadmissible interference, if this is not classified as a grave or very grave infraction.

c) Failure to provide the data required by the Administration, when these are demanded in accordance with the provisions of the rules regulating telecommunications.

d) The failure to have the mandatory tariff tables, when they must be on display in accordance with the rules regulating telecommunications.

e) Discourteous treatment of users. This infraction is classified in accordance with the cases provided for in the regulations on consumer and user rights.

f) Any other infraction of the rules on the organization of telecommunications which involves a breach of the obligations of those providing and using telecommunication services, except where this must be considered as a grave infraction in accordance with the provisions of point 3 of this Article.

Article 34

1. Petty infractions will be sanctioned with an admonition, or a fine of up to 50,000 pesetas; grave infractions will be sanctioned with fines of up to 1,000,000 pesetas, and very grave infractions will be sanctioned with fines of up to 10,000,000 pesetas.

In any case, the amount of the sanction imposed, within the limits indicated, shall be graduated according to the number of infractions, in relation with the particular characteristics of the activity concerned and their social repercussions.

2. Sanctions imposed for infractions in paragraphs 2 a), 2 b), 3 c), 3 d) and 3 e) of Article 33 above may go hand in hand with the impounding of the equipment and apparatus seized from the party in breach, as an ancillary sanction.

3. Very grave infractions may, depending on the circumstances, lead to the permanent revocation of the administrative clearance for the service provided by the party in breach.

Likewise, it may be agreed to provisionally suspend the title and close the installations temporarily, for a maximum period of six months, as a means of ensuring the efficacy of the final resolution to be adopted.

4. In the infractions provided for in paragraphs 2 a) and 3 a) of Article 33 above, the party in breach shall, in addition to the applicable sanction, be required to pay the royalties that would have been due from it had it been authorized.

5. The Government is hereby authorized to update the amount of the sanctions provided for, in a Royal Decree, in accordance with fluctuations in the consumer price index.

Article 35.

1. The infractions regulated in this Act shall prescribe after three months in the case of petty infractions, six months for grave infractions and twelve months in the case of very grave infractions if, prior to the expiration of the said periods, the party in breach has not been notified of the filing of the pertinent sanction proceedings against it.

Once the proceedings have been opened in the periods indicated, the infractions prescribe if the formalities are suspended for more than three months for reasons not attributable to the party in breach; this period is counted between two consecutive actions or formalities which are required according to the law or to the regulations for the resolution of the proceedings.

In the case of an on-going infraction, the period of prescription shall not begin to be counted until the time when the infraction ceases to be committed.

2. The period of prescription of infractions shall be suspended, in any case, when action is required which must expressly appear in the proceedings, and which is aimed at verifying the identity or domicile of the accused, or any other circumstance necessary to the efficacy of the sanctions.

3. Sanctions not paid within one year counted from the date of the final resolution in which they are imposed shall prescribe.

4. The period of prescription of the sanction shall be suspended by action aimed at their enforcement, or by the commencement of the fulfillment of such sanction.

Article 36.

1. The authority to sanction shall be the province of the Ministry of Transport, Tourism and Communications in the case of very grave infractions, of the Secretary-General of Communications in the case of grave infractions, and of the Director General of Telecommunications in the case of petty infractions.

2. This authority shall be understood notwithstanding the powers to sanction assigned to the Regional Governments in cases of administrative licences for metric wave frequency-modulated sound radio broadcasting services referred to in Article 26.5 hereinabove.

ADDITIONAL PROVISIONS

One. 1. In the period of one year counted from the date on which this Act comes into force, the Government shall establish the First National Telecommunications Plan.

2. In the implementation of the provisions in Article 28 of this Act, the Plan will contemplate the progressive integration of the telecommunications networks, in the first place, towards a narrow band integrated service digital network, based in essence on the evolution of the present switched telephone network and, in the second place, towards an integration which is compatible with the attainment in the longer term of a wide band integrated services digital network. All this is to be in accordance with the recommendations of the International telecommunications Bodies.

3. As a minimum, said Plan shall fix the following aspects:

a) Its duration.

b) Its objectives, which shall include the following:

— The degree to which public telecommunication services are to be extended to rural and urban zones.

— A schedule for the introduction of new services.

— A schedule for the integration and coordination of networks and services.

— Provisions for the introduction of digital techniques into the networks.

— Pilot integrated services digital network experiments.

c) In connection with the objectives stated, the assessment of the resources, funds, schedules and the rights and duties of administrators of public telecommunication services, necessary for the Plan's implementation.

Two. 1. The Government is hereby entrusted with the conclusion of a new contract with the Spanish National Telephone Company, within one year following the date on which this Act comes into force. Said contract will define the carrier and end telecommunications services whose operation is to be granted to that Company.

2. Throughout the term of such contract, new services, granted pursuant to the provisions of this Act, may be included in the licence. The date of expiration of its licence shall be that set for the services granted in the first place.

3. The licence shall be subject to the State Contracts Act, this Act, and the remaining legal provisions, except in respect of the rules on expropriations and imposition of easements of which the Spanish National Telephone Company is beneficiary, in its condition as licensee of carrier and end telecommunication services, which are to be subject to the special urgent procedure provided for in Article 52 of the Expropriations Act, with the following special features:

a) The declaration of public utility for each specific case shall be the province of the Government Delegate in the Spanish National Telephone Company, following submission by the Company to said Delegate of the appropriate projects adjusted to the technical specifications involved.

b) For these purposes, all works and installations necessary for the provision of the monopolized services carried out by the Company and corresponding to duly authorized technical projects, are hereby declared to be urgent.

4. The Spanish capital share shall not under any circumstances be less than 75 per cent of the share capital of the Spanish National Telephone Company.

5. The Spanish National Telephone Company may operate value-added services on a concurrent basis in the terms established in this Act.

The Spanish National Telephone Company must separate services provided on a monopoly basis from those provided concurrently in its accounts and balances for each financial year, at the same time as observing other requirements which may be imposed in order to guarantee neutrality in respect of the provisions of Article 24.5 of this Act.

The Spanish National Telephone Company must separate industrial activities it carries out itself or through its subsidiary companies, other than those referred to above, in its accounts and balances for each financial year.

6. According to the provisions of the State Contracts Act and of this Act, for the greater efficacy of and more exact compliance with the terms of the contract, a Government Delegate in the Spanish National Telephone Company shall be appointed, whose attributions will be fixed in regulations. In any case, said attributions shall include the right of veto, for reasons of public interest, of resolutions of the administrative entity, along with the authorities assigned in Article 28 to the Ministry of Transport, Tourism and Communications in respect of the investments and the implementation of the Spanish National Telephone Company's Plans.

The Government Delegate shall be attached to the Ministry of Transport, Tourism and Communications.

At the time of the conclusion of the new contract, the current contract, which was approved in a Decree of October 31st 1946, shall become null and void.

Three. 1. The Telecommunications Advisory Board is hereby established; it shall be chaired by the Minister of Transport, Tourism and Communications or the person delegated by him, and is hereby constituted as the Government's senior advisory body in the telecommunications field.

2. The Board's functions shall be to study, debate and make recommendations on matters referring to telecommunications, and to report on such matters as the Government may request from it or which are taken up on the Board's own initiative.

3. The Government shall establish the composition and the rules for the operation of the Telecommunications Advisory Board, whose members shall represent the Administration, users, suppliers of telecommunications services, the industries manufacturing telecommunications equipment and the most representative trade unions in the sector.

Four. For the purpose of defence of the public domain, referred to in Article 7.2., the restrictions and easements mentioned there may be of three types:

a) On the height of nearby buildings.

b) In connection with the minimum distance at which high tension electrical installations and industries and electrified railway lines must be sited.

c) On the minimum distance at which radio-electric transmitters must be sited.

In any case, restrictions or easements in excess of the following may not be sought through regulatory channels:

— For distances of less than 1000 metres, the angle from the horizontal with which, from the maximum height of the station reception antennas, the highest point of a building is visible shall be a maximum of three degrees.

— The maximum required limitation on separation between a high tension electrical line or industry or railway and any of the station's reception antennas shall be 1000 metres.

— The installation of radio-electric transmitters in the vicinity of the station shall be carried out with the following limitations:

Frequency range	Apparent radiated power of transmitter in direction of installation to be protected (KW)	Maximum required limitation on separation between installations to be protected and transmitter antenna (Km)
$f < 30 \text{ MHz}$	$0.01 < P < 1$ $1 < P \leq 10$ $P > 10$	2 10 20
$f > 30 \text{ MHz}$	$0.01 < P \leq 1$ $1 < P \leq 10$ $P > 10$	1 2 5

Five. 1. Paragraph Four of Article Two of Act no. 4 of January 10th 1980 is hereby recast as follows: "The allocation of frequencies shall be done by the Government in application of the International Agreements and Conventions and of the Resolutions or Directives of the International Bodies of which Spain is a member and which are binding on the Spanish State."

2. Paragraph one of Article Five of Act no. 4 of January 10th 1980 is hereby recast as follows: "Direct management of the public radio broadcasting and television services shall be exercised through the public institution RTVE."

Additional Provision One of Act no. 46 of December 26th 1983 is hereby recast as follows: "The emission and transmission of signals from the third television channel shall be done by means of waves as provided for in Article Two points 2 and 4 of Act no. 4 of January 10th 1980."

Six. 1. In order to hold a licence for any public sound radio broadcasting service, the following requirements must be met:

a) To hold Spanish nationality, and not be included in any of the circumstances enumerated in Article 9 of the State Contracts Act.

b) In the case of corporations, shares must be nominative. Foreign participation in their capital may not directly or indirectly exceed 25 per cent. If the condition of shareholder is held by a stock company, all its shares must be nominative, and this condition will be applied to corporations which may be holders of these latter shares, and so on in succession.

These same requirements shall be applied to stocks or equivalent securities in the share capital to all types of individuals.

c) In the case of non-profit-making entities, those holding office on their governing and trustee bodies must be Spanish nationals and must be domiciled in Spain.

d) Under no circumstances may a single individual or corporation be holder of more than one licence for the operation of medium wave sound radio broadcasting services, nor more than two licences for the operation metric wave frequency-modulated sound radio broadcasting services which coincide substantially in their scope of cover.

Granting of more than one licence to a single individual or corporation for the operation of metric wave frequency-modulated sound radio broadcasting services which coincide substantially in their scope of cover shall be possible only if the number of other licences already granted sufficiently guarantees the pluralism of the radiophonic offer.

e) An individual or corporation may not hold a majority interest in more than one licensee company when they operate sound radio broadcasting services which coincide substantially in their scope of cover.

f) Any alteration in the title of the shares, stocks or equivalent securities of the companies licensed for public sound radio broadcasting service, and capital increases where the shares or equivalent securities are not subscribed in identical proportion amongst the owners of the share capital, must previously be authorized by the Administration.

g) Anyone who has previously obtained a licence and who failed to ensure continuity in the service, or who has been sanctioned for a very grave infraction in application of the system of sanctions provided for in this Act, and whose licence has been revoked, may not be licensed.

2. Licensing of public services referred to in this Additional Provision shall be subject to the following criteria and conditions:

a) The licence shall be granted for a period of ten years and may be renewed successively for identical terms.

b) Provided that the recipient meets the legal requirements, the licence shall be transferable, following administrative authorization.

3. Holders of sound radio broadcasting services shall be bound to distribute communiqués and notices of an official nature and of public interest, from the authorities to be defined in regulations, without charge and with mention of their source.

Seven. 1. Management of licences or authorizations, and of certifications of compliance with the technical specifications for telecommunications equipment, apparatus, devices and systems provided for in this Act shall provide entitlement to receipt of the fees in compensation of expenses for the formalities and actions necessary pursuant to the provisions of the following paragraphs.

2. The taxable fact of the fee shall be the provision by the Administration of the services required for the granting of the licences, authorizations or certificates concerned.

3. The fee is payable by the individual or corporation which applies for the licence, authorization or certification concerned.

4. The amount of the fee shall be as follows:

a) One thousand pesetas for authorizations.

b) Two thousand pesetas for licences.

c) Five thousand pesetas if the authorization or licence requires a technical project analysis.

d) In the case of certifications, the amount of the fee shall be obtained by application of the following items:

$$A + B + C$$

Where:

A = 5000 pesetas

B = 5000 pesetas, by the number of hours fixed for each type of trial, according to a scale to be defined in regulations.

C = (4×10^{-3}) by the investment cost of the material used in each type of trial, according to a scale to be defined in regulations.

5. When the trials or tests for verification of compliance with the technical specifications are done in an authorized Centre outside the Administration, only item A will be received.

6. When persons or entities outside the Administration use the Administration's facilities for the tests or trials, the sums to be received are those obtained from application of items C and, where applicable, B.

7. The fee shall accrue at the moment of the application concerned.

8. The return from the fee shall be deposited with the Treasury in the form to be defined in regulations.

9. The fee shall be paid by the party liable, in the form to be defined in regulations.

10. Each Annual Budget may amend the sums applicable to the fee established in this provision.

Eight. 1. The specific legislation shall, in each case, continue to cover amateur radio services, collective antenna installations, radio-electric installations receiving television programs transmitted by telecommunications satellites of the fixed satellite service, and other telecommunications equipment, apparatus, stations, systems and services not expressly referred to in this Act, insofar as said legislation is not in conflict herewith.

2. Radio-electric systems in closed groups of users without connection to the Public Telephone Network for Missing persons, Telecontrol, Telemeasurement, Telesignalling, Telealarms and Mobile Telephones shall be deemed to be value-added systems as provided for in Article 23, and they are to be operated concurrently. However, when the holder and user of such systems is the same individual or corporation, the provisions of Article 15, paragraphs 1 and 2, shall not be applicable.

Nine. 1. The amount of the levy referred to in Article 7.3, shall be the result of multiplying the amount of the reserved radio-electric domain, expressed in units of radio-electric reserve, by the value assigned to the unit.

2. A unit of radio-electric reserve is deemed to be a conventional standard of measurement, referred to a band width of one kilohertz over a territory of one square kilometer for a period of one year.

3. The value of the radio-electric reserve unit may be different for the different bands and sub-bands of radio-electric spectrum frequency and for the different services authorized in each, in accordance with the Radio-Communications Regulations annexed to the International Telecommunications Convention, depending on whether the service is public or private in nature. The value of this unit will be fixed in each Annual Budget so that it covers the financing of the work, installations and services necessary for the protection, ordering, management and control of the radio-electric domain.

4. The royalty referred to in this paragraph must be paid not only by the radio-electric broadcasting stations but also purely receiver facilities which require radio-electric reserve. Purely receiver stations with no radio-electric reserve shall be excluded from

payment of the royalty. The Government is hereby authorized to proceed with regulation of the procedures for settlement and payment of the royalty including, where applicable, the rules for self-payment. The amount of the levy is to be deposited in the Treasury.

5. Any disputes which may arise in application of said royalty shall be considered to be of a tax nature, for purposes of the relevant claims in the administrative courts. Non-payment may lead to suspension or loss of the right of occupation of the radio-electric domain.

Ten. 1. Use of a telecommunications network of electromagnetic waves with frequencies above 3000 gigahertz and propagated in space without artificial guides shall be subject to the same rules as use of the radio-electric waves.

2. For correct management of the associated frequency bands, the space through which such electromagnetic waves are propagated shall be deemed to be an extension of the public radio-electric domain. For the use or reservation of said domain, Article 7 of this Act shall be applicable in full.

ADDITIONAL PROVISIONS

One. The following provisions are hereby made in respect of the public radio-broadcasting services:

1. Until the applicable Technical and Service Regulations are passed, Royal Decrees nos. 2648 of October 27th 1978 and 1433 of June 8th 1979 shall be applicable, along with the other current provisions regulating the provision of such services, insofar as not in conflict with the contents of this Act.

2. For radio-broadcasting undertakings which at present have links and broadcast centres, the legislation prior to this Act shall continue in force as long as it is not necessary for them to be integrated into a public network in accordance with the provisions of Article 28 hereof.

Two. In a period of twelve months counted from the date on which this Act comes into force, the entities licensed for services considered herein and which at present have no Technical or Service Regulations approved by the Administration may submit proposals for the drafting of such regulations. Following the said period, the Administration shall proceed with the drafting and approval of the Regulations concerned.

Three. When this Act comes into force, the legally authorized services which, under application of the provisions hereof, must be deemed to be value-added or propagation services, their associated networks, and any other existing network, shall have a period of one year, counted from such date, in which to adjust to the provisions of this Act.

Four. Within a period of six months, the Government shall comply with the provisions of Article 29.3 paragraph two, and Additional Provision Three, paragraph three, of this Act.

REPEAL PROVISION

Sole Repeal Provision. 1. The following are hereby repealed: the Act of April 22nd 1885 which authorized the Government to introduce a complete system of electrotelegraphic lines; the Act of October 26th 1907 which authorized the Government to implement the Radio-telegraphic, Cable and Telephone Services; the Act of June 26th 1934 on the technical and economic structure of the National Radio-Broadcasting Service; Article 1.4 of Act no. 4 of January 10th 1980, the Radio-Broadcasting and Television Statute; and such other provisions as may be in conflict with the contents of this Act.

2. Until the Technical and Service Regulations are passed, those currently in force shall remain in place, insofar as not in conflict with the provisions of this Act.

FINAL PROVISION

The Government is hereby authorized to pass such provisions as may be necessary for the implementation and application of this Act.

ANNEX

The following definitions are hereby adopted for the purposes of this Act:

1. Communications: the transfer of information in accordance with conventions adopted.

2. Signal: a physical phenomenon, one or more of whose characteristics vary in order to represent information.

3. Telecommunication: any transmission, broadcast or reception of signs, signals, writing, images, sounds or information of any type, by wire, radio-electricity, optical means or other electromagnetic systems.

4. Radio-electric and hertzian waves: electromagnetic waves whose frequencies are fixed by convention below 3000 gigahertz, and which are propagated in space without artificial guides.

5. Radio-communication: any telecommunication transmitted by means of radio-electric waves.

6. Transmission: the action of conveying signals from one point to another or others, with or without intermediate storage.

7. Transmission channel: a uni-directional means of transmission of signals between two points.

8. Circuit: a combination of two transmission canals which allow the bi-directional transmission of signals between two points, to sustain a single communication.

9. Switching: a process involving the interconnection of transmission channels or circuits, with or without intermediate storage for the time needed for the conveyance of signals.

10. Telecommunication network: a set of transmission cables, circuits and, where applicable, switching devices or centres, which provide connections between two or more defined points to facilitate telecommunication between them.

11. Detrimental interference: interference which compromises the operation of a radio-navigation or other security service, or which seriously deteriorates, repeatedly interrupts, or prevents the operation of a radio-communication service operated in accordance with the Internal Telecommunications Union's Radio-communications Regulations.

12. The radio-electric frequency spectrum: the set of radio-electric waves whose frequency stands between 3 kilohertz and 3000 gigahertz. Said spectrum is divided, in accordance with the Internal Telecommunications Union's Radio-communications Regulations, Annex to the International Telecommunications Convention, into the following bands:

Band	Frequency Range
Myriametric waves	3 to 30 KHz
Kilometric waves	30 to 300 KHz
Hectometric waves	300 to 3000 KHz
Decametric waves	3 to 30 MHz
Metric waves	30 to 300 MHz
Decimetric waves	300 to 3000 MHz
Centimetric waves	3 to 30 MHz
Millimetric waves	30 to 300 MHz
Decimillimetric waves	300 to 3000 MHz

13. The public radio-electric domain is the space through which radio-electric waves can be propagated.

14. Terminal: any equipment or apparatus sending or receiving signals on a telecommunications network through the connection or termination points defined, and in accordance with the approved specifications.

Therefore

I hereby order all Spaniards, individuals and authorities, to observe and to enforce this Act.

The Zarzuela Palace, Madrid, December 18th, 1987.

JUAN CARLOS, Rex.

The Prime Minister

FELIPE GONZALEZ MARQUEZ

The Radio and Television Statute. Act no. 4, of January 10th 1980.

Official State Gazette no. 11, January 12th 1980.

JUAN CARLOS I, KING OF SPAIN

Know all men by these presents that Parliament has passed and I hereby approve the following Act:

The Constitution, and the political pluralism it proclaims as a value of the legal system, is the origin of the need to establish clear and precise rules, at the level of an Act of Parliament, for the operation of radio and television. Radio broadcasting and television, defined as essential public services owned by the State, are seen as an essential vehicle for information and political participation on the part of citizens, the formation of public opinion, cooperation with the educational system, the dissemination of Spanish culture and that of its autonomous communities and regions, and as an excellent means to helping make freedom and equality real and effective, giving particular attention to the protection of alienated groups and the non-discrimination of women.

The Constitution has provided the basis for the preparation of this Statute, along with experience from other countries with democratic systems of the same type and that from the reality it seeks to regulate.

From the structural point of view, authority in radio-broadcasting and television, which remain in the hands of the State, is entrusted to the Public Corporation Spanish Radio and Television (Radiotelevisión Española - RTVE), whose administrative structure follows the principle of operational decentralization, but whose management is subject to the provisions of Private Law. Within said Public Corporation, the State Enterprises Radio Nacional de España, Radio Cadena Española and Televisión Española are established for more effective management.

The most significant aspects of the Act are the principles underlying activities in the area of radio broadcasting and television, which appear in Article Four. These are the appointment by Parliament of the members of the Board of Directors of the Public Corporation RTVE, in respect of whom measures will be adopted aimed at ensuring their professionalism and a high degree of independence: the distribution of authorities between the Board of Directors, which is a newly-created body, and the Managing Director; the possible establishment of a state-owned television channel for the geographical area of each Regional Community, managed by the Regional Government, and complemented by a

significant degree of participation in RTVE's regional bodies; access on the part of the most significant social and political groupings to radio and television spaces; regulation of the right of rectification, provided for the first time in our legal system for the mass communication media which are the subject of this Act; limitation and control of advertising; and, finally, the creation of a Parliamentary Committee of the Congress of Deputies for control of the activities of the three state Enterprises attached to the Public Corporation RTVE.

In the internal organization of the Public Corporation and its Enterprises, it should be emphasized, on the one hand, that their budgets and financing are subject to rules guaranteeing effective control and, on the other, that the personnel from the independent Bodies wound up hereunder will become part of the new Public Corporation and its Enterprises, maintaining their existing rights, thus ensuring them significant representation on the advisory Boards so that recommendations will be received from them before resolutions affecting them are passed.

The ultimate purpose of this Act is to create an organizational structure which, based on the principles contained in the Constitution, is sufficiently flexible so as to pursue the objectives set out above in a society which, like any modern society, is in a state of constant transformation.

CHAPTER I

General Principles and Scope of Application

Article 1.

One. The mass communication media referred to herein are radio-broadcasting and television.

Two. Radio-broadcasting and television are essential public services owned by the State.

Three. Radio-broadcasting is deemed to be the production and propagation of sounds by means of radio-electric broadcasts on waves or in wires, directly or indirectly intended for the public in general or for a sector thereof, with political, religious, cultural, educational, artistic, informative, commercial, purely recreational or advertising aims.

Four. Television is deemed to be the production and transmission of images and sounds simultaneously on waves or in wires, directly or indirectly intended for the public in general or for a sector thereof, with political, religious, cultural, educational, artistic, informative, commercial, purely recreational or advertising aims.

Article 2.

One. This Statute and its additional technical provisions are the basic rules for the public services of radio-broadcasting and television, and will be applied generally throughout national territory.

Two. The Central Government may, following authorization in an Act of Parliament, grant the Regional Governments direct management of a state-owned television channel created specifically for the territorial area of each such Regional Government.

Three. The organization and Parliamentary control of the third regional channel provided for in the previous paragraph, and of the radio-broadcasting and television in the same territorial area, will be defined structurally and operationally in accordance with the provisions of Articles Five to Twelve and Twenty-six of this Act, and according to the Statute of Autonomy.

Four. The Central Government will allocate frequencies and power ratings following a report from the technical services of the Public Corporation Spanish Radio and Television (RTVE), in application of the international agreements and conventions and the resolutions or directives of the international bodies to which Spain belongs and which are binding on the Spanish State.

Article 3.

This Statute will be construed and applied pursuant to the criteria of respect, promotion and defence of the values in the provisions of the Constitution.

Article 4.

The activities of the State mass communication media are based on the following principles:

- a) The objectivity, veracity and impartiality of information.
- b) The separation of information and opinions, identification of the holders of such opinions, and the free expression thereof, according to the limits in Article 20 paragraph 4 of the Constitution.
- c) Respect for political, religious, social, cultural and linguistic pluralism.
- d) Respect for the honour, reputation and private life of persons, and for such rights and liberties as are granted in the Constitution.
- e) Protection of young people and children.
- f) Respect for the values of equality contained in Article 14 of the Constitution.

CHAPTER II

Organization

SECTION I. THE PUBLIC CORPORATION RTVE

Article 5.

One. The functions assigned to the State as owner of the public services of radio-broadcasting and television will be exercised through the Public Corporation RTVE.

Two. RTVE, as a Public Corporation, with its own legal personality, will be subject exclusively to this Statute and its complementary provisions. In its external legal relations, in property acquisitions and in contracting, it will, without exception, be subject to Private Law.

Three. The functions assigned to the Public Corporation RTVE shall be understood notwithstanding those attributed herein to the Government or Parliament, and those which, during electoral campaigns, are discharged by the Central Electoral Board.

SECTION II. THE BODIES OF THE PUBLIC CORPORATION RTVE

Article 6.

The Public Corporation RTVE is, for operational purposes, general administration and senior management, structured into the following bodies:

- a) A Board of Directors.
- b) Consulting directors of Radio Nacional de España, (RNE), Radio Cadena Española (RCE) and Television Española (TVE).
- c) A general manager.

SECTION III. THE BOARD OF DIRECTORS

Article 7.

One. The Board of Directors will be made up of twelve members, elected from amongst persons of relevant professional merit by each legislature, half each by Congress and by the Senate, by means of a two thirds House majority.

Two. Any vacancies will be filled by the House specified in the procedure established in the previous paragraph.

Three. The Board of Directors' resolutions will be passed by a majority of the members present, except where this Statute requires a special majority.

Four. Member of the Board of Directors shall be incompatible with any direct or indirect link to advertising companies, or those producing filmed programs or programs recorded magnetoscopically or radiophonic programs, recording companies, or any other Entity connected with the supply or provision of material or programs to RTVE and its Enterprises. Membership shall also be incompatible with any type of service or active employment relation with RTVE and its Enterprises.

Five. The Chairmanship of the Board of Directors shall be a purely functional post and will be rotated on a monthly basis between members.

Six. Members of the Board of Directors shall cease in their commissions at the end of the pertinent Legislature, although they shall continue to fulfill their functions until the new Members take over.

Article 8.

One. The following powers are hereby assigned to the Board of Directors:

- a) To ensure programming compliance with the provisions of Chapter One of this Act.
- b) To express its opinion on the appointment of the General Manager: to be affirmative, this must be formulated in a resolution of two thirds of the members. Should this majority not be obtained, the Board of Directors shall be deemed to refrain from issuing its opinion on the appointment of the General Manager, and this formality shall be deemed to have been complied with.
- c) To receive prior notice of the appointment and discharge of the Directors of RTVE and its Enterprises
- d) On the recommendation of the General Manager of RTVE, to approve the plan of action for the Public Corporation, setting down the basic principles and general lines of the programming, and the plan of action for RTVE's various Enterprises.
- e) To approve the annual report on RTVE's activities and those of the State Enterprises established in this Statute.
- f) To give final approval for RTVE's staff, and changes thereto, and to the staff of RTVE's State Enterprises.
- g) To approve the rules on remuneration of the staff of RTVE and its Enterprises.
- h) To approve the draft, budget for RTVE and its Enterprises.
- i) To report on draft orders the Government plans to issue on advertising.
- j) To pass rules regulating the broadcasting of advertising by RTVE, and dealing with advertising quality control, the content of advertising messages and the adjustment of advertising time to the programming and to media requirements
- k) Every six months, to define the percentage programming time to be dedicated to significant political and social groupings, fixing the criteria for their distribution according to the provisions of Article 20 of the Constitution.
- l) As provided for in Article 25 paragraph 2 hereinafter, to hear and settle conflicts which may arise in connection with the right of rectification.
- m) Every year, to define the percentage of internal production which must be included in the programming of each medium.
- n) To hear such questions which, while not of its competence, may be submitted to it by the General Manager of RTVE for its consideration.

Two. The resolutions referred to in paragraphs d), f), g), h) and k) will require a two thirds majority vote of the members of the Board of Directors. Those under paragraph d) will pass with no more than an absolute majority, once a period of one month has expired without a resolution having been passed by a special majority. In the case of paragraph h), and where a two thirds majority is not attained, the draft budget must be forwarded to the Government, within the legally prescribed term, setting out the vote of each of the members of the Board of Directors.

SECTION IV. THE ADVISORY BOARDS

Article 9.

One. The Advisory Boards of RNE, RCE and TVE shall be made up of the following members:

- a) Five employees' representatives appointed by the sections of the most representative Trades Unions, on a proportional basis.
- b) Five representatives appointed by the Spanish Institute, in agreement with the Board of Directors, from among persons of relevant cultural merit.
- c) Five Civil Service representatives, appointed by the Government.
- d) Five representatives from five Entities granted autonomy or pending the granting of autonomy, appointed by the said Entities according to procedures to be defined in regulations and which ensure the continued presence of all said Entities on each Advisory Board.

Two. The Advisory Board for each medium shall be called by the Board of Directors to meet at least sixmonthly, and shall issue an opinion or report whenever expressly required by the Board of Directors to do so: this will be mandatory in respect of the programming powers assigned to the Board of Directors in Article 8 hereinabove.

SECTION FIVE. THE GENERAL MANAGER OF THE PUBLIC CORPORATION

Article 10.

One. The General Manager shall be appointed by the Government, on the recommendation of the Board of Directors.

Two. The General Manager's commission shall last for four years, unless Parliament is dissolved early. In this case, the General Manager shall remain in the post until a replacement is appointed.

Three. The General Manager shall be the executive body of RTVE and will attend the meetings of the Board of Directors with speaking and voting rights, except in questions which affect the General Manager personally.

Four. The post of General Manager shall be incompatible with a Parliamentary seat and with any direct or indirect link to advertising companies, or those producing filmed programs or programs recorded magnetoscopically, or radiophonic programs, recording companies, or any other Entity connected with the supply or provision of material or programs to RTVE and its Enterprises.

Article 11.

The following powers are hereby assigned to the General Manager:

- a) To comply with and enforce the provisions governing the Public Corporation, and the resolutions passed by the Board of Directors in matters within that collective body's authority.
- b) In good time, to submit the annual working plan and the financial Report to the Board of Directors for its approval, along with the Public Corporation's draft budgets and those of the State Enterprises.
- c) To promote, guide, coordinate and inspect RTVE's services and those of the State Enterprises, and to issue rules, instructions and circulars relating to their operation or internal organization, notwithstanding the powers of the Board of Directors.
- d) To act as the hiring body for RTVE and its Enterprises.
- e) To authorize the payments and expenses of RTVE and its Enterprises.
- f) To organize the management and, according to professional criteria, to appoint the executive personnel of RTVE and its Enterprises, giving prior notice of such appointments to RTVE's Board of Directors.

g) To organize programming in accordance with the basic principles approved by the Board of Directors.

Article 12.

One. Following recommendations from the Board of Directors, the Government may, in a reasoned resolution, dismiss the General Manager for any of the following causes:

- a) Physical impossibility or an illness lasting for more than six successive months.
- b) Manifest incompetence, or action counter to the criteria, principles or objectives referred to in Articles 3 and 4 hereinabove.
- c) A conviction for a wilful offence.

Two. The Government may, acting on a recommendation of the Board of Directors adopted by a two thirds majority and based on any of the causes provided for in this Article, dismiss the General Manager.

SECTION VI. THE TERRITORIAL ORGANIZATION OF RTVE

Article 13.

RTVE must, through its territorial organization, prepare a specific proposal for radio and television programmes to be broadcast in the territorial area of the autonomous community or region concerned, maintaining the percentage and distribution of the times established for national programming every year by the Government on the joint recommendation of the Board of Directors and the General Manager of RTVE.

Article 14.

One. There will be a territorial Delegate for RTVE in each Region, appointed by the General Manager of RTVE following recommendations from the representative body appointed for these purposes in the Region concerned. Where applicable, there will also be a Manager for each of the Media (RNE, RCE and TVE), appointed by RTVE's General Manager.

Two. The territorial Delegate will be assisted by an Advisory Board appointed by the governing body in the Region: the composition of said Board shall be defined by regional law. Said Advisory Board will examine the needs and capacity of the Region as to the degree of decentralization of the radio and television services and, in particular, that of the State Enterprise RCE; through the territorial Delegate, it will formulate such recommendations as the Board of Directors of RTVE may deem fit.

Article 15.

Following recommendations from the Regional Advisory Board, the territorial Delegate will forward an annual proposal to the General Manager of RTVE on programming and broadcasting times in the territorial area concerned. The General Manager of RTVE will forward this proposal, together with the General Manager's report, to RTVE's Board of Directors.

CHAPTER III

Management Categories

SECTION I. PUBLIC MANAGEMENT

Article 16.

One. Management of the public radio-broadcasting and television services assigned to the Public Corporation RTVE will be governed by the provisions of this Statute and will be carried out by means of the allocation of joint services to be established in regulations.

Two. Resolutions passed by the governing bodies of the Public Corporation RTVE, and claims submitted in respect thereof, will be taken up in the jurisdiction appropriate to each case: formulation of a prior claim through administrative channels will not be required.

SECTION II. COMMERCIAL MANAGEMENT

Article 17.

One. The following State Enterprises will manage the public radio-broadcasting service:

- Radio Nacional de España (RNE).
- Radio Cadena Española (RCE), which includes the transmitters under the REM-CAR and CES call-signs.

Two. The public Television service will be managed by a State Enterprise to be named Television Española (TVE).

Article 18.

The capital of the Enterprises referred to in the previous paragraph shall be wholly State-held, it will belong entirely to the Public Corporation RTVE, and it may not be alienated, mortgaged, encumbered, pledged or conveyed in any form, whether onerously or gratuitously.

Article 19.

One. The State Enterprise entrusted with the management of the Public Radio-broadcasting and Television services will be governed by private law, with no further exceptions than those contained in this Statute.

Two. Their Articles of Association shall create the office of Sole Administrator, who is to be the Manager of the Medium, appointed and dismissed by the General Manager following notification to the Board of Directors. The said Media Managers will, under the supervision of the General Manager, be responsible for programming.

Three. The post of Medium Manager will be incompatible with any direct or indirect link to advertising companies, or those producing filmed programs or programs recorded magnetoscopically, or radiophonic programs, recording companies, or any other Entity connected with the supply or provision of material or programs to RTVE and its Enterprises.

Article 20.

One. Acting on the recommendation of the General Manager, and in accordance with the Board of Directors of RTVE, the Government may incorporate subsidiary enterprises in the areas of marketing, cable and similar media, in order to ensure that the management is as efficient as possible.

Two. The organization and management of the distribution network will, in all cases, be adjusted to the requirements arising from the supremacy of the interests of the State in the network itself.

Three. The subsidiary Enterprises created shall, in any case, be wholly State-owned, with the benefits and restrictions referred to in the previous articles.

CHAPTER IV

Programming and Control

SECTION I. PROGRAMMING DIRECTIVES

Article 21.

The Government may, from time to time, fix the obligations arising from the nature of RTVE as a public service and, following consultation with the Board of Directors, enforce said obligations.

Article 22.

The Government may arrange for the programming and broadcast of such official declarations or communications of public interest as it may deem necessary, with an indication of their source. For reasons of urgency, as made out by the Government itself, such communiqués and declarations shall be effective immediately.

SECTION II. ELECTORAL PERIODS AND CAMPAIGNS

Article 23.

During electoral campaigns the special rules provided for in the electoral regulations will be applied. Their application and control is placed in the hands of the Central Electoral Board which will fulfill its function through the Board of Directors and the General Manager.

SECTION III. DEMOCRATIC PLURALISM AND ACCESS TO THE COMMUNICATION MEDIA

Article 24.

The allocation of spaces on RCE, RNE and TVE will be formulated so that the most significant social and political groupings have access to these communication media. To these ends, the Board of Directors shall, in agreement with the General Manager, in the exercise of their individual powers, take account of objective criteria, such as the number of parliamentary seats, the trade union role, the geographical scope and other similar factors.

SECTION IV. RIGHT OF RECTIFICATION

Article 25.

One. Anyone suffering direct and express damage to their moral interests as a result of specific data or facts which are contrary to the truth and are broadcast in radio-broadcasting or television information, may apply in writing within the period of seven days counted from the date of broadcast of the information for the transmission of the pertinent rectification.

Two. The application for rectification, which must be accompanied by the documents on which it is based or which must contain an indication of the place where said documentation can be found, shall be addressed to the Manager of the Medium which is to make the abovementioned transmission.

Three. Refusal to rectify by the Manager of the Medium concerned may be appealed within the period of five days, through the General Manager of RTVE before the Board of Directors of RTVE, whose decision will not be subject to any administrative appeal whatsoever.

Four. Any transmission of a rectification agreed to by the Board of Directors will be subject to requirements arising from the nature of the medium and the objective programming needs.

Five. Once a rectification has been ordered, it must be transmitted within a period of not more than seven days.

SECTION V. DIRECT PARLIAMENTARY CONTROL

Article 26.

A Parliamentary Committee shall be set up in the Congress of Deputies in accordance with the provisions of the House Regulations. Said Committee shall control the operations of RNE, RCE and TVE in such a way as not to impede the functioning of the media.

CHAPTER F'

Budgets and Financing

Article 27.

The budget of the Public Corporation RTVE will be adjusted to the provisions of the General Budgets Act, notwithstanding the special features of this Statute.

Article 28.

One. RNE, RCE and TVE shall have separate budgets which, attached to the Government's Annual Budget, shall be subject to Parliamentary approval.

Two. The subsidiary enterprises referred to in Article 20 hereinabove shall be subject to an identical budgetary system.

Article 29.

One. The budget for each medium and, where applicable, of each subsidiary enterprise, will be drafted and managed under the balanced budget principle.

Two. The accounting will be in accordance with the legal rules applicable to State Corporations.

Article 30.

One. Account will be given from time to time of budget management before the Parliamentary Committee referred to in Article 22 hereinabove.

Two. In the terms provided for in the Organic Act, the Comptroller General shall report to the Parliamentary Committee on the economic and budgetary management of the Public Corporation RTVE as well as of the State Enterprises RNE, RCE and TVE and, where applicable, of the subsidiary enterprises established.

Article 31.

Notwithstanding the budget for the Public Corporation RTVE and those of the State Enterprises, a consolidated budget will be established so as to prevent temporary or permanent cash deficits and allow them to be covered by surpluses in the Bodies and Entities integrated into the said consolidated budget.

The system of reduction of earnings in respect of the budget of the Public Corporation RTVE is hereby authorized.

Article 32.

One. The Public Corporation RTVE shall be financed against the Government Budget and through earnings and returns on the activities carried out.

Two. The Administrative Enterprises of the public radio-broadcasting and television services will be financed as follows:

- a) RCE by subsidies allocated in the Government's Budget, and its own commercial earnings.
- b) RNE by subsidies allocated in the Government's Budget, and its own commercial earnings.
- c) TVE by subsidies allocated in the Government's Budget, the marketing and sale of its products, a limited share in the advertising market and, where applicable, by a fee or royalty on receivers, which will initially only be levied on colour television sets.

Article 33.

The contracting rules of the State Enterprises will in all cases be subject to private law, without exception in the case of separable acts, and to the rules on contractual or Achillean liability.

CHAPTER VI

Property

Article 34.

One. The property of both the Public Corporation RTVE and of the wholly State-owned Enterprises will be deemed to belong in the

public domain as property attached to the public service concerned and, therefore, shall be exempted from all types of taxes or encumbrances, be these levied by the State or other Public Corporations or by the Regional Governments or other local corporations. Any pacts by which it is sought to change the taxpayer liable shall be without value or legal effect.

Two. Apart from the State accounting and inspection services in financial management and, in particular, in the taking of credits and the approval of expenses, the Public Corporation RTVE and the State Enterprises will be subject to the surveillance of the Government Comptroller in the terms of the Organic Act of that Office.

Three. Notwithstanding the powers assigned to the Ministry of Finance, the General Inventory will be controlled by the Public Corporation RTVE.

CHAPTER VII

Personnel

Article 35.

One. The employment relations in the Public Corporation RTVE and in the State Corporations referred to herein shall be governed by the provisions in the employment legislation, subject to the principle of the independence of the parties.

Two. Membership of the Board of Directors or of the Advisory Commissions will not under any circumstances create employment rights in respect of RTVE and its Enterprises.

Three. The public servants incorporated into the Public Corporation RTVE will, if belonging to the General Corps, be admitted on a tenure basis. If they are members of the General Corps of Information and Tourism Technicians, they will also be admitted on this basis: members of other Special Corps, except for those in Audit and the State Attorneys' Office, will be incorporated on a temporary basis from the original Corps. For these purposes, and notwithstanding the powers of the Board of Directors, the General Manager of RTVE is hereby authorized to seek the filling of a post on a definitive or provision basis by the civil servants of the General or Special Corps which may be deemed necessary for the fulfilment of the tasks entrusted to the Public Corporation RTVE in this Statute.

Four. Permanent tenure in RTVE and the State Enterprises to be created will be possible only through the pertinent admission examinations, established and programmed by the General Manager of RTVE, in accordance with the Board of Directors.

Article 36.

One. In particular, the development of professional training will be promoted as a means for promotion in the different Media in the Public Corporation RTVE, through the Official Radio and Television Institute.

Two. The Government may, on its own initiative or on recommendations from the Regions, create the associated official Radio and Television Institutes, as subsidiaries, in the geographical area of those Regions.

ADDITIONAL PROVISION ONE

In the management of the public radio-broadcasting service, the present situation will be adopted by the private Corporations for whom, during the next ten years, such management is granted or renewed, in the terms provided for in the current legislation and the international agreements signed by Spain. In any case, the Government will assign frequencies and power ratings in accordance with such agreements.

ADDITIONAL PROVISION TWO

One. The existing autonomous body RTVE is hereby eliminated, and is subrogated by the Public Corporation RTVE and, in each case, by the corresponding State Enterprise, in its property, credits,

assets and liabilities, materials, budgets, subsidies and resources.

Two An updated inventory will be completed of all the real and personal assets included in RTVE's properties.

ADDITIONAL PROVISION THREE

The Corporations managing the public radio-broadcasting and television services may issue bonds, without the restrictions imposed in Article 111 of the Stock Corporations Act of July 17th 1961. The rules on issue of such bonds will be regulated according to the provisions of that Act, with no further exceptions than the above. Notwithstanding, the bonds issued by these Corporations may be treated as State securities for the effects of the Budgets Act of January 4th 1977, provided that this is authorized by the Government in a Royal Decree.

ADDITIONAL PROVISION FOUR

In the field of Television, in principle, RTVE will, as provided for herein, define the specific programming for each autonomous community or region in complementary form to the national programming broadcast by the two existing national channels. Subsequently, and once technical cover by both channels has extended to the whole of national territory, the Government shall, in the terms of Article 2 hereinabove, authorize RTVE to take the necessary steps for the initiation of a third regional channel for the territorial area of each Autonomous Region

ADDITIONAL PROVISION FIVE

Once radio-listeners' and television viewers' associations have been legally established, and with the conditions to be defined, two representatives thereof, appointed for the purposes, shall form part of the Boards referred to in Article 9 of this Statute.

ADDITIONAL PROVISION SIX

The personnel of Radiotelevision Española and its Corporations appointed to the Board of Directors and which, as a consequence of Article 7, paragraph 4 hereof, should have to leave their job, are guaranteed reservation of post, and their seniority is calculated as if they are on compulsory or special leave.

ADDITIONAL PROVISION SEVEN

The administrative set-up of the Public Corporation RTVE will be established in a Royal Decree.

TRANSITIONAL PROVISION ONE

One. The Board of Directors, at the proposal of the General Manager or, through the General Manager, of the different Media Managers, and following recommendations from the Works' Committees, shall assign the existing RTVE personnel to any of the State Enterprises. From then on, the Enterprise concerned shall subrogate, for all effects, in the existing legal relation between RTVE and the personnel concerned. In all instances, professional category, seniority and existing economic rights of such personnel will be maintained. Likewise, the corporate rights currently granted to the personnel of the Autonomous Body RTVE shall also be maintained and, if necessary, adjusted to the application of this Statute.

Two. Should any of the State Enterprises be wound up, or undergo staff reductions, the labour personnel of the Autonomous Body RTVE will be incorporated into either of the remaining Enterprises, or into the Bodies of the Public Corporation RTVE.

TRANSITIONAL PROVISION TWO

The rules on assignment of the civil service staff currently rendering service in the Autonomous Body RTVE will be regulated in a Royal Decree. Nonetheless, job-allocation will be done by the Board of Directors on the recommendation of the General Manager of the Public Corporation RTVE.

TRANSITIONAL PROVISION THREE

Government civil servants assigned at present to the offices of the Director General of radio-broadcasting and television, whether on the scale of the Special Corps of Information and Tourism Technicians itself or from other General or Special Corps, and with tenure in the said offices, shall be incorporated into the Public Corporation RTVE in active service; they retain all their rights, and may exercise the associated option within the period of three months counted from the date on which this Statute comes into force.

TRANSITIONAL PROVISION FOUR

The incorporation of the new Enterprises entrusted with the management of the public radio-broadcasting and television services, and their incorporation of the existing bodies will be regulated by Royal Decree. In any case, the distribution network, the RTVE Institute, and the RTVE orchestra and choirs are integrated as joint services, assigned to the Public Corporation RTVE, along with such radio-broadcasting licences as, in one name or another, expire hereafter with the passage of time, and are not extended or renewed by the Government. The NO-DO Autonomous Body is hereby eliminated, and is integrated for all effects into the Public Corporation RTVE.

TRANSITIONAL PROVISION FIVE

Until the bodies of the Public Corporation RTVE and the State Enterprises are set up, the current legislation shall remain in force, except in the case of the budgetary rules and property acquisition and contracting of goods and services, which will be subject to the provisions of this Statute. For these purposes, the Government is hereby authorized to pass such additional provisions as may be required.

TRANSITIONAL PROVISION SIX

The provisions of this Statute in respect of the Regional Governments shall be applicable to Entities pending autonomy, subject to the technical requirements of the different media.

FINAL PROVISION

The Government is hereby authorized, on recommendations from the Council of State, to pass the regulations required to implement the provisions of this Statute, notwithstanding the regional regulatory powers recognized herein, and the instructions and circulars which the Public Corporation RTVE may issue for the correct and coordinated operation of the State Enterprises.

Therefore,

I hereby order all Spaniards, individuals and authorities, to observe and to enforce this Act.

The Royal Palace, Madrid, on this tenth day of January nineteen hundred and eighty.

JUAN CARLOS, Rex.

The Prime Minister
ADOLFO SUAREZ GONZALEZ

The Private Television Act. Act 3 of May 3rd 1988.

JUAN CARLOS I

KING OF SPAIN

Know all men by these presents that Parliament has passed and I hereby approve the following Act:

PREAMBLE

According to our legal rules and in the terms of Article 128 of the Constitution, television is an essential public service, owned by the State.

This definition of television, as a public service, has been endorsed by the Spanish Constitutional Court and it can be said, at the same time, that it represents a widely accepted principle of European Public Law, as included in the Conference of the Council of Europe on communications policy, held in Vienna. The purpose of television, as such a public service, must before all else be to satisfy the interest of citizens, and to contribute to informational pluralism, the formation of free public opinion and the dissemination of culture.

However, state ownership of the public service does not imply an exclusive system, or one of monopoly, but rather, to the contrary, that the service may be managed directly, by the State itself, or indirectly, by individuals who obtain the appropriate administrative licence.

In its Decisions on March 31st 1982, number 12, and on December 7th 1982, number 74, the Constitutional Court ruled that so-called "private television" was not prevented in the terms of the Constitution, and that its introduction was not a legal-constitutional requirement but rather a political decision which could be taken provided that the organization of private television respected the principles of liberty, equality and pluralism.

In accordance with its program for widening as far as possible the enjoyment and pluralism of the communication media, and the dissemination of the information channeled through such media, the Government has taken the decision to regulate the indirect management of television in accordance with the principles indicated by the Constitutional Court and with those necessarily derived from its character as an essential public service.

In harmony with these criteria, the Private Television Act provides that the activity of the corporations licensed for such indirect management shall be based upon the principles expressed in Article 4 of the Radio and Television Statutes, Act no. 4 of January 10th 1980.

The model for private television established in the Act is, from the geographical or territorial point of view, of mixed cover. In other words, on the one hand, it is provided that the purpose of the licences is the transmission of television programs with national coverage but, on the other hand, the licences are also required to provide for the transmission of programs, by the said licensee corporations, with coverage limited to territorial zones which will be defined in a National Technical Plan.

The Act fixes the number of licences at three, in the light jointly of calculations of economic feasibility for the licensee Companies, the existing technical limitations or requirements, and the public's interest in diversification of programs.

This is an Act which seeks to remain open to future changes and technological innovations. For these purposes, there is provision for a tool, in the form of the National Private Television Technical Plan, which can be amended relatively easily, and which will regulate the technical conditions at any time for the operation of private television.

In order to guarantee the strictest equality of opportunity, the licences will be granted by means of the appropriate public tender, to be called in a resolution of the Council of Ministers.

As a consequence of the nature of television as a public service, its importance, and the limited number of licences, the Act introduces a

set of rules on the private Corporations which are to run such service, aimed at ensuring the solvency and financial transparency and a broadening or enlargement of the plurality of information, through their internal structure.

One of the purposes of the Act is for private television to genuinely broaden the possibilities of plurality of information in Spain. Thus it is that the Act has taken its inspiration, in the pursuit of this objective, from the rules which the legal provisions of other democratic systems usually establish in order to prevent the occurrence of situations which are counter to free competition or which may imply the existence of oligopolies or the abuse of a position of dominance.

At all events, the licences will be granted according to objective criteria, which are specified in detail in the provisions of the Act.

On questions of program content, the Act follows current criteria in the countries of the European Community and fixes minimum production percentages aimed at promoting production and the program exchange in the European communications field.

At the same time, maximum transmission times which may be given over to advertising are defined and, until the matter is regulated in general terms, a transitional restriction is placed on advertising referring to the consumption of alcohol, tobacco products and any other substance which is harmful to health, following the same criteria as applied in state television.

Finally, and in accordance with the principle of legality which governs the matter, the Act establishes the rules on the system of infractions and administrative sanctions in the field of private television.

CHAPTER ONE

General Provisions

Article 1.

The purpose of this Act is to regulate the indirect management of the essential public television service owned by the State.

Article 2.

The indirect management of the public television service shall be done by corporations operating under a system of administrative licence, pursuant to the provisions of this Act.

Article 3.

The indirect management by said licensee Corporations is inspired by the principles expressed in Article 4 of the Radio and Television Statute, Act no. 4, of January 10th 1980.

Article 4.

1. The purpose of the administrative licence shall be the transmission of programs with national coverage.

2. The licence must, likewise, provide for the transmission of programs for each of the territorial zones defined in the National Private Television Technical Plan.

3. There will be three licences.

Article 5.

1. The National Private Television Technical Plan shall be approved by the Government in a Royal Decree.

2. The National Private Television Technical Plan shall contain the regulation of the technical conditions required to ensure that the service is provided adequately and, amongst others, the following:

a) Signal carrier and distribution systems to be provided by the licensee corporations for the provision of the service.

b) Bands, channels, frequencies and power levels reserved for the transmission of the programs of such corporations, and the locations and radiation patterns of the transmission and re-transmission centres.

c) The definition of the territorial zones referred to in the previous article.

Article 6.

1. For the sole purposes of transmission and carrying of signals, the licences shall be deemed to be subject to any possible amendments to the technical conditions contained in the National Private Television Technical Plan.

2. The licences and licensee corporations shall be subject, in any case, to the international agreements on telecommunications and mass media signed by Spain.

3. Under no circumstances may the granting of a new administrative licence for the transmission of programs of national coverage be claimed as an alteration in the economic and financial balance of those already granted nor motivate any indemnification whatsoever.

Article 7.

1. The Ministry of Transport, Tourism and Communications shall be responsible for compliance with the following functions:

a) The preparation and proposal to the Government of the National Private Television Technical Plan and any modifications it may be deemed fit to introduce therein; for these purposes, said Ministry shall also be responsible for the Plan's monitoring tasks.

b) The hiring and, where applicable, the management of the television signal carrier and distribution systems to the extent that, in accordance with the National Private Television Technical Plan, they must be used for the operation of the licensee Entities.

c) Control and inspection of the licensee corporations' observance of the rules in this Act and the regulations implementing it, and of the terms of the licence.

d) Any other function assigned to it in this Act or which, in order to guarantee better operation of private television, is entrusted to it by the Government.

2. In order to fulfil its functions the Ministry of Transport, Tourism and Communications may request such data and documents as it may deem fit from the licensee corporations and their shareholder corporations.

Information so obtained is confidential and may not be used for purposes other than those proper to this Act.

CHAPTER TWO

The Legal Rules of the Licence

Article 8.

1. The granting of the licences for the indirect management of the public television service shall be the province of the Government, through the appropriate public tender.

2. Such public tender shall be called in a resolution of the Council of Ministers, subject to the provisions of this Act and the National Private Television Technical Plan, to which the operation of the licensee corporations must be adjusted.

Article 9.

1. The Government's adjudication of the licences shall be guided by the following criteria:

a) The need to guarantee free and plural expression of ideas and currents of opinion.

b) The technical and economic viability of the project, considering amongst other factors the decided and paid up share capital and the financial forecasts for the whole term of the licence.

c) The manner of the programming projects between national, European community and international production, with preference for programming made in Spanish, and that from the European Community.

d) The capacity of the applicant corporations to meet the need for programming with coverage limited to each of the territorial zones referred to in Article 4 paragraph 2 of this Act.

e) The provisions on the part of the applicant corporations for meeting the different demands and the public's plural interests, in their programming as a whole.

2. The Government shall assess all the tenders submitted and their suitability for meeting the criteria set out in the previous paragraph. The Government shall award the licences in favour of the tenders which are most to the public's advantage, giving priority to guarantees offered by the tenderers with a view to safeguarding plurality of ideas and currents of opinion, and the need for a diversification of information media as well as with the aim of avoiding both abuses of a position of dominance and practices restricting free competition.

Article 10.

Under no circumstances may the following corporations be licensees:

a) Those included in any of the circumstances provided for in Article 9 of the State Contracts Act.

b) Those not up to date in the payment of their dues into the social security system.

c) Those for whom a licence has previously been cancelled due to a sanction for an infraction classified in this Act as very serious.

d) Those whose shareholders have in turn been shareholders with more than a 10 per cent interest in licensee corporations whose licence was cancelled due to a sanction for an infraction classified in this Act as very serious.

e) Those holding another licence, and those which participate by means of a shareholding in, or effectively control another licence corporation.

Article 11.

Licences are granted for ten years and may be renewed successively by the Government for equal periods.

Article 12.

The licence binds the licensee to the direct exploitation of the public service which is the subject of said licence, which is non-transferable.

Article 13.

The expenses arising from the hiring and, where applicable, from the exploitation, maintenance and replacement of the signal carrier and distribution systems provided for the operation of private television shall be paid by the licensee companies, pursuant to rates to be authorized or amended by the Government.

Article 14.

1. Each licensee corporation shall be bound to broadcast television programs for a minimum of four hours per day and thirty two per week. The calculation thereof will take account both of programs broadcast with national coverage and those with limited coverage for each of the territorial zones referred to in Article 4 paragraph 2 of this Act. In no case may the daily duration of the programming of said limited cover exceed that of national coverage programs.

2. For the purposes of the previous paragraph, purely repetitive transmissions, or those involving still images, or the times given over to advertising, will not be deemed to be television programs.

3. The programming broadcast must respect the following minimum and compatible production percentages:

- a) 15 per cent of production by the licensee itself.
- b) 40 per cent of production originating in countries making up the European Community.

Likewise, 55 per cent of the programming broadcast must have been made in Spanish.

4. 40 per cent of commercial films broadcast in the monthly programming must have been produced in countries of the European Community and, within that, 50 per cent at least must have been made in Spanish. Under no circumstances may commercial films be broadcast until two years after their release in Spain in a commercial cinematographic exhibition theatre or, if they have not been released in Spain, until two years after their production, unless such films were made for the sole purpose of showing on television, or at least 30 per cent of their production costs were met by the holder of the licence concerned.

5. Access to international image sources by the licensee corporations shall in no case alter the terms of the licence.

6. Holders of licences must archive all programs broadcast by their television transmitters, for a period of six months counted from their first date of broadcast, and register the data referring to such programs, their source and the special features of the production work, so as to facilitate their inspection by the competent authorities, and enquiries by individuals in accordance with the general regulations in this field.

Article 15.

Advertising broadcast by the holders of the licences may not exceed 10 per cent of all the annual programming times. Under no circumstances may the broadcast time destined to advertising exceed ten minutes within each hour's programming.

Article 16.

The licensee corporations shall be required to broadcast, free of charge and with acknowledgement of source, such communiqués and declarations which, at any time and because of their public interest, the Government may deem fit.

Article 17.

1. Licences granted under this Act shall be cancelled for the following reasons:

- a) The expiration of the term of licence, if its renewal has not been formalized.
- b) Breach of the requirements set in Articles 18 and 19 of this Act.
- c) Declaration of bankruptcy or suspension of payments, or a resolution to wind the licensee corporation up.
- d) Because of losses which reduce the licensee corporations assets to a level less than the initial share capital, unless this is restored in the terms provided for in the Stock Corporations Act.
- e) Failure to begin broadcasting within the period set in the licence, without justified cause.
- f) Unjustified suspension of broadcasts for more than fifteen days during the course of one year.

2. A breach arising of the limits established in Article 19.3 shall lead to the cancellation of the licence unless, in the period of one month following delivery of instructions to the corporation by the Administration, the corporation rectifies said breach.

3. The licence is cancelled in a resolution of the Council of Ministers, acting on a recommendation of the Minister of Transport, Tourism and Communications and, where applicable, shall give rise to a new public call for tenders.

CHAPTER THREE

The Licensee Corporations

Article 18.

1. The licensees must take the form of corporate companies, and their sole and exclusive corporate purpose shall be the indirect management of the public television service in accordance with the terms of the licence. Their shares shall be nominative.

2. Said corporations must have a minimum capital of 1000 million pesetas, fully subscribed and at least 50 per cent paid up. When the licence is granted, they must accredit that the whole share capital has been paid up.

Notwithstanding the provisions of European Community Law, the licensee corporations must be of Spanish nationality and domiciled in Spain.

Article 19.

1. Only natural persons and those legal persons which take the form of corporations may be shareholders of the licensee corporations and, in the latter case, provided that their shares are nominative.

2. No natural or legal person may be the direct or indirect holder of shares in more than one licensee corporation.

3. No natural or legal person may directly or indirectly hold more than 25 per cent of the capital of a licensee corporation.

4. All foreign-owned shares may not at any time directly or indirectly exceed 25 per cent of the capital of a licensee company.

Article 20.

1. The Special Licensee Corporation Register is hereby established in the Ministry of Transport, Tourism and Communications; this is a public Register, which will be regulated by Royal Decree.

2. The licence concerned, and the licensee corporations must be entered in said Special Register, with the provision of the appropriate deed of incorporation and Articles of Association.

3. Any amendment to the deed or the Articles of Association must be notified to the Special Register, as must the composition of their administrative bodies. Such details must have been previously notified to the Special Register in order to be entered in the Register of Companies.

Article 21.

1. Previous administrative authorization will be required for all acts and legal business involving the transfer, disposition or encumbrance of the shares of the licensee corporations, and the issue of bonds or of similar securities.

2. The acts and legal business referred to in the previous paragraph must, as a constituent requirement, be formalized in a document executed by a public attester. No such public attester shall intervene in or authorize any document unless the mandatory administrative authorization has been evidenced.

3. The authorizations referred to in this Article will be approved by the Ministry of Transport, Tourism and Communications.

Article 22.

The licensee corporations must submit to an external audit every year. The results of such audit will be forwarded by the licensee corporations to the Ministry of Transport, Tourism and Communications.

Article 23.

For the effects of this Act, all those cases in which resolutions, decisions or agreed practices lead to the control or effective domination of the capital in a proportion in excess of that authorized by this Act shall be deemed to be cases of intromission or indirect participation.

CHAPTER I IR

The Rules on Infractions and Sanctions

Article 24.

1. Infractions of the provisions of this Act are classified as very grave, grave and petty.

2. The following are very grave infractions:

a) Breach of the provisions of Articles 3, 10, 20 and 21 which may be attributed to the licensee corporations.

b) Reiterated violation of programming requirements and the limits and requisites of advertising broadcasting.

c) The violation, declared in a final resolution, of the current rules on the right to honour, personal privacy, and self-image, electoral campaigns, distribution of surveys and exercise of the right of rectification.

d) The transmission of coded, conventional or subliminal messages.

e) Reiterated deliberate production of harmful interference as defined in international agreements or conventions signed by Spain.

f) A refusal, resistance or obstruction which prevents, makes difficult or delays the exercise of the Administration's powers of inspection provided for in Article 7.1, hereinabove.

g) The commission of a grave infraction when, within one year, sanctions have been imposed for two or more grave or very grave infractions.

3. The following are grave infractions:

a) The use of equipment and apparatus which do not meet the technical specifications and certification conditions set out in Regulations or international Conventions and Agreements signed by Spain.

b) The reiterated alteration or manipulation of the technical specifications of equipment or apparatus, and their identification marks.

c) The reiterated use of bands, channels, powers or radiation systems for whose use no authorization has been granted.

d) The production of harmful interference involving significant disruption to frequency use, except where this must be treated as a very grave infraction pursuant to the terms of the previous paragraph.

e) The broadcasting of false or deceptive identification signals.

f) The reiterated breach of the essential conditions of the licence except where this must be treated as a very grave infraction pursuant to the terms of the previous paragraph.

g) The commission of a petty breach, when, within one year, sanctions have been imposed for two or more petty, grave or very grave infractions.

4. Petty infractions are actions or omissions contrary to the terms of the licence and not included in the previous paragraphs, with damaging results which can be easily corrected, and which have no serious consequences in the provision of the public television service and do not involve significant disruptions to the use of the frequency spectrum.

5. For the purposes of this Article, reiteration will be deemed to occur when the licensee twice ignores warnings addressed to it by the Ministry of Transport, Tourism and Communications within one year, or such warnings are not heeded on four occasions during the term of exploitation of the licence.

6. Breach by public attestors of the obligations imposed upon them in this Act will be deemed to be a very grave infraction in the terms of their individual Disciplinary Statute.

Article 25.

1. Infractions shall be sanctioned as follows:

a) Petty infractions with a fine of Pts 500,000 to Pts 2,000,000.

b) Grave infractions with a fine of Pts 2,000,001 to Pts 15,000,000.

c) Very grave actions with a fine of Pts 15,000,001 to Pts 50,000,000, temporary suspension of broadcasts for a maximum period of fifteen days, or cancellation of the licence. Such cancellation may only be imposed, in the cases in paragraph 2 a) and g) of the previous article, when the licensee was previously the subject of a temporary fifteen day suspension sanction within the period of one year.

2. The imposition of sanctions will be adjusted to the sanction proceedings regulated in the Administrative Proceedings Act; the proceedings will be opened by the Ministry of Transport, Tourism and Communications.

3. It shall be the province of the Ministry of Transport, Tourism and Communications to sanction petty and grave infractions, while very grave infractions will be sanctioned by the Council of Ministers.

4. Sanction of infractions committed by public attestors shall be the province of the authority with power to discipline them in the procedures established for the purposes.

Article 26.

Television broadcasts carried out without a prior administrative license, or those done when such licence is suspended or cancelled, shall lead to the immediate closure of the transmitter by the governmental authority, and the seizure of equipment and apparatus used in the broadcast.

ADDITIONAL PROVISION

1. The Government is hereby authorized to pass the provisions necessary for the implementation and enforcement of this Act.

2. The Government is hereby authorized to update the amount of the minimum stock capital provided for in Article 18.2 in order to participate in the pertinent public tender, and the amount of the fines established in Article 25, according to variations in the cost of living index.

TRANSITIONAL PROVISIONS

One. The corporations granted a licence in the first public tenders called following the enactment hereof will not be subject to the percentages referred to in Article 14 paragraph 3 hereinabove for the first two years of such licence. However, said percentages must be covered up to one third part in the first year and two thirds parts in the second year of said licence.

Two. Until the advertising of consumption of alcohol, tobacco products and any other substance which is harmful to health is regulated on a general basis, the broadcasting of such advertising through private television shall be subject to the same rules as those in force for the public corporation Spanish Radio and Television

Therefore,

I hereby order all Spaniards, individuals and authorities, to observe and enforce this Act.

The Zarzuela Palace, Madrid, May 3rd 1988.

JUAN CARLOS, Rex.

The Prime Minister
FELIPE GONZALEZ MARQUEZ

Organic Act no. 2, of May 3rd 1988, regulating electoral advertising on private television transmitters.

JUAN CARLOS I

KING OF SPAIN

Know all men by these presents that Parliament has passed and I hereby approve the following Organic Act:

Single Article. 1. Electoral advertising space may not be hired on private television transmitters which are the subject of licence.

2. The respect for pluralism and the values of equality in programmes broadcast during electoral periods by the private television transmitters which are the subject of licensing shall be guaranteed by the Electoral Boards in the same terms as provided for in the electoral legislation for the publicly owned communications media.

Therefore,

I hereby order all Spaniards, individuals and authorities, to observe and to enforce this Organic Act.

The Zarzuela Palace, Madrid, May 3rd 1988.

JUAN CARLOS, Rex.

The Prime Minister

FELIPE GONZALEZ MARQUEZ

The Intellectual Property Act. Act no. 22, of November 11th 1987.

JUAN CARLOS I
KING OF SPAIN

Know all men by these presents that Parliament has passed and I hereby approve the following Act:

PREAMBLE

The need to create specific legal rules on so-called intellectual property rights led to the passage of the Act of January 10th 1879, a provision of acknowledged value and pertinence which has made such a positive contribution to our legal tradition in the field.

However, the legislator of that time could not foresee the profound social transformations which were to occur and, more specifically, the consequences of the development of the means for distribution of creative works which have made it possible, for the first time in history, for the majority of citizens to have access to culture, but which, at the same time, have made it possible to develop new forms of fraud in respect of intellectual property rights.

These needs to adapt to new circumstances have been only partially satisfied in the internal legal provisions, by the passage of a variety of specific rules referring to the protection of rights to certain works and, in the international sphere, through Agreements to some of which Spain is a signatory; here, however, the domestic legislation has not been adapted to the necessary extent.

Therefore, taking account of the predominant trends in European Community Member countries and, in particular, in those closest to our legal traditions, this Act establishes a new set of legal rules, of a unitary and systematic nature, for intellectual property, whose aim is that rights to creative works should be real, specific, and effectively acknowledged, as well as being protected in accordance with the requirements of our times.

In this context, the Act is structured on two clearly differentiated sets of rules: those relating to substantive rights, and those regulating the claims and procedures for the protection of said rights.

In turn, within the first such set of rules, a distinction is made, on the one hand, between those rights assigned to the author, who carries out the purely human and personal task of creation of the work, and which therefore constitute the essential core of the subject of this Act; and, on the other, those rights granted to certain individuals or legal entities whose intervention is indispensable to the interpretation or performance, or for the distribution of the works created by the authors.

As to the author's intellectual property right, the Act contains, as noteworthy innovations, its recognition and protection due to the mere fact of the creation of the work; the express regulation of the moral right which, made up of a set of rights inherent to the person of the author, is irrevocable and inalienable, and constitutes the clearest manifestation of the author's sovereignty over his work; definition of the duration and limits, in accordance with the predominant criteria applied by the countries in our cultural and political surroundings; and the establishment of a system of general application for the transfer of rights of a proprietary nature.

The general provisions on the transfer of rights of exploitation take on particular importance insofar as they constitute the specific rules on this question in the field of copyright and are by way of general provisions granting authors or their beneficiaries certain privileges which, except as provided for in the Act, are irrevocable.

Amongst these, of particular note, given their significance, are the principle of restrictive interpretation of rights assigned; the nullity of assignment of rights to the works as a whole which the author may create in the future, and of stipulations committing the author not to create any work; the right to a proportional share in the returns on the exploitation of the work; and the granting of the claim for review of contracts in certain cases which violate the author's entitlement to an equitable remuneration.

Also of particular significance is the introduction into the Spanish legal provisions of some concepts which are quite familiar to Comparative Law, such as the right of the author of works of plastic art to share in the re-sale price of this works, and the right of authors, editors, producers and artists interpreting or performing works published in book, phonographic or audiovisual recorded form, to obtain compensatory remuneration for reproductions made for personal use.

The express regulation in the Act of editing and representation agreements, and of the legal relations arising from the creation of high technology works, such as audiovisual works or computer programs, is explained by the need to adapt the principles established in the abovementioned general rules to the special features of these concepts. The aim is thus to define authors' rights and obligations, as well as those of licensees of rights of use, in accordance with the predominant trends at this point in history and to the benefit of both parties, with the application of a just balance between the necessary rules of law and the principle of freedom of will.

As to the legal rules on rights derived from the interpretation or performance or from the production or distribution of creative works, i.e. from those other intellectual property rights which, in practice, have been defined as kindred or related, the Act has basically followed the criteria set out by the 1961 Rome Convention, and the Geneva Agreement of 1971. This regulation, which under no circumstances involves restriction upon copyright, meets the legitimate interests of a significant professional and industrial sector closely linked to culture which, in recent years, has been particularly affected by fraudulent procedures derived from new technology and which therefore was in particular need of express recognition and protection in an Act of Parliament or equivalent legal provision.

For the protection of intellectual property rights, the Act establishes the rules for the jurisdictional guarantees on the said rights, defining the content of claims which may be prosecuted, and the procedural resources for these purposes.

In the definition of the measures which can be filed judicially against breach of intellectual property rights, the appropriate distinction is made between those aimed at securing the cessation of the unlawful activity and those for the redress of the damage and compensation for the losses caused. The precautionary procedural rules are aimed at securing the protection sought, with due urgency, at the same time as guaranteeing that the need for the measures whose adoption is requested is duly justified.

On the other hand, although recognition of intellectual property rights is not subject to formal requirements of any type, the Act authorizes their holders so that, as a special protective measure and

safeguard, they may enter them in the Intellectual Property Register, and use the symbols created in the field under the International Conventions.

Likewise, the Act defines the legal framework of the collective management of the rights it creates. It is a fact, admitted by the Institutions of the European Community, that the holders of intellectual property rights may only make them genuinely effective when they act collectively through organizations exercising mediation or management powers in respect of these rights.

Therefore, taking account of the constitutional rules in force, the evolution of comparative Law and the experience accumulated in the field, the Act creates certain rights and obligations for the Entities which seek to dedicate themselves to the collective management of intellectual property rights.

The requirements and obligations created, and the powers of authorization and surveillance which the Act assigns to the Ministry of Culture, are aimed at guaranteeing the efficacy of the administration of rights entrusted to it. In particular, it is sought to establish means for control by holders of the rights included in such Entity's management, at the same time as promoting the distribution of the works and the exploitation of the rights being managed. With this aim in view, the Act recognizes the right of users to exploit the works in reasonable conditions, and promotes the settlement of conflicts which may arise, by means of the intervention, where applicable, of the Intellectual Property Rights Arbitration Commission which is set up for these purposes in the Ministry of Culture.

Finally, the Act's scope of application is fixed according to the criteria in the Civil Code, the principle of reciprocity, and the principles marked out in the international Conventions to which Spain is a signatory.

In short, by means of all the institutions analyzed, which represent a thorough modernization of the legal rules on intellectual property, this Act seeks to adequately satisfy the demand of our society for the provision of recognition and protection of rights of those who, in creative works, make such an outstanding contribution to the formation and development of culture and science to the benefit and for the enjoyment of all citizens.

BOOK ONE

Author's Rights

PART ONE

General Provisions

Article 1.

The intellectual property in a literary, artistic or scientific work belongs to the author, by the mere fact of its creation.

Article 2.

Intellectual property is made up of rights of a personal and proprietary nature which assign the author full disposition and the exclusive right to exploit the work, with no further restrictions than those imposed in this Act.

Article 3.

Copyright is independent, and compatible with:

1. Property and other rights upon the material thing to which the intellectual creation is incorporated.
2. Industrial property rights which may exist upon the work.
3. The remaining intellectual property rights recognized in Book II of this Act.

Article 4.

For the purposes of the provisions of this Act, the release of a work is understood to be any expression thereof which, with the author's consent, makes it available to the public for the first time, in any form; publication is deemed to be the release which takes place when a number of copies of the work is made available to the public which reasonably satisfies its needs, estimated in accordance with the nature and purpose of such work.

PART TWO

Subject, Object and Content

CHAPTER ONE

Subject

Article 5.

1. The author is the individual who creates any literary, artistic or scientific work.
2. Nonetheless, legal persons may benefit from the protection granted to the author under this Act, in the cases expressly provided for herein.

Article 6.

1. The author shall be deemed to be whomsoever may appear as such in the work, by means of a name, signature or an identifying mark, unless proven to the contrary.
2. When the work is released anonymously or under a pseudonym or mark, the individual or corporation revealing it with the author's consent shall exercise the intellectual property rights, as long as the identity of such author is not revealed.

Article 7.

1. Rights to a work which is the unified result of the collaboration of several authors shall belong to all of them.
2. Release and alteration of the work shall require the consent of all the joint authors. If they are unable to agree, the decision shall be left to the Courts.
Once the work has been made public, none of the said joint owners may unreasonably refuse to consent to its exploitation in the form in which it was so made public.
3. Subject to the arrangements between the joint authors of the joint work, they may use their contributions separately, provided that this does not damage joint use.
4. The Intellectual Property rights in respect of a joint work shall belong to all the authors in the proportion to be decided by them. The rules in the Civil Code for joint property shall be applied to such works insofar as not provided for in this Act.

Article 8.

A joint work shall be deemed to be that created on the initiative and with the coordination of a natural or legal person editing and publishing it in its own name, and which comprises a collection of presentations from different authors whose personal contribution is blended into a single independent creation for which it was conceived; it shall not be possible to attribute separately to any of them a right to the whole of the work done.

Unless otherwise agreed, the rights on the collective work shall belong to the person who edits and publishes it under its own name.

Article 9.

1. A compound work shall be deemed to be a new work which incorporates an existing one without the collaboration of the author of the latter, notwithstanding the rights to which such author may be

entitled, and said author's necessary authorization.

2. An independent work shall be deemed to be that constituting a separate creation, even though it may be published jointly with others

CHAPTER TWO

Object

Article 10.

1. All original literary, artistic or scientific creations, expressed by any means or in any medium, whether tangible or intangible, known at present or which may be invented in the future, are the object of intellectual property, and shall include the following:

- a) Books, brochures, printed matter, collections of letters, letters, speeches and addresses, papers, forensic reports, professorial lectures, and any other works of the same nature.
- b) Musical compositions, with or without words.
- c) Dramatic and dramatic-musical works, choreographies, pantomimes and, in general, theatre works.
- d) Cinematographic and any other audiovisual works.
- e) Sculptures and works of painting, drawing, engraving, lithography, and graphic tales, cartoons or comics, as well as their drafts or sketches, and other plastic works, whether applied or not.
- f) Blueprints, drawings, mock-ups and designs for architectural and engineering works.
- g) Graphs, maps and designs relating to topography, geography and, in general, to science.
- h) Photographic works and those expressed by procedures similar to photography.
- i) Computer programs.

2. The title of a work, when original, shall be protected as a part thereof.

Article 11.

Notwithstanding author's rights on the original work, the following are also the object of intellectual property:

1. Translations and adaptations.
2. Revisions, datings and annotations.
3. Compendia, abstracts and extracts.
4. Musical arrangements.
5. Any transformation of a literary, artistic or scientific work

Article 12

Also, collections of unrelated works, such as anthologies, and those of other elements or data which, because of the selection or arrangement of the materials, constitute intellectual creations, are also the object of intellectual property, notwithstanding the copyright of the authors of the original works, where applicable.

Article 13.

Legal provisions or regulations and their associated drafts, resolutions of jurisdictional bodies, and the acts, resolutions, deliberations and reports of public Corporations and the official translations of such texts are not the object of intellectual property

CHAPTER THREE

Content

Section 1. Moral Right

Article 14.

The following irrevocable and inalienable rights are hereby

assigned to the aut.

1. To decide if the author's work is to be released, and in what form.

2. To decide whether such release is to be done with the author's name, under a pseudonym or sign, or anonymously.

3. To claim acknowledgement of authorship of the work.

4. To claim the respect for the integrity of the work and prevent any deformation, amendment, alteration or aggression against such work which may involve damage to the legitimate interests of the author or impairment of the author's reputation.

5. To amend the work, while respecting rights acquired by third parties and the requirements for the protection Assets of Cultural Interest.

6. To withdraw the work from circulation due to a change of intellectual or moral convictions, following indemnification of consequential damages to the holders of rights of exploitation.

An author who subsequently decides to resume the exploitation of his or her work must offer the associated rights to their previous holder in preferential form and in terms which are reasonably similar to the original terms.

7. Access to a sole or rare copy of the work when held by another, so as to exercise the right of release or any other right available to the author.

This right does not give the right to demand the displacement of the work; access thereto shall be in the place and form which least inconveniences the holder, which shall, where applicable, be indemnified for any consequential damages which may be caused to it

Article 15.

1. On the author's death, the rights referred to in points 3 and 4 of the previous article are hereby assigned, without limit of time, to the natural or legal person to whom the author has expressly conveyed such exercise in the provisions of a last will and testament. Otherwise, the exercise of said rights shall be the province of the heirs.

2. The persons indicated in the previous paragraph, and in that order, may exercise the right referred to in point 1 of Article 14 above in respect of the author's unreleased work, for a term of sixty years from the author's death or certification of death, notwithstanding the provisions of Article 40 hereinbelow.

Article 16.

If there are no such persons as those referred to in the previous Article, or their whereabouts are not known, the Regional Governments, Local Corporations and public Institutions of a cultural nature shall be authorized to exercise the rights provided for there

Section 2. Rights of Exploitation

Article 17.

The author is hereby assigned exclusive exercise of the rights of exploitation of his or her work in any form and, in particular, rights of reproduction, distribution, public communication and transformation, which may not be done without the author's authorization, except as provided for in this Act.

Article 18.

Reproduction is deemed to be the establishment of the work in a medium which permits its communication and the copying of all or part thereof.

Article 19.

Distribution is deemed to be the making available to the public of the original or copies of the work by means of sale, lease, loan or in any other form.

Article 20.

1. Public communication is deemed to be any act by which a number of persons may have access to the work without prior distribution of copies to each of them.

Communication shall not be deemed to be public when it takes place in a strictly domestic environment which is not integrated in or connected to a distribution network of any type.

2. The following, in particular, are acts of public communication:

a) Scenic representations, recitals, dissertations and public performances of dramatic, dramatic-musical, literary and musical works by any means or procedure.

b) The projection or public exhibition of cinematographic and other audiovisual works.

c) The broadcasting of any works by radio or any other means used for the wireless propagation of signs, sounds or images. The notion of broadcast includes the production of signals from an earth station to a radio broadcast or telecommunication satellite.

d) The transmission of any works to the public by wire, cable, fibre optics or any other similar procedure, whether or not by means of subscription.

e) The re-transmission by any of the means referred to in the previous paragraph and by a broadcasting Entity other than the one of origin, of the radio broadcast or televised work.

f) The broadcast or transmission in a place accessible to the public, by any suitable means, of the work disseminated by radio or television.

g) The public exhibition of works of art or their reproductions.

h) Public access to computer data bases by means of telecommunication when such data bases incorporate or constitute protected works.

Article 21.

1. Transformation of a work includes its translation, adaptation, and any other modification to its form as a result of which a different work is obtained.

2. Intellectual property rights on the work arising from such transformation shall be held by the author of the latter, notwithstanding the rights of the author of the pre-existing work.

Article 22.

Assignment of rights of exploitation on their works will not prevent authors from publishing said works in a selected or complete collection.

Article 23.

The rights of exploitation regulated in this Section are mutually compatible.

Section 3. Other Rights

Article 24.

1. In the case of resale of works of plastic art in public auction, in a commercial establishment or with the intervention of a merchant or a commercial agent, the author shall be entitled to claim a share from the seller of 2 per cent of the price of conveyance if this is in excess of the amount to be established in regulations.

Works of applied art shall not benefit from the provision of the previous paragraph.

2. Auctioneers, merchants and agents intervening in the resale must notify the author to the effect, directly or through the relevant management Entity, within the term of two months, providing the author with the information required for the settlement of his or her right. Likewise, said auctioneers, merchants and agents shall withhold the corresponding percentage from the sale price and shall make it available to the author. The action to claim this share shall prescribe

three years after the date of notification of the resale.

3. This right is irrevocable and inalienable.

Article 25.

1. The authors of works published in book, phonographic or any other audio or visual form shall, along with the editors or producers of such works and the artists, interpreters or performers whose actions are fixed therein, be entitled to share in a compensatory remuneration for the reproduction of such works, made solely for personal use with non-typographic technical apparatus.

2. Said remuneration shall be claimed from the manufacturers or importers of equipment and materials intended for distribution in Spain which permit the reproduction of works for the purposes indicated in the previous paragraph.

3. The Government shall pass Regulations fixing the procedures for defining the equipment and materials liable, the amount, the system of collection and the distribution of the remuneration. These rights shall be exercised through the management Entities concerned.

PART THREE

Duration and Limits

CHAPTER ONE

Duration

Article 26.

Rights of exploitation of the work shall last throughout the life of the author and for sixty years following the author's death or certification of death.

Article 27.

1. The rights of exploitation of a work released following the author's death shall last for sixty years counted from the date of such release, provided that this takes place within the sixty years following such death.

2. In works released under a pseudonym, or anonymously, rights of exploitation shall last for sixty years from such release unless, prior to the termination of the said term, the author should become known, in which case the provisions of Article 26 above shall be applied.

Nonetheless if, after sixty years following such release, the author should reveal his or her identity in certified form, during the author's lifetime or in a will, the provisions of Article 26 above shall be applied, notwithstanding those of the previous paragraph

Article 28.

1. For the work made in collaboration with various authors, the duration of the exploitation rights will start as from the last co-author's death.

2. The duration of mentioned rights over the collective work will be of sixty years as from its divulgation.

3. The joint publication of some contributions, which are not an unitarian creation, even if they have any kind of relation, will adapt, in the duration of the relevant rights of their authors, to the general rules established in art. 26.

Article 29.

1. In the case of a work published in independent parts, volumes or installments, the period of protection of the work shall be counted from the date of publication of the last such part, volume or installment.

2. For these purposes, appendices, yearbooks and other additions to a work shall be deemed to be independent thereof.

Article 30.

The periods established in this Chapter are counted from the first day of January in the year following the death or certification of

death of the author, or following that of the work, as the case may be.

CHAPTER TWO

Limits

Article 31.

Works already released may be reproduced without the author's clearance in the following cases:

1. As a consequence of or for recording in a judicial or administrative proceeding.

2. For the copier's private use, provided that such copy is not used collectively or for profit.

3. For the private use of the blind, provided that such reproduction is done by means of the Braille system or some other specific procedure and the copies are not used for profit.

Article 32.

It is lawful for a work to include fragments from others, be these written, audio or audiovisual works, as well as from other isolated works of a plastic, photographic, figurative or similar nature, provided that such works have already been released and said inclusion is done as quotation or for analysis, commentary or critical judgement. Such use may be only for teaching or research purposes, insofar as justified by the aim of such incorporation, and the source and the name of the author or the work used are indicated.

Periodic compilations carried out in the form of press reviews or accounts shall be treated as quotations.

Article 33.

1. Works and articles on news items disseminated through the mass media may be reproduced, distributed and communicated publicly by any other media of the same type, quoting the source and the author if the work is signed, provided that rights are not stated as reserved at the source, and notwithstanding the author's right to receive the remuneration agreed on or, in the absence of such an agreement, that deemed to be equitable.

In the case of literary collaborations, the opportune author's authorization shall, in any instance, be required.

2. Similarly, papers, addresses, reports before the Courts and other works of the same character which have been delivered in public, may be reproduced, distributed and communicated, provided that such use is with the exclusive aim of reporting on news. This latter condition do not apply to speeches delivered in parliamentary sessions or those of public corporations. In any case, the right to publish such works in collections is hereby reserved to the author.

Article 34.

Any work which can be seen or heard on the occasion of information on news events may be reproduced, distributed and communicated publicly, although only insofar as such informative end justifies it.

Article 35.

Works situated permanently in parks, streets, squares or other public thoroughfares may be reproduced, distributed and communicated freely by means of paintings, drawings, photographs and audiovisual procedures.

Article 36.

1. The authorization to broadcast a work includes the cable

transmission of the work. Broadcast when this is done simultaneously and in full by the Entity of origin and the geographic area provided for in such authorization is not exceeded.

2. Likewise, said authorization includes its incorporation into a program beamed to a satellite which enables this work to be received through an Entity other than that of origin, when the author or the author's beneficiaries have authorized the latter Entity to communicate the work to the public, in which case, in addition, the original broadcaster shall be exempted from the payment of any remuneration.

3. The transfer of the right of public communication of a work shall, when this is done by radio broadcast, entitle the radio-broadcasting Entity to record such work using its own resources and for its own wireless broadcasts, so as to carry out the authorized public communication, once only. Further distribution of the work so recorded shall require transfer of the right of reproduction and of public communication.

Article 37.

Holders of copyright may not oppose the reproduction of the works when such reproductions are done on a non-profit-making basis by museums, libraries, record libraries, film libraries, and newspaper libraries and archives which are publicly owned or integrated into Institutions of a cultural or scientific nature and said reproduction is done solely for research purposes.

Article 38.

The performance of musical works during official ceremonies of the State, the Public Administration and in religious ceremonies shall not require authorization from the holders of the rights, provided that the public may attend without charge and the artists taking part do not receive specific remuneration for the interpretation or performance in such ceremonies.

Article 39.

Parody of a released work shall not be deemed to be a transformation requiring the author's consent so long as there is no risk of confusion with the work and damage to the original work or its author is not inferred.

Article 40.

If on the death or certification of the death of the author, such author's beneficiaries exercise their right not to release the work, in terms which violate the provisions of Article 44 of the Constitution, the Courts may order the appropriate measures to be taken, at the request of the State, the Regional Governments, the Local Corporations, public Institutions of a cultural nature, or that of any other person with a legitimate interest.

PART FOUR

The Public Domain

Article 41.

Extinction of the rights of exploitation of works means that they shall pass into the public domain.

Works of the public domain may be used by anyone, provided that the work's authorship and integrity are respected in the terms of Article 14, points three and four hereinabove.

PART FI
Transfer of Rights
CHAPTER ONE
General Provisions

Article 42.

Rights of exploitation of a work are transferred "mortis causa" by any of the legally admitted means.

Article 43.

1. The rights of exploitation of a work may be transferred "inter vivos"; such transfer is limited to the right or rights assigned, to the specifically stated categories of exploitation, and to the time and geographic scope defined.

2. Failure to mention the time limits such transfer to five years; failure to mention the geographic scope limits it to the country in which the transfer is made. If the categories of exploitation of the work are not specifically mentioned, such transfer shall be limited to that necessarily deduced from the contract itself and which is essential to the fulfillment of the purpose thereof.

3. Any assignment of rights of exploitation for the works which may be created by the author in the future shall be null and void.

4. Stipulations in which the author undertakes not to create any work in the future shall be null and void.

5. Transfer of rights of exploitation does not extend to categories of use or to distribution media which are non-existent or unknown at the time of the transfer.

Article 44.

Authors of more than sixteen and less than eighteen years of age who live independently with the consent of their parents or guardians, or with the authorization of the person or institution which has them in its charge, have full capacity to transfer rights of exploitation.

Article 45.

All transfers must be formalized in writing. If, following a certified request, the licensee should breach this requirement, the author may decide to cancel the contract.

Article 46.

1. A transfer granted onerously by the author grants that author a proportional share in the returns from such exploitation, in the amount agreed upon with the licensee.

2. However, a lump sum remuneration may be stipulated for the author in the following cases:

a) When, depending on the category of the exploitation, there is a serious difficulty in calculating the returns, or their verification is impossible or would cost an amount which is disproportionate to the likely payment.

b) When the use of the work is ancillary to the activity or the material object to which it is destined.

c) When the work, used with others, does not constitute an essential element of the intellectual creation into which it is integrated.

d) In the case of the first or only edition of the following works, not previously released:

- Dictionaries, anthologies and encyclopaedias.
- Prologues, annotations, introductions and presentations.
- Scientific works.
- The illustrations for a work.
- Translations.
- Popular economy editions.

Article 47.

If, in a lump sum transfer, a manifest disproportion should occur between the author's remuneration and the returns obtained by the licensee, the author may seek a review of the contract and, if no agreement is reached, resort to the Courts for the establishment of an equitable remuneration according to the circumstances of the case. This faculty may be exercised within the ten years following the transfer.

Article 48.

Exclusive transfer must be granted expressly as such and, within its scope, shall assign the licensee the power to exploit the work to the exclusion of any other person, including the transferor and, unless otherwise agreed to, powers to grant non-exclusive authorizations to third parties. Likewise, it grants the licensee the authority, irrespective of the assignor holding the title, to prosecute violations affecting the powers granted to said licensee.

This transfer places the licensee in the obligation to provide all the means necessary for the efficacy of the exploitation assigned, according to the nature of the work and current practice in the professional, industrial or commercial activity concerned.

Article 49.

The exclusive licensee may transfer its right to another, with the express consent of the principal.

In the absence of consent, the licensees shall be severally reliable before the initial assignor of the obligations in the transfer.

Consent shall not be required when the transfer is carried out as a consequence of the dissolution or change of title of the licensee Undertaking.

Article 50.

1. The non-exclusive licensee is empowered to use the work in accordance with the terms of the transfer and concurrently with other licensees or with the transferor. Its right shall be non-transferable, except in the cases provided for in paragraph three of the previous Article.

2. Non-exclusive authorizations granted by management Entities for the use of their repertories shall, in all cases, be non-transferable.

Article 51.

1. The transfer to the employer of the rights of exploitation of a work created as a result of a labour relation shall be governed by the terms of the contract, which must be concluded in written form.

2. In the absence of a written covenant, it shall be presumed that rights of exploitation have been assigned on an exclusive basis and with the scope necessary for the pursuit of the employer's normal activity at the time of the delivery of the work done as a result of said labour relation.

3. Under no circumstances may the employer use the work, or dispose thereof, for an aim or purposes other than those derived from the provisions of the two previous paragraphs.

4. The other provisions of this Act shall, as appropriate, be applicable to these transfers, provided that this is the consequence of the aim and purpose of the contract.

Article 52.

Unless otherwise stipulated, the authors of works reproduced in periodical publications retain their right to exploit them in any manner which is not to the detriment of the normal procedure for the publication in which they were included.

The author may dispose freely of his or her work if this is not reproduced in the term of one month counted from its delivery to or acceptance in daily publications, or six months in the remainder, unless otherwise provided for.

The author's remuneration for the said works may take the form of a lump sum.

Article 53.

1. The rights of exploitation of works protected in this Act may be mortgaged in accordance with the current legislation.

2. Rights of exploitation assigned to the author may not be attached; however, their benefits or returns may be attached, and will be treated as wages, both in respect of the order of preference for the attachment, and of retentions or the unattachable part.

Article 54.

Money credits for the transfer of rights of exploitation shall receive the same treatment as accruals for wages or salaries in licensees' insolvency proceedings, with the limit of two annuities.

Article 55.

Except as provided for in this Act, benefits granted in this section to authors and their beneficiaries shall be irrevocable.

Article 56.

1. Anyone acquiring property to the medium in which a work is incorporated shall not for that reason alone have any right of exploitation of said work.

2. Notwithstanding, the owner of the original of a work of plastic art or a photographic work shall be entitled to exhibit such work publicly, even if it has not been released, unless the author expressly excluded such right in the act of conveyance of the original. In any case, the author may oppose the exercise of this right by the application, if appropriate, of the precautionary measures provided for in this Act, when such exhibition is carried out in conditions which are to the detriment of the author's honour or professional reputation.

Article 57.

The transfer of copyright for its exploitation in the form of publication, representation or performance, or for production of audiovisual works shall, in turn and in all instances, be governed by the content of the Specific Provisions of this Book One, and insofar as not provided for there, by the provisions of this Chapter.

Conveyance of rights for each of the different categories of exploitation must be formalized in separate documents.

CHAPTER TWO

Publishing Contract

Article 58.

In a publishing contract, the author or the author's beneficiaries assign the right of reproduction and distribution of the work to the publisher in exchange for financial compensation. The publisher undertakes to carry out the said operations for its own account and risk, in the terms agreed upon and subject to the provisions of this Act.

Article 59.

1. Future works may not be the subject of the publishing contract regulated herein.

2. Commissioning of a work may not be the subject of a publishing contract; however, such remuneration as may be agreed to shall be deemed to be an advance on the rights of the author for publication, should it go ahead.

3. The provisions of this Chapter shall not be applicable to collaborations in periodical publications, unless this is necessary, where applicable, to the nature and purpose of the agreement.

Article 60.

The publishing contract must be drawn up in written form, and must in any case state the following:

1. If the author's assignment to the publisher is exclusive.
2. Its geographical scope.
3. The maximum and minimum number of copies in the edition, or each of those agreed to.
4. The form for the distribution of the copies, and those to be reserved for the author or the critics and for the promotion of the work.
5. The author's remuneration, to be set according to the provisions of Article 46 hereinabove.
6. The period for the placing in circulation of the copies of the sole or first edition, which may not be more than two years counted from the date on which the author delivers the work to the publisher in conditions suitable for its reproduction.
7. The period in which the author must deliver the original of the work to the publisher.

Article 61.

1. The contract will be null and void if not in written form, and if it fails to state the matters required pursuant to points 3 and 5 of the previous article.

2. Omission of the matters referred to in points 6 and 7 of the previous article shall entitle the parties to take action to compel each other reciprocally to correct the fault. If no agreement is reached, the Courts will decide, according to the terms of the contract, the conduct of the parties in its performance, and practice.

Article 62.

1. In the case of publication of a work in book form, the contract must in addition state the following:

- a) The language or languages in which the work is to be published.
- b) The advance to be paid, where applicable, by the publisher to the author, on account for the author's rights.
- c) The class or classes of publication and, where applicable, the collection of which they will form a part.

2. Failure to state the language or languages in which the work is to be published shall give the author the right to publish it in the original language only.

3. Should the contract provide for the publication of a work in several official Spanish languages, publication in one such language shall not release the publisher from the obligation to publish it in the remainder.

Should five years elapse following the date on which the author delivered the work and the publisher has not published it in all the languages provided for in the contract, the author may cancel that part of the agreement dealing with the languages in which it has not been published.

4. The provisions of the previous paragraph shall also apply to the translations of foreign works in Spain.

Article 63.

The limit period provided for in point 6 of Article 60 above shall not apply to publication of the following types of works:

1. Anthologies of different authors' works, dictionaries, encyclopaedias and similar collections.
2. Prologues, epilogues, presentations, introductions, annotation, commentaries and illustrations of different authors' works.

Article 64.

The following are the publisher's duties:

1. To reproduce the work as agreed, without introducing any

amendment not consented to by the author, and setting out the name, signature or marking identifying the author, in each copy.

2. To submit the galley proofs to the author, unless otherwise agreed.

3. To distribute the work in the period and terms specified.

4. To ensure that the work is exploited continuously and distributed commercially in accordance with the standard practice in the professional publishing sector.

5. To pay the author the remuneration stipulated and, when this is proportional, to make the pertinent payment at least annually, rendering account of the content of said payment. The publisher must also make available to the author, annually, a certificate referring to the production, distribution and stocks of copies. For these purposes, should the author so request, the publisher must submit the pertinent documentary evidence.

6. Once the printing and edition of the work have been completed, to return the original of the work concerned to the author.

Article 65.

The following are the author's duties:

1. To deliver the work to the publisher in suitable form for reproduction, and by the deadline agreed to.

2. To answer to the publisher for the authorship and originality of the work, and the quiet exercise of the rights assigned to the publisher.

3. To correct the galley proofs, unless agreed to otherwise.

Article 66.

During the period of correction of galley proofs, the author may make amendments to the work which he or she considers essential, provided that they do not alter its character or purpose, nor substantially increase the costs of publication. In any case, the publishing contract may provide for a maximum percentage of corrections to the work as a whole.

Article 67.

1. Without the author's consent the publisher may not remainder the edition less than two years following the initial placing of the copies in circulation.

2. At the end of this period, should the publisher decide to remainder those copies still in its hands, it shall notify the author to the effect in certified form; the author may choose to acquire them with a rough estimate of the remainder price or, in the case of proportional remuneration, to receive 10 per cent of the amount invoiced by the publisher. This option must be exercised within the term of thirty days following the notification. The author may not use such copies for commercial purposes.

Article 68.

1. Notwithstanding indemnifications to which the author may be entitled, said author may cancel the publishing contract in the following circumstances:

a) If the publisher does not publish the work in the period and terms agreed on.

b) If the publisher defaults on any of the obligations referred to in points 2, 4 and 5 of Article 64 hereinabove, despite the express request from the author to comply therewith.

c) Should the publisher remainder or destroy the copies left from the edition in its hands without complying with the requirements of Article 67.

d) Should the publisher improperly assign its rights to a third party.

e) When several editions have been provided for and the most recent has been sold out, and the publisher fails to make a further edition within one year following a request to do so from the author.

For the purposes of this Article, an edition shall be deemed to be sold out when the number of unsold copies is less than 5 per cent of the whole edition and, in any case, less than 100.

f) In the cases of liquidation or change of ownership of the publishing company, provided that the reproduction of the work has not been begun; in this case, any sums received in advance shall be reimbursed.

2. Should the exploitation of the work be suspended because the publisher ceases business or as a consequence of insolvency proceedings, the judicial Authority may, at the author's request, fix a period for the renewal of such exploitation; if this does not occur, the publishing contract shall be cancelled.

Article 69.

In addition to the general causes for cancellation of contracts, the publishing contract shall, in addition, be cancelled for the following:

1. The termination of the period agreed to.

2. The sale of all the copies, if this was the purpose of the edition.

3. The expiration of ten years following the transfer, if the remuneration was agreed upon only in lump sum form in accordance with the provisions of Article 46, paragraph 2 d) hereinabove.

4. In any case, fifteen years after the date on which the author placed the publisher in a position to reproduce the work.

Article 70.

Unless otherwise provided for, once the contract has been cancelled, the publisher may, within the following three years, and irrespective of the form of distribution agreed on, alienate any copies it may hold. The author may acquire them at 60 per cent of their public sale price or that defined by an expert, or choose to exercise right of pre-emption on the sale price.

Such alienation shall be subject to the terms fixed in the cancelled contract.

Article 71.

The publishing contract for musical or dramatic-musical works under which the publisher is also granted communication rights, shall be subject to the provisions of this chapter, notwithstanding the following rules:

1. The contract shall be valid even though it does not express the number of copies. Nonetheless, the publisher must prepare and distribute enough copies of the work to meet normal necessities for the exploitation granted, according to normal practice in the professional music publishing sector.

2. For symphonic and dramatic-musical works, the time limit provided for in Article 60 point 5 shall be five years.

3. The provisions of Article 68 paragraph 1 c) and Article 69 points 2, 3 and 4 of this Act shall not be applicable to this type of contract.

Article 72.

The number of copies of each edition shall be subject to edition control by means of the procedure to be defined in regulations, following consultation with the professional sectors concerned.

Breach by the publisher of the requirements fixed for these purposes shall entitle the author or the author's beneficiaries to cancel the contract, notwithstanding such liabilities as may have been incurred by the publisher.

Article 73.

Authors and publishers may, through the entities managing their respective intellectual property rights or, failing this, through their representative associations, agree on general conditions for the publishing contract, provided that they respect the provisions of this Act.

CHAPTER TH

Theatrical Management and Musical Performance Contract

Article 74.

Under the contract regulated in this chapter, the author or the author's beneficiaries assign the right to a natural or legal person to publicly represent or perform a literary, dramatic, musical, dramatic musical, pantomime or choreographic work in return for financial compensation. The licensee undertakes to communicate the work publicly in the terms agreed, and subject to the provisions of this Act.

Article 75.

1. The parties may contract such transfer for a certain time or for a given number of communications to the public.

In any case, the duration of an exclusive transfer may not exceed five years.

2. The contract must stipulate the period within which the sole or first communication of the work must be carried out. Such period may not exceed two years from the date of the contract or, where applicable, since the time when the author placed the entrepreneur in a position to make said communication.

Should the period not be specified, it shall be deemed to have been given for one year. Should its objective be the stage representation of the work, said period shall be that of the duration of the corresponding season at the moment of the conclusion of the contract.

Article 76.

If the authorized modalities are not determined in the contract, they will be limited to recitals and representations in theatres, halls or premises for entry into which a money payment is required.

Article 77.

The following are the author's duties:

1. To deliver the text of the work to the entrepreneur with the score, where applicable, fully instrumented, if not published in printed form.

2. To answer to the licensee for the authorship and originality of the work and the quiet enjoyment of the rights assigned to it.

Article 78.

The licensee is bound as follows:

1. To carry out the public communication of the work in the period agreed to or as determined according to Article 75 paragraph 2 above.

2. To carry out such communication without making amendments, additions, cuts or suppressing parts of the work without the author's consent, and in technical conditions which are not to the detriment of the author's moral rights.

3. To guarantee the author or the author's representatives the right to inspect the public presentation of the work, and to attend it without charge.

4. To promptly pay the author the remuneration agreed to, determined in accordance with the provisions of Article 46 hereinabove.

5. To provide the author or the author's representatives with the exact program for the presentation of the work and, if remuneration is proportional, a declaration of the takings. Likewise, the licensee must allow them to verify said programs and declarations.

Article 79.

Public entertainment entrepreneurs shall be deemed to be the depositaries of the remunerations due to the authors for the communication of their works where this consists of a proportional share in the takings. Said remuneration must be made available to

the authors or their representatives on a weekly basis.

Article 80.

Unless otherwise agreed by the parties, the performance of the contract shall be subject to the following rules:

1. The licensee shall be responsible for obtaining the copies required for the public communication of the work, which must be endorsed by the author.

2. The author and licensee shall by mutual accord select the main interpreters and, in the case of orchestras, choirs, dance-groups and similar artistic ensembles, the conductor or director.

3. The author and licensee shall agree on the drafting of the advertisement for the acts of communication.

Article 81.

The contract may be cancelled at the author's wish in the following cases:

1. If the entrepreneur which acquired exclusive rights suspends public presentations of the work, once they have been begun, for one year.

2. If the entrepreneur breaches the obligation referred to in Article 78 point one hereinabove.

3. If the entrepreneur breaches any of the duties referred to Article 78, points 2, 3, 4 and 5, having been requested by the author to comply therewith.

Article 82.

The representation contract expires in addition to the general causes of cancellation of contracts when, in the case of a work being premiered, which, according to said contract, may only be presented on the stage, said work is clearly rejected by the public, and there is provision to this effect in the contract.

Article 83.

The representation agreement whose subject is the public performance of a musical composition shall be governed by the provisions of this chapter, provided that the nature of the work and the type of communication authorized make this possible.

Article 84.

1. Assignment of the right of public communication by radio broadcasting of the works referred to in this chapter shall be governed by the provisions hereof, with the exception of Article 81 point 1.

2. Unless otherwise agreed to, it shall be understood that such assignment is limited to the broadcasting of the work once, by wireless means and through transmission facilities of the authorized radio-broadcasting entity, within the geographical scope defined in the contract, and notwithstanding the provisions of Article 36, paragraphs 1 and 2 hereinabove.

Article 85.

Authorizations granted by the author to an entrepreneur so that it can proceed with a public communication of the author's work, while not obliging the entrepreneur to carry such communication out, shall be subject to the provisions of this chapter insofar as applicable.

PART SIX

Cinematographic and Other Audiovisual Works

Article 86.

1. The provisions of this part shall be applicable to cinematographic and other audiovisual works, understood to be creations expressed by means of a series of associated images, without or

without the incorporation of a sound track, and which are basically intended to be shown through projection apparatus or any other public means of communication of image and sound, irrespective of the nature of the physical media of said works.

2. All the works listed in this Article shall be referred to hereinafter as audiovisual works.

Article 87.

The following are authors of audiovisual works in the terms provided for in Article 7 of this Act:

1. The director/film-maker.
2. The authors of the story, adaptation and the script or dialogues.
3. The authors of the musical compositions, with or without words, created especially for this work.

Article 88.

1. Notwithstanding the rights assigned to the authors, the contract for production of an audiovisual work shall be deemed to assign rights of reproduction, distribution and public communication, along with those for dubbing or sub-titling of the work, exclusively to the producer, with the limitations fixed in this section.

Nonetheless, in cinematographic works, the authors' express authorization will always be required for their exploitation, by means of the placing of copies at the disposition of the public in any system or format, for use in the domestic environment, or by means of their public communication through radio broadcasting.

2. Unless otherwise provided for, the authors may dispose of their contribution in isolated form, provided that this is not to the detriment of the normal exploitation of the audiovisual work.

Article 89.

1. In the contract for the transformation of an existing work not in the public domain, it shall be understood that the author assigns the producer of the audiovisual work the rights of exploitation thereto in the terms provided for in Article 88 above.

2. Unless otherwise provided for, the author of the existing work shall retain his or her rights to exploit it in the form of graphic edition and stage performance and, in any case, may dispose thereof for another audiovisual work fifteen years after having placed his or her contribution at the producer's disposition.

Article 90.

1. The remuneration of the authors of an audiovisual work for the assignment of the rights referred to in Article 88 and, where applicable, that of the authors of the pre-existing works, whether these have been transformed or not, must be defined for each of the exploitation categories assigned.

2. In any case, and irrespective of the terms of the contract, when the audiovisual work is projected in public places with the payment of an entry charge, the authors referred to in the previous paragraph shall be entitled to be paid a percentage of the takings therefrom by those offering such public exhibition. Sums paid for this reason may be deducted by the exhibitors from those they must pay to the transferors of the audiovisual work.

This right is irrevocable and may not be transferred inter vivos. Should the audiovisual work be exported, the authors may assign the right referred to, for a lump sum when, in the country of destination, it is impossible or seriously difficult for them to effectively exercise such right.

Entrepreneurs of public theatres or exhibition facilities must, from time to time, make available to the authors the sums taken by way of such remuneration. For these purposes, the Government may pass regulations defining the appropriate control procedures.

3. The duly authorized projection, exhibition or transmission of an audiovisual work, by any means, without requiring the payment of an entry charge, shall entitle the authors to receive the applicable

remuneration in accordance with the general rates established by the appropriate management entity.

4. In order to facilitate the authors' exercise of the rights granted for the exploitation of an audiovisual work, the necessary documentation must be provided should the author so request.

5. The provisions of paragraphs 2 and 3 above shall not be of application to authors of audiovisual works of an advertising nature.

Article 91.

Should an author's contribution not be completed due to an unjustified refusal on the part of such author, or for a cause of Force Majeure, the producer may make use of the part already completed, respecting the rights of the author thereto, notwithstanding such compensation as may be applicable.

Article 92.

1. An audiovisual work shall be deemed to have been completed when the final version has been created according to the terms of the contract between the director/film-maker and the producer.

2. Any amendment to the final version of an audiovisual work, by addition, elimination or alteration of any element thereof shall require the prior authorization of those who have agreed on such final version.

However, in production contracts for audiovisual works aimed essentially at public communication through radio broadcasting, the authors shall be deemed, unless otherwise provided for, to have given authorization in the form of the broadcast of the work for the modifications which are strictly necessary for the type of programming of the medium, notwithstanding in any case the right granted in Article 14 point 4.

Article 93.

1. The moral right of authors may only be exercised on the final version of an audiovisual work.

2. The original medium of the final version of an audiovisual work may not be destroyed.

Article 94.

Insofar as relevant, the provisions of this Section shall be applicable to radiophonic works.

PART SEVEN

Computer Programs

Article 95.

The copyright on computer programs shall be governed by the provisions of this section and, insofar as not specified herein, by the applicable provisions of this Act.

Article 96.

1. For the purposes of this Act, computer programs shall be deemed to be any sequence of instructions or indications intended to be used directly or indirectly in a data processing system for the performance of a function or a task, or to obtain a given result, irrespective of its form of expression and medium.

2. The technical documentation and instruction manuals for a program shall benefit from the same protection as provided in this section for computer programs.

3. Computer programs forming part of a patent or model of utility shall, notwithstanding the provisions of this Act, enjoy protection which may be available to them under application of the legal rules on industrial property.

4. The protection established in this Act extends to any successive versions of the program and to derived programs.

Article 97.

The duration of rights of exploitation of a program shall be fifty years, counted from January 1st of the year following that of its publication or, if not published, that of its creation.

Article 98.

Unless otherwise agreed to, the author may not object to the realization or authorization for the realization of successive versions of its programs, nor of programs derived therefrom, by the licensee holding rights of exploitation.

Article 99.

1. Assignment of the right of use shall be deemed to be that act by which the holder of the right of exploitation of a computer program authorizes another to make use thereof, while the transferor retains the property thereto.

Unless proven to the contrary, the assignment of the right of use shall be deemed to be non-exclusive and non-transferable, and it is likewise presumed to be so solely for the user's requirements.

2. The reproduction of the program, even for personal use, shall require the authorization of the holder of the right of exploitation, except in the case of the back-up copy.

3. For the effects of Article 18 of this Act, the introduction of the program in an internal memory for the sole purposes of its employment by the user shall not be deemed to be a reproduction, notwithstanding the necessity to notify it to the holder of the right of exploitation when this was agreed to.

4. For the effects of the provisions of Article 21 hereinabove, the adaptation of a program designed by the user for its sole utilization shall not constitute a transformation.

Article 100.

Rights on computer programs, and on their successive versions and programs derived therefrom, may be entered in the Industrial Property Registry.

Regulations will be passed defining those elements of the programs registered which will be susceptible of public consultation.

BOOK TWO

Other Intellectual Property Rights

PART ONE

Rights of Artists, Interpreters and Performers

Article 101.

Artists, interpreters or performers are deemed to be those persons who represent, sing, read, recite, interpret or in any way perform a work. The stage director and orchestral conductor shall enjoy the rights granted to artists in this section.

Article 102.

1. The artist, interpreter or performer shall have the exclusive right to authorize the reproduction and public communication of their interpretations or performances.

2. Such authorization must be given in writing.

3. When an interpretation or performance contract is concluded for a phonographic recording or audiovisual work, the artist authorizes the reproduction and public communication of such interpretation or performance notwithstanding the provisions of the following Article.

Article 103.

When a phonographic recording published for commercial purposes is used in any form of public communication, the artists,

interpreters or performers whose performances have been recorded therein shall be entitled to a financial compensation. The amount of said compensation shall be 50 per cent of the returns obtained by the producer as a result of such use.

Article 104.

Should the interpretation or performance be done in compliance with an employment contract or service lease agreement, and unless otherwise provided for, the entrepreneur or lessor shall be deemed to have acquired the rights thereto provided for in Article 102 above which are deduced from the nature and purpose of the contract.

Article 105.

The artists, interpreters or performers who participate collectively in a single performance, such as the members of a musical group, a choir, an orchestra, a ballet or theatre company, must appoint a representative from among their number in order to grant the authorizations referred to in this section. Such appointment, which must be put in writing, will require a majority resolution of the interpreters. This obligation does not extend to soloists nor to orchestral conductors or stage directors.

Article 106.

The rights recognized to the artist, interpreter or performer in the previous articles shall last for forty years, counted from January 1st of the year following the publication of their performance and, if not so published, of the year following the interpretation or performance.

Article 107.

The artist, interpreter or performer shall enjoy the right of recognition of their names on their interpretations or performance and, during their lifetime, that to oppose any distortion, mutilation or any other aggression against their performance which damages their prestige or reputation. On their death, and for the following twenty years, the exercise of these rights shall be the province of their heirs.

The artist's express authorization shall be required for the dubbing of a performance in his or her own language.

PART II

Phonographic Record Producers

Article 108.

1. A phonographic recording is understood to be any exclusively audio recording of the performance of a work or of other sounds.

2. The producer of a phonographic recording is the natural or legal person under whose initiative and responsibility such fixing is done for the first time. Should such operation be carried out within a Corporation, the owner of such Corporation shall be deemed to be the phonographic recording producer.

Article 109.

1. In respect of the phonographic recordings, the producer has the exclusive right to authorize their direct or indirect reproduction, the distribution of copies thereof and the public communication of either.

2. The right of distribution includes in particular the power to authorize the importation and exportation of said phonographic recording for marketing purposes.

Article 110.

In cases of infraction of the rights granted in the previous article, the pertinent claims may be prosecuted equally by the phonographic recording producer or by the grantor of such rights.

Article 111.

The duration of the rights recognized in this section shall be forty years, counted from January 1st in the year following that of publication of the phonographic recording or, if not so published, that of its production.

PART THREE

Audiovisual Recording Producers

Article 112.

The audiovisual recording producer is understood to be the natural or legal person which takes the initiative and assumes the responsibility for the recording of a shot or a sequence of images, with or without sound, and whether or not they are creations susceptible of being classified as audiovisual works.

Article 113.

In respect of the audiovisual recordings, the producer shall enjoy the right to authorize their reproduction, distribution and public communication.

Article 114.

Likewise, the producer also holds the rights to exploit the photographs taken in the process of the production of the audiovisual recording.

Article 115.

The duration of the rights granted in this section shall be forty years, counted from January 1st in the year following that of the release of the recording or, if it is not so released, that in which it was made.

PART FOUR

The Radio-Broadcasting Entities

Article 116.

1. In respect of their transmissions or broadcasts, the radio-broadcasting entities shall enjoy the exclusive right to authorize the following:

- a) Re-transmission, using any technical procedure.
- b) Recording in any audio or visual medium, including that of any isolated image distributed in the transmission or broadcast, and the reproduction of such recordings.
- c) The public communication of their radio transmissions or broadcasts, when done in places to which the public may enter with the payment of an admission or entry fee.

2. The idea of transmission includes the production of program carrier signals intended for a radio-broadcast or telecommunications satellite; retransmission includes distribution to the public by an Entity which emits or broadcasts transmissions from another, received through any of the aforementioned satellites.

Article 117.

The rights granted in this section shall last for forty years, counted from January 1st in the year following that in which the transmission took place.

PART FIVE

Protection of Photographs

Article 118.

Anyone taking a photograph or making a reproduction obtained

by a procedure similar thereto where neither is classified in Book I hereinabove as a protected work, enjoys the exclusive right to authorize the reproduction, distribution and public communication thereof in the same terms as recognized in this Act to the authors of photographic works.

PART SIX

Protection of Certain Publishing Productions

Article 119.

The publishers of unpublished works which are in the public domain shall have the same rights of exploitation to such works as would have been assigned to their authors.

Article 120.

The rights recognized in the previous Article shall last for ten years counted from January 1st of the year following that of publication.

PART SEVEN

Common Provisions

Article 121.

The rights granted in this Book Two are understood notwithstanding those belonging to the authors.

Article 122.

The provisions contained in section two of Chapter Three, Part Two, and in Chapter II of Part III, both in Book One hereinabove, apply on a secondary basis and as appropriate, to the rights regulated in this Book.

BOOK THREE

The Protection of the Rights Granted in this Act

PART ONE

Claims and Procedures

Article 123.

The holder of the rights granted herein may, notwithstanding any other action which may be available, file for cessation of unlawful activity on the part of the infractor, and demand compensation for the material and moral damages caused, in the terms provided for in Articles 124 and 125 below.

The holder may also request the prior adoption of the urgent protection precautionary measures regulated in Article 126.

Article 124.

1. Cessation of the unlawful activity may include the following:

- a) Suspension of the illicit exploitation.
- b) A prohibition on the resumption thereof by the infractor.
- c) Withdrawal from commerce of the unlawful copies, and their destruction.
- d) To put the molds, plates, masters, negatives and other elements intended solely for the reproduction of unlawful copies out of action and, if necessary, to destroy such devices.
- e) The removal or sealing of the apparatus used in the unauthorized public communication.

2. The infractor may apply for the destruction or putting out of action of the said copies and material to be done, when they might be susceptible of other use, only insofar as necessary to prevent the unlawful exploitation.

3. The holder of the right infringe may apply for the delivery of the said copies and material at cost price, and on account for its corresponding indemnification for consequential damages.

4. The provisions of this article shall not be applied to copies acquired in good faith for personal use.

Article 125.

The affected party may choose, as indemnification, between the benefit which would presumably have been obtained if the unlawful use had not taken place or the remuneration which would have been paid had it authorized the exploitation.

In the case of moral damages, indemnification shall be in order, even though the existence of economic loss is not proven. The assessment thereof shall take account of the circumstances of the infraction, the seriousness of the loss and the degree to which the work was unlawfully distributed.

The action to claim the consequential damages referred to in this article shall prescribe five years after the legitimated party was free to prosecute it.

Article 126.

In the case of an infraction, or when there is a reasonable and well-founded fear that this is imminent, the judicial authority may, at the request of the holders of the rights granted, order such precautionary measures as, according to the circumstances, may be necessary for the urgent protection of such rights, and in particular the following:

1. Stoppage and deposit of the returns obtained from the unlawful activity concerned or, where applicable, the consignment or deposit of the sums due as remuneration.
2. Suspension of the reproduction, distribution and public communication activity, as the case may be.
3. Seizure of the copies produced or used, and of the material used exclusively for the reproduction of public communication.

Article 127.

The urgent protection precautionary measures provided for in the previous article shall be formalized on a priority basis, and will be adopted in accordance with the provisions of Article 1428 of the Civil Proceedings Act, with the following special features:

1. At the discretion of the applicant for the measures, the competent Courts will be those of First Instance in whose jurisdiction the infraction takes effect or where there are reasonable indications that it is to occur, or in which the copies considered to be unlawful were found. Nonetheless, once the main claim has been filed, the only Court with competence for such matters as may be connected with the measure adopted shall be the Court which hears said main claim.

Likewise, when the measure is sought at the time of filing claim in the pertinent declaratory proceedings, or during such proceedings, the competent Court or Tribunal shall be the one hearing said proceedings.

2. The measure must be applied for in writing, signed by the person concerned or his legal or voluntary representative; the intervention of a Solicitor and the assistance of a Lawyer will not be required, except in the cases provided for in paragraph two of rule one.

3. Within the three days following that of the submission of the writ, the Court will hear the parties attending the appearance and shall give its decision, in any instance, the day following the end of the abovementioned period.

4. Either of the parties may apply for the hearing of judicial depositions in evidence and, if this is admitted, said evidence will be heard forthwith.

5. Prior to its decision, or in such decision, the Court may, should it deem fit, require a bond from the applicant which is sufficient to cover such consequential damages as may arise.

6. The applicant may withdraw the application for precautionary

measures, provided that new facts appear in connection with the infraction, or evidence is obtained which was not previously available.

Article 128.

The precautionary measures provided for in Article 126 above may be ordered in criminal proceedings being prosecuted for an infraction of the rights granted in this Act.

The formalities for such measures shall follow the rules of Article 127 insofar as relevant.

Said measures shall not prevent the adoption of any others established in the criminal procedure legislation.

PART TWO

The Intellectual Property Register

Article 129.

The General Intellectual Property Register shall be attached to the Ministry of Culture, and shall be a single register for the whole of national territory.

Each provincial capital city shall have a provincial office of the Register for the purposes of recording applications for registration; such offices shall operate under the management of the General Register, notwithstanding such competences as may, where applicable, be the province of the Regional Governments.

Article 130.

1. Intellectual property rights relative to the works and other productions protected in this Act may be the subject of entry in the Register.

2. The Registrar shall assess the applications filed and the legality of the acts and contracts relative to the registrable rights, and may refuse or suspend the entries concerned. The appropriate actions may be filed directly in the civil courts against the rulings of the Registrar.

3. Unless proven to the contrary, it will be presumed that the rights registered exist and belong to their holder as defined in the entry concerned.

4. The Register will be public, notwithstanding the limitations which may be established pursuant to the provisions of Article 100 hereinabove.

5. Regulations will be passed defining the registration procedure and the structure and operation of the Register.

PART THREE

The Symbols or Indications of Reservation of Rights

Article 131.

The holder or exclusive licensee of a right of exploitation on a work or production protected by this Act may place the symbol © before its name, stating the place and year of the release thereof.

Likewise, copies of phonographic recordings or their sleeves may bear the symbol ® before the name of the producer or the producer's licensee, stating the year of publication.

The abovementioned symbols and references must be set out in such a way and position as to demonstrate clearly that the rights of exploitation are reserved.

PART FOUR

The Entities Managing the Rights Granted in this Act

Article 132.

The legally incorporated Entities which seek to dedicate themselves on their own behalf or on that of others to the management of rights of exploitation or others of a proprietary type, for the account

and in the interests of several author. Other holders of intellectual property rights, must obtain the pertinent authorization from the Ministry of Culture: said authorization must be published in the Official State Gazette.

These Entities may not be of the profit-making type; in virtue of the authorization, they may exercise the intellectual property rights entrusted to their management and shall have the rights and duties established in this section.

Article 133.

1. The authorization provided for in the previous article will be granted only if the following conditions concur:

a) That the Articles of Association of the applicant Entity meet the requirements set in this section.

b) That the data provided and the information received demonstrate that the applicant Entity fulfils the conditions necessary to ensure the effective administration of the rights whose management is to be entrusted to it, throughout national territory.

c) That the authorization favours the general interest of intellectual property protection in Spain.

2. In order to assess the concurrence of the conditions established in letters b) and c) of the previous point, particular account shall be taken of the number of holders of rights which have undertaken to grant the Entity management thereof, if it is authorized, the volume of potential users, the suitability of the Articles of Association, and its resources for the fulfillment of its purposes, the possible efficacy of its management overseas and, where applicable, a report from management Entities which have already been authorized.

Article 134.

The authorization may be revoked by the Ministry of Culture should any fact arise or be revealed which might have led to the refusal of said authorization, or if the management Entity should seriously breach the obligations established in this section. In the three cases, there must previously have been a warning from the Ministry of Culture, which will set a period of not less than three months for the rectification or correction of the facts referred to.

Such revocation shall become effective three months following its publication in the Official State Gazette.

Article 135.

Once authorized, the management Entities shall be entitled, in the terms arising from their own Articles of Association, to exercise the rights entrusted to their management, and assert them in all types of administrative or judicial proceedings.

Article 136.

Notwithstanding the provisions of other rules applicable to them, the following must appear in the Articles of Association of the management Entities:

1. The name, which may not be identical to that of other Entities, nor so similar that it might lead to confusions.

2. The objective or purpose, specifying the rights administered: the Entity may not pursue its activity outside the scope of protection of intellectual property rights.

3. The types of holders of rights included under the management and, where applicable, the different categories of such holders, for the purposes of their participation in the administration of the Entity.

4. The terms for the acquisition and loss of the condition of member. In any case, members must be holders of rights of the type to be managed by the Entity, and said members may not be less than ten in number.

5. Members' rights and, in particular, the voting rules, which may be established taking account of weighting criteria which

reasonably limit . . . al voting. In questions relating to member exclusion sanctions, the ruling votes shall be equalitarian.

6. The members' duties, and the disciplinary rules.

7. The Entity's governing and representative bodies, and the rules for calling, constitution and operation of those of a collegiate nature, with an express prohibition on the passage of resolutions on business not set out in the Agenda.

8. The procedure for the election of the administrative members.

9. The initial assets and the planned economic resources.

10. The rules to which the systems for the distribution of collections must be subjected.

11. The rules on control of the Entity's economic and financial management.

12. The destination of the property or net assets resulting should the Entity be wound up and which, under no circumstances, may be the subject of distribution amongst the members.

Article 137.

The management Entities are bound to accept the administration of copyright and other intellectual property rights entrusted to them in accordance with their purpose or objective. Said commission shall be discharged pursuant to their Articles of Association and the other rules applicable for these effects.

Article 138.

1. The management of the rights shall be entrusted by their holders to the Entity by means of a contract whose term may not be for more than five years, which shall be renewable indefinitely; nor may such contracts make it mandatory to manage all the categories of exploitation or all the work or future output.

2. The Entities' Articles of Association must include suitable provisions which will guarantee that the management will be free from influences from the users of their repertoire, and so as to prevent an unjust preferential use of their works.

Article 139.

1. Fees collected will be distributed equitably among the holders of the works or productions used, in accordance with a system defined in advance in the Articles of Association, and which must exclude arbitrary elements.

2. The management Entities must reserve a share in the fees collected, for the holders, in proportion to the use made of their works.

Article 140.

The management Entities must promote aid activities or services in benefit of their members, whether themselves or through non-profit-making entities established or which may be established for these purposes.

Likewise, they must devote a proportion, which will be defined in Regulations, of the remuneration referred to in Article 25, to activities for the training and promotion of beginner authors, artists and performers.

Article 141.

Within the six months following the closure of each financial year, the Entity shall draw up the pertinent balance and a report on the activities carried out during that previous year.

Notwithstanding the provisions in the applicable rules, the balance and the accounting documentation shall be submitted for verification by experts or companies of experts with legal authority, to be named in the Entity's General Meeting to be held the previous year or in the year of its incorporation. The Articles of Association shall fix the rules according to which another auditor must be appointed, by the minority.

The balance, with a note as to whether or not it has received the auditor's favourable report, shall be made available to the members

in the Entity's legal domicile and territorial offices, at least fifteen days prior to the date of the General Meeting in which it is to be approved.

Article 142.

1. The management Entities are bound as follows:

- a) To contract with any applicant, except for a justified reason, for the concession of non-exclusive authorization on the rights managed, in reasonable conditions and with remuneration.
- b) To establish general rates which define the remuneration required for the use of their repertoire, which must provide for reductions for non-profit-making Entities.
- c) To conclude general contracts with associations of users of their repertoires, provided that they so request and are representative of the sector concerned.

2. As long as the parties fail to reach an agreement, the corresponding authorization shall be deemed to have been given if the applicant pays under reserve or judicially consigns the sum required by the management Entity pursuant to the general rates.

3. The provisions of this article do not apply to the management of rights referring to literary, dramatic, dramatic-musical, choreographic or pantomime works, nor to the single use of one or more works of any type which requires the individual authorization of their holder.

Article 143.

The Arbitration Commission on Intellectual Property is hereby created within the Ministry of Culture, as a collegiate national body. The following shall be the function of said Commission:

- a) After consultation with the parties, to settle conflicts which, in application of the provisions of paragraph one of the previous article, may arise between the management Entities and the associations of users of their repertoire, or between the Entities and radio-broadcasting entities. The parties must submit voluntarily to the Commission, and this must be stated in writing.
- b) To set a sum in substitution for the general rates, for the purposes indicated in paragraph 2 of the previous article, at the request of an association of users or of a radio-broadcasting Entity, provided that they, in turn, submit to the Commission's competence, with the objective provided for in point a) of this Article.

The arbitration procedure, and the composition of the Commission will be defined in regulations: in any case, two representatives of the management Entities and two from the users' association or from the radio-broadcasting Entity shall be entitled to form part thereof.

The Commission's decisions shall be binding on the parties, with executive effect.

The provisions of this article are understood notwithstanding the actions which may be taken before the competent jurisdiction. Nonetheless, the raising of the conflict before the Commission shall prevent the Courts and Tribunals from hearing the dispute submitted to arbitration award until such time as such award has been given, provided that the party concerned invokes this by means of the appropriate plea.

Article 144.

1. In addition to the powers to grant or revoke the authorization as regulated in Articles 133 and 134 above, the Ministry of Culture is also responsible for the surveillance of compliance with the obligations and requirements fixed in this Act.

For these purposes, the Ministry of Culture may require these Entities to provide any type of information, it may order inspections and audits, and appoint a representative to be present with the right to speak but without voting rights in the general meetings, Boards of Directors, or similar bodies.

2. Notwithstanding provisions in other applicable rules,

amendments to the articles of Association of the management Entities must, once approved by the general meeting concerned, be submitted for approval to the Ministry of Culture; such approval shall be deemed to have been given if no resolution to the contrary is notified within the period of three months counted from the submission thereof.

3. The management Entities must notify the Ministry of Culture of the appointments and cessations of their Administrators and Representatives, the general rates and amendments thereto, the general contracts concluded with users' association, and those concluded with foreign organizations of the same type, as well as the documents referred to in Article 141 hereinabove.

BOOK FOUR

Scope of Application of the Act

Article 145.

1. The intellectual property rights of Spanish authors shall be protected pursuant to this Act.

The following shall also enjoy said rights:

- a) Foreigners normally resident in Spain.
- b) Foreigners not normally resident in Spain, in the case of works first published in Spanish territory or published in Spanish territory within the thirty days following publication in another country. The Government may however limit the scope of this principle in the case of foreigners who are nationals of countries which do not sufficiently protect the works of Spanish authors in similar cases.

2. All authors of audiovisual works, irrespective of their nationality, shall be entitled to receive a proportional remuneration for the projection of their works in the terms of Article 90, paragraphs 2 and 3. However, in the case of nationals from States which do not grant an equivalent right to Spanish authors, the Government may decide that the sums paid by the exhibitors to the management Entities for these purposes should be destined to aims of cultural interest which will be defined in regulations.

3. In any case, foreigners shall enjoy the protection granted to them in the international Conventions and Treaties to which Spain is a signatory and, failing that, shall be given the same treatment as Spanish authors when said Spanish authors receive the same treatment as the nationals of the country concerned.

The author's moral right is hereby recognized, irrespective of nationality.

Article 146.

1. The rights granted in this Act to Spanish artists, interpreters or performers shall be protected irrespective of the place where such interpretation or performance takes place.

2. Foreign artists, interpreters or performers shall enjoy the same rights granted under this Act, in any of the following cases:

- a) When they are normally resident in Spain.
- b) When the interpretation or performance takes place in Spanish territory.
- c) When the interpretation or performance is recorded phonographically or in an audiovisual medium with protection pursuant to the provisions of this Act.
- d) When the interpretation or performance, while not recorded, is included in a radio broadcast which is protected by the provisions of this Act.

3. In any case, foreigners shall enjoy the protection granted to them in the international Conventions and Treaties to which Spain is a signatory and, failing that, shall be given the same treatment as Spanish artists, interpreters or performers when they, in turn, receive the same treatment as the nationals of the country concerned.

Article 147.

1. Producers of phonographic recordings and of audiovisual works or recordings, those taking photographs and the publishers of the works referred to in Article 119 hereinabove shall be protected pursuant to this Act in the following cases:

a) When they are Spanish citizens or Corporations with registered offices in Spain.

b) When they are foreigners, and they publish such works in Spain for the first time or within the thirty days following publication in another country. However, the Government may limit the scope of this principle in the case of foreigners who are nationals of countries which do not sufficiently protect the works of Spanish authors in similar cases.

In any case, foreigners shall enjoy the protection granted to them in the international Conventions and Treaties to which Spain is a signatory and, failing that, shall be given the same treatment as producers of phonographic recordings and of audiovisual works or recordings, those taking photographs, and the publishers of the works referred to in Article 119, when they, in turn, receive the same treatment as the nationals of the country concerned.

Article 148.

1. Radio-broadcasting Entities with registered offices in Spain shall enjoy the protection provided for in this Act in the case of their broadcasts and transmissions.

2. In any case, foreign radio-broadcasting Entities shall enjoy the protection granted them by international Conventions and Treaties to which Spain is a signatory.

ADDITIONAL PROVISIONS

One. The legal deposit of creative works, traditionally recognized in Spain, shall be governed by the regulations in force or which may be passed in the future by the Government, notwithstanding the powers assigned, where applicable, to the Regional Governments.

Two. The Government is hereby authorized to pass the rules for the implementation of this Act in regulations.

Three. Professional services, including those whose counterpart takes the form of copyright, rendered by creators in the plastic arts, writers, literary, graphic and photographic collaborators in periodicals and journals, composers of musical works, playwrights and the authors of the scenario, adaptation, script or dialogues in audiovisual works, shall be exempted from Value Added Tax.

Four. The sums received as proportional remuneration on returns, provided for in Article 90.2 hereinabove, shall be made available to the authors every six months.

This term may be altered by the Government, on the recommendation of the Ministry of Culture.

Five. Within the period of six months following the date on which this Act comes into force, the Government shall pass the Regulations referred to in Article 72.

TRANSITIONAL PROVISIONS

One. 1. Amendments introduced in this Act which are to the detriment of rights acquired pursuant to the previous legislation shall not be retrospective in effect, except as established in the following provisions.

2. Rights of exploitation of works created by authors deceased prior to the date on which this Act becomes law shall have the duration provided for in the previous legislation.

Two. Authors whose works are provisionally or definitively in the public domain pursuant to the provisions in Articles 38 and 39 of the Act of January 10th 1879 shall be subject to the provisions of this

Act, notwithstanding rights acquired by other persons under the previous legislation.

Three. The legal persons who, pursuant to the previous legislation, have acquired intellectual property to a work by original title shall exercise the rights of exploitation for the period of eighty years from their publication.

Four. The provisions of Articles 14 to 16 of this Act shall be applied to the authors of the works created prior to the date on which it comes into effect.

Five. Acts and contracts concluded according to the rules in the previous legislation shall retain all their effects in accordance therewith; however those provisions thereof which assign rights of exploitation on all the works which may be created in the future by the author, or those in which the author undertakes not to create any work in the future, shall be null and void.

Six. 1. The Regulations of September 3rd 1880 and other regulations on intellectual property shall remain in effect insofar as not in conflict with the provisions of this Act.

2. Until the regulations implementing Book III Part II of this Act are passed, the current regulations in force on the structure and operation of the Intellectual Property Register shall remain in effect.

3. Article 1 of Decree no. 307 of February 16th 1967 on percentages and compensations for cinematographic authors shall continue to be applied for one year counted from the date on which this Act comes into force, unless some other remuneration pursuant to Articles 90 and 142 hereof is previously agreed upon.

Seven. The General Society of Spanish Authors must adjust its situation to the provisions of this Act and, within the period of six months counted from the date on which it comes into effect, it must adapt its Articles of Association to the provisions hereof in order to constitute itself as a management Entity, integrating its current properties into such Entity, along with their rights and obligations.

The operations required to comply with the provisions of the previous paragraph shall be exempted from the taxes which the State may assess thereon. The following shall therefore be exempted:

a) The acts, contracts, deliveries and property transfers carried out by the General Society of Spanish Authors or by the management Entity into which said Society is converted.

b) Property increments which emerge as a result of the transfer of the assets of the General Society of Spanish Authors to the new management Entity.

Eight. The transitional provisions of the Civil Code shall be applicable in matters not provided for herein.

REPEAL PROVISION

Provisions in conflict with the content of this Act, and in particular the following, are hereby repealed:

— The Intellectual Property Act of January 10th 1879.
— Articles 5, 6.2 and 10 to 26 of the Books Act, no. 9, of March 12th 1975.

— Article 31 of the Work Contracts Act, in its recast version passed in Decrees of January 26th and March 31st 1944.

— Act no. 17 of May 31st 1966, on intellectual property rights in cinematographic works.

— The Act of June 24th 1941 setting up the General Society of Spanish Authors.

Therefore,

I hereby order all Spaniards, individuals and authorities, to observe and enforce this Act.

The Zarzuela Palace, Madrid, November 11th 1987.

JUAN CARLOS, Rex.

The Prime Minister
FELIPE GONZALEZ MARQUEZ

Royal Decree no. 395 of April 25th 1988, on implementation of Article 24 of the Intellectual Property Act, no. 22 of November 11th 1987.

Article 24 of the Intellectual Property Act no. 22 of November 11th 1987 regulates the share of the authors of works of plastic art in the price of conveyance of such works when the object of re-sale in a public auction, in a commercial establishment or with the intervention of a trader or commercial agent.

However, the act makes it a condition of the existence of such right that the re-sale price of the works should be higher than a sum to be defined in regulations.

Therefore, this Royal Decree establishes the said sum, taking account of the features of the Spanish plastic art works market, and with a view to guaranteeing the viability of the actual economic management of said right.

Therefore, on the recommendation of the Minister of Culture, in accordance with the Council of State, and following the deliberations of the Council of Ministers in its meeting of April 21st 1988

I HEREBY PROVIDE AS FOLLOWS:

Article 1. For the effects of Article 24.1 of the Intellectual Property Act, no. 22 of November 11th 1987, the price of conveyance in the case of re-sale of works of plastic art above which the author's share may be claimed is hereby fixed at 200,000 pesetas

Article 2. For the application of the 2 per cent figure established in the aforesaid Article, the base taken shall be the price of the conveyance of the work, or in the case of auction, that at which it was adjudicated, with no prior deduction whatsoever.

FINAL PROVISION

This Royal Decree shall come into effect on the day following its publication in the Official State Gazette.

Given in Madrid on April 25th 1988.

JUAN CARLOS, Rex.

The Minister of Culture

JAVIER SOLANA MADARIAGA

Royal Decree no. 396 of April 25th 1988, on implementation of Article 72 of the Intellectual Property Act, on control of edition.

Article 72 of the Intellectual Property Act, no. 22 of November 11th 1987 provides that the number of copies in each edition shall be subject to a control through procedures to be defined in regulations, following recommendations from the professional sectors concerned. This procedure was to be established by the government, pursuant to the content of Additional Provision Five of the Act itself, within the period of six months counted from the date on which the Act came into force.

Within that term, this legal provision is now hereby implemented, with the creation for the first time in the Spanish regulations of a

system for the control of the printed numbers which guarantees verification of the correct fulfillment of one of the basic aspects of the publishing contract, and which consequently promotes mutual confidence between publisher and author.

For these purposes, the procedure chosen is one of certification of production data, with subsequent verification in documentary form; this procedure is considered to have the necessary features of generality, ease of use and economy. Moreover the aim is to promote the participation of the management Entities or the associations of publishers and authors so as to ensure greater efficacy and strengthen collective participation in the solution of problems of publication.

However, the possibility is not excluded of using a numbering or countermark procedure for edition control. This system, which may be agreed on jointly by authors and editors and which, where applicable, must be stated in the publishing contract, is a means for the implementation of such control whose specific features must be defined by mutual accord between the parties to the contract.

The purpose of this Royal Decree is to promote an element of understanding between the professional sectors in publishing, in the preparation of this provision, these sectors have been given a hearing, not only due to the application of the provisions of the Intellectual Property Act but also, as well, in recognition of the importance the regulation of control of numbers of copies in an edition will have in the development of publishing relations.

Therefore, on the recommendation of the Minister of Culture, and following the hearing of the professional sectors concerned and the deliberations of the Council of Ministers in its meeting of April 22nd 1988

I HEREBY PROVIDE AS FOLLOWS:

Article 1. In application of the provisions of Article 72 of the Intellectual Property Act, the number of copies of each edition shall be subject to the control procedures established in this Royal Decree.

Article 2. Before the placing in circulation of copies of a work, whether in a single edition, successive editions or a reprint, the publisher shall provide the author with a certification of the number of copies making the edition up.

Said certification will be accompanied by a declaration from the person or Entity responsible in the printing house for the work concerned, of the number of copies printed and their date of delivery.

Article 3. The author may verify the publisher's data and accounting documents on the production of the work.

Such verification shall be done within a period of not more than two years following the date on which each edition of the work was placed in circulation.

Article 4. Said verification may be carried out by experts or corporations of experts legally authorized, and appointed by the author as follows:

1. From amongst those making up a list of experts prepared by common accord by the management Entities or associations of editors and authors. The associated expenses shall be met by both Entities or associations, in the proportion to be defined by them.

2. Without prior lists, in which case the author shall pay the costs of the verification.

Notwithstanding the foregoing, the publisher and author may agree to appoint any person or persons for said verification in accordance with criteria other than those provided for in this Article.

Article 5. The verification work shall refer exclusively to that of the accuracy of the data on the production of the copies of the work, in the specific edition concerned, and their coincidence with the data contained in the documentation issued by the publisher

The person or expert appointed must respect the confidential

nature of the conclusions, and notify the author of only the data and facts connected with the verification of the number of copies in the edition examined.

The verification referred to in this Royal Decree shall not be legally classified as an audit of accounts.

Article 6. Notwithstanding the provisions of the previous articles, the author and the publisher may agree in the contract to the numbering or countermarking of the copies in each edition. In this case, the contract shall also indicate the procedure agreed to by the two parts for such numbering or countermarking, and the edition or editions to which such procedure will be applied.

Article 7. The inclusion in the publishing contract of any specific numbering or countermarking procedure shall release the publisher from the obligation established in Article 2. Likewise, the verification proceedings provided for in Article 3, 4 and 5 hereinabove shall not be available.

Article 8. Exercise of the right of verification regulated in this provision is independent of the publisher's duty imposed in Article 64.5 of the Intellectual Property Act.

Article 9. In accordance with the provisions of Article 72 of the Intellectual Property Act, breach by the publisher of the requirements provided for in this Royal Decree on control of the copies in each edition shall entitle the author or the author's beneficiaries to cancel the contract, notwithstanding such liabilities as may have been incurred by the publisher.

TRANSITIONAL PROVISION

Editions of works for which the publishing contracts were concluded prior to the passage of this Royal Decree shall continue to be governed by the previous rules.

FINAL PROVISION

This Royal Decree shall come into effect the day following its publication in the Official State Gazette.

Given in Madrid on April 25th 1988.

JUAN CARLOS, Rex.

The Minister of Culture

JAVIER SOLANA MADARIAGA

Royal Decree no. 448 of April 22nd 1988, regulating the distribution of cinematographic films and other audiovisual works recorded in a videographic medium.

The new technology for reproduction of audiovisual works, and particularly through videographic media, has led to the appearance in this country of new channels for the distribution of cinematographic films and other audiovisual works, whether in public premises and service or in private homes, with the connection of a magnetoscope or transmission apparatus to receivers for private or public use.

On the other hand, the new Intellectual Property Act, no. 22 of November 11th 1987, established comprehensive regulations on the copyright of cinematographic works in the light of these modern distribution systems. Thus Article 20 of the Act defines any act by which a plurality of persons may have access to a work without prior distribution of copies of each, as public communication. Article 88

on the other hand, provides that the rights of reproduction, distribution and public communication of audiovisual works will be deemed to have been assigned exclusively to producers; and, finally, Article 90.2 regulates the remuneration of authors for the duly authorized projection, exhibition or transmission of an audiovisual work by any procedure without requiring the payment of an entrance charge.

Therefore, at the proposal of the Ministries of the Interior, of Culture, and of Transport, Tourism and Communications, in accordance with the Council of State, and following the deliberations of the Council of Ministers in its meeting of April 22nd 1988,

I HEREBY PROVIDE AS FOLLOWS:

Article 1. 1. The provisions of this Royal Decree are applicable to the distribution of cinematographic films and other audiovisual works in videographic media when transmitted to a plurality of persons without the previous distribution of copies to each of them, by means of a reproduction apparatus connected to one or more receiver apparatus for private or public use.

2. For the purposes of the previous paragraph, the following shall, in any instance, be deemed to be included:

a) Service Undertakings which, irrespective of the main service rendered to their users, distribute or hire the distribution of cinematographic films and other audiovisual works contained in a videographic medium, such as Tourist Undertakings and the owners of land, air and sea transport vehicles and Centres.

b) Natural or legal persons which distribute cinematographic films and other audiovisual works contained in a videographic medium to private homes, by transmission from a reproduction apparatus connected to receiver apparatus for private use.

c) Communities of owners which distribute cinematographic films and audiovisual works contained in a videographic medium to private homes, by transmission from a reproduction apparatus connected to receiver apparatus for private use.

3. This Royal Decree shall not be applicable when such distribution is done within a strictly domestic environment without connection to a network of any type.

4. Likewise, it will not be applicable to cinematographic exhibition theatres which carry out the distribution of such films and works contained in a videographic medium to a plurality of persons, which will be governed by the specific legislation on that subject.

Article 2. 1. In the distribution referred to in this Royal Decree, videographic media may not be used which do not meet the conditions of certification, classification and labeling established in Royal Decree no. 2332 of September 1st 1983, and the rules implementing it.

2. Cinematographic films and audiovisual works with an X rating, or an exclusive rating for those over eighteen years of age, in the terms of the current regulations, may not be shown in public premises or in services open to the public where access is free to all age-groups.

Article 3. 1. The transmission referred to in Article 1 may not create interference in the duly authorized telecommunications services and, in particular, in radio-broadcasting and television services.

2. In accordance with the provisions of Article 9.1 of Royal Decree no. 2704 of September 3rd 1983, and pursuant to the provisions of Article 7.4 of the Telecommunications Act, no. 31/1987, the Ministry of Transport, Tourism and Communications may suspend the operation of electrical installations and apparatus of all types when they cause harmful interference to radio-electric services and communications.

Article 4. 1. In order to show cinematographic films and other audiovisual works in the categories provided for in this Royal Decree, the prior authorization must have been obtained from the

holders or licensees of the associated rights of public communication of such works.

2. Should the holders of rights of exploitation have constituted an Entity for the collective management of the public communication right of their works in the categories referred to in this Royal Decree, they shall contract with anyone applying therefor in the terms established in Article 142 of the Intellectual Property Act.

3. In any case, the holders of the rights may, themselves or through management Entities, require under the contracts periodic provision of documentary evidence of the distribution, with indication of the programming carried out, the number of users, the characteristics of their services and the amounts received, where applicable.

4. The provisions of this Article are understood notwithstanding the right to remuneration of the authors pursuant to Article 90, paragraph 3 of the Intellectual Property Act.

Article 5. 1. In accordance with the provisions of Article 13 of the General Consumers and Users Protection Act, no. 26, of July 19th 1984, those carrying out the distribution referred to in this Royal Decree must notify the users effectively and sufficiently of the characteristics of their services and, at least, of the following:

a) The programming, sufficiently in advance, with express mention of the classification of the films to be shown.

b) The price of the service, clearly indicating whether or not it is included in the price of some other main service and, in the case of a subscription fee, its amount and frequency of payment.

c) The remaining legal conditions in which the service is provided.

2. The service Undertakings referred to in Article 1, point 2 a) hereinabove and the communities of owners must comply with the provisions of the previous paragraph with the necessary adaptations according to the means of distribution and the characteristics of the service they provide.

3. The Undertakings referred to in Article 2, paragraph 2 b) hereinabove and communities of owners shall keep a register book of users or subscribers.

Article 6. The natural and legal persons referred to in Article 1 2.b) hereinabove shall be registered in a new section of the Cinematographic Enterprises Register to be called the "Distribution Enterprises" section.

Article 7. 1. The provisions in this Royal Decree are understood notwithstanding the powers assigned to the Regional Governments under their States of Autonomy and to the remaining Public Administrations.

2. The provisions in this Royal Decree are understood notwithstanding the contents of the legislation on telecommunications and the remaining rules which are applicable.

3. Civil, criminal or administrative liability for infractions in the field which is the subject of this Royal Decree shall be prosecuted in accordance with the provisions of the legislation in force.

FINAL PROVISIONS

One. The Ministers of the Interior, of Culture and of Transport, Tourism and Communications are hereby authorized where applicable to pass the rules required for the implementation of the provisions of this Royal Decree.

Two. This Royal Decree shall come into force the day following its publication in the Official State Gazette.

Given in Madrid on April 22nd 1988.

JUAN CARLOS, Rex.

The Minister for Relations with Parliament
and of the Government Secretariat,
VIRGILIO ZAPATERO GOMEZ

Resolution of November 10th 1968 of the offices of the Director General of Mass Communication Media, publishing the rules on the admission of advertising, approved by the Board of Directors of the Public Corporation Spanish Radio and Television (Radiotelevisión Española, "TVE").

The Board of Directors of the Public Corporation Spanish Radio and Television has, following a report from the Technical Secretariat-General of the Ministry for Relations with Parliament and of the Government Secretariat, approved the rules of the admission of advertising for the said Corporation, in accordance with the provisions of Article 8 of the Radio and Television Statute, Act no. 4, of January 10th 1980.

This Directorate General has agreed to the publication thereof, for general information, by their insertion in the Official State Gazette.

Madrid, May 10th 1988. The Director General, Francisco Virseda Barca.

Advertising Admission Rules

Rule 1

These rules shall be applicable to the advertising broadcast by TVE, irrespective of its content or the form used.

They will not be applied to advertisements of an institutional nature with no commercial purpose.

Rule 2

Advertising broadcast by TVE shall be true, lawful, authentic and shall respect free competition.

Rule 3

Advertising will not be accepted which, in one way or another, including its presentation, is susceptible of inducing error or producing deception in the price, content, origin, composition, properties or efficacy of the product or service advertised.

Advertisements may not omit essential data whose concealment falsifies the nature of the product or service, or raises expectations which cannot be satisfied.

Rule 4

Advertising will be broadcast in a way which identifies it as such. It must not be confused with the programming nor condition the content of said programming.

Rule 5

Advertisements shall not contain direct or concealed advertising of products or services other than those they were contracted for.

Rule 6

Advertising containing ideas of a philosophical, political or religious nature will not be accepted.

Rule 7

Advertisements will not be admitted which incite to violence and to anti-social conduct, which appeal to fear or superstition, or which, directly or indirectly, may promote abuses, indiscretions, negligence or aggressive conduct. Nor will advertisements be admitted which are susceptible of inciting cruelty and mistreatment of persons and animals, or the destruction of the countryside and ecological values.

Rule 8

Under no circumstances must advertising induce the public to believe that failure to use a product will mean a loss of social status.

Rule 9

Texts of advertisements will not be admitted if not written exactly, or if they contain barbarisms and vulgar or rude expressions. Foreign terms will be admitted only in the case of registered trademarks.

Rule 10

Advertisements for lotteries, games of chance or raffles of any type shall be admitted when authorized pursuant to the current regulations.

Rule 11

Advertising of products or services accompanied by gifts, prizes or other additional incentives will be admitted only when the main publicity devolves on the product or services being advertised. They will be clearly differentiated from the related promotion. The features of the incentives and the way in which they are awarded will be sufficiently explained, and an exaggerated or deceptive impression must not be given of them.

Rule 12

Advertisements containing statistics, technical and scientific terms must not lead to interpretative error. Formulas will not be accepted which simulate opinion or market surveys and which do not represent a scientific methodology.

Advertisements may not use professional language, descriptions, images or representations which tend in a deceptive way to suggest qualities or properties which do not exist in the product or service.

Rule 13

Mentions or medals, diplomas or prizes awarded to the product or service advertised, the use of the expression "denomination of origin" and relevant assertions on the nature, composition or properties contained in such mention must be sufficiently proven. If the terms "guarantee", "control", "certification", and other similar expression are used, their scope must be made clear. Likewise, any indication referring to the place or method of production must conform with the facts.

Rule 14

Should an advertisement contain testimony, this must be genuine and must reflect personal experiences. The advertisement may not contain assertions which cannot be proven. The date and place of their occurrence and the authorization of the person involved must be evidenced.

Rule 15

The use of comparative terms in advertisements will be admitted only in respect of essential, related and objectively demonstrable data, provided that products or services are compared with others which are similar and known or with a significant share of the market.

Rule 16

Mention of the novelty of a product will be done unequivocally with specification of its nature. It may not be broadcast for more than three months following its first appearance.

Rule 17

Advertisements will not be admitted which discriminate against persons, reducing them to a role of submission, passivity or inferiority, to a mere object, or to any other situation which is degrading to the human condition.

Rule 18

Advertisements of food products shall not give rise to confusion as to their nature, composition, quantity, quality, origin and the general treatment to which they have been submitted, nor as to any other essential property thereof. They may not attribute themselves exclusive characteristics if these are also possessed by other similar products.

Rule 19

Advertisement of dietary products for weight control must comply with the specific technical-health regulations and indicate that they form part of a medically recommended treatment.

In the case of products enriched with vitamins, minerals or other nutrients, the type and dose per unit of product must be stated clearly. Foods whose energy content has been reduced in order to aid in weight-control must specify the extent of such reduction.

Rule 20

Advertising of alcoholic drinks and tobacco products is submitted to the rules on limitations and prohibitions established in the legislation in force: minors may not act as their protagonists, nor shall they include arguments which refer to sport or to sports men and women.

Advertisements of this type shall not be broadcast prior to twenty-one thirty hours, and may not induce the indiscriminate consumption of the products advertised, nor refer to possible therapeutic properties, stimulating and sedative effects, qualities for the resolution of personal conflicts or the attribution of successful behaviour. The alcohol content of alcoholic drinks must be stated.

Rule 21

Advertisements of pharmaceutical products must, for broadcast by TVE, provide the prior authorization of the pertinent administrative bodies.

Advertising of these products may not reproduce symbols, environments or images reflecting the opinion or advice of a specialists.

Cosmetics advertisements shall not make any mention or suggestion of curative or health properties. Nonetheless, properties may be mentioned which, in accordance with that authorized in the associated Register of the Ministry of Health, are included in the preparatory materials and packing.

Rule 22

Advertisements on finance, banking, finance institutions, and real estate and stocks investment shall be subject to prior administrative authorizations, as provided for in the current legal regulations.

Such advertisements must be clear in their formulation and easily understood by the public, and must not conceal essential data of the offer nor create expectations amongst investors which are of difficult fulfillment.

Rule 23

Advertisements presenting motor vehicles must not incite to excessive speed, reckless driving, dangerous situations or any other circumstances which involve a breach of the Traffic Code.

Scenes involving high speed or special manoeuvres will be admitted if a warning is given that they are for automobile competitions, on closed circuits, or carried out by specialists.

Rule 24

Advertisers of homes constructed under the official protection system must have their text approved by the body with competence according to the matter.

In the case of homes of any type sold with the delivery of a down payment prior to commencement of works or during construction, their advertisements must state that the promotor will adjust its actions to compliance with the requirements of the Act no. 57 of July 27th 1968, with express mention of the guarantor Entity and the banks or savings banks in which the advance sums must be deposited in a special account. These aspects must be included in the advertisement.

Rule 25

Advertisements may not directly induce children to buy or to ask adults to buy any product or service. Nor will advertisements be permitted which make them believe that, if they do not have the products advertised, they will be in any way inferior to others: they may not exploit children's inexperience or credulity.

The advertisements shall not contain assertions or images which may turn out to be harmful to infancy. They will not be presented in dangerous situations, or those which may inspire violent, unjust, selfish and antieducational attitudes.

Advertisements may not permit, even for educational purposes, allusions to the fact that children are not sufficiently mature for the consumption of those products which, through a counter-reaction, may incite them to use such products.

Rule 26

Advertisements aimed at children may not feature actors, presenters or personalities which may be familiar to them as a result of frequent appearances in television programs. Advertisements will not be admitted which reproduce surroundings and scenes or imitations of television actors.

Rule 27

Children may not be the main actors in an advertisement, except for products dedicated exclusively or principally to infants, in the fields of health, hygiene, clothing, literature, food, educational games, sporting elements and toys, with the restrictions imposed in the rules on each.

The children must act and speak naturally. They must not give opinions on the products and services announced.

Rule 28

Advertising will not be admitted on toys which imply promotion of aggression or violence, the reproduction of arms or the use of resources which may be either physically or psychically dangerous to children.

Where the advertisement displays toys for construction, modelling, painting, drawing and similar purposes, their ease of execution must not be exaggerated. Confusion may not be produced between elements sold with the toy, or separately therefrom.

In demonstrations of use of the toys, it must be made very clear whether they are manually or mechanically operated, preventing any confusion to children due to effects of animation in the advertisements; it must be stated with complete clarity if the toys are intended for specific age-groups and whether their price is more than 5000 pesetas.

Advertisers must evidence that the toys advertised meet the rules on inoffensiveness.

Rule 29

Advertisements will not be admitted which refer to programs being or which have been broadcast by television, nor to their titles,

music, characters, authors, presenters or announcers if, between the date of such announcements and that of the programs, there is not a period of at least one month before or two months after.

Exceptionally, the appearance may be authorized of the persons referred to above in the case of campaigns of public interest with no commercial aim.

Rule 30

Advertisements organized into blocks will be broadcast between programs. The daily time for advertising shall not exceed a ratio of eight minutes to every sixty minutes' broadcast time, and the annual total may not exceed 10 per cent of the annual programming.

When the duration of a program is more than fifty two minutes, advertising blocks may be broadcast each twenty-six minutes of program, counted from the beginning and, in any case, respecting the natural intervals of said program. In sports or entertainments broadcasts, advertising will be broadcast in accordance with their actual breaks.

Rule 31

Advertising will not be inserted into the daily news spaces, nor during the transmission of public ceremonies or political debates being broadcast live, when this disrupts the normal transmission thereof.

Rule 32

On national channels, the minimum duration of an advertisement shall be twenty seconds, and ten on regional circuits: it may not be repeated within the same block, nor in successive blocks on the national channels and regional circuits.

The Board of Directors may authorize changes to the said times, in a reasoned resolution, and when circumstances make this advisable.

Rule 33

All advertisements broadcast by TVE, even though not for commercial purposes nor from a private source, shall be adjusted to the technical conditions and rate approved by the Public Corporation.

Rule 34

In accordance with the provisions of Article 11 a) of the Radio and Television Statute, Act no. 4 of January 10th 1980, the General Manager of the Public Corporation Spanish Radio and Television shall comply with and enforce these rules, and approve the general terms for contracts and tariffs which will be in effect at any time.

TRANSITIONAL PROVISION

Advertisements approved prior to the date on which these rules come into force may continue to be broadcast for the period for which such broadcast was authorized.

Royal Decree no. 895, of July 20th 1988, regulating the merger of the Corporations RADIO NACIONAL DE ESPAÑA, SOCIEDAD ANÓNIMA and RADIO CADENA ESPAÑOLA, SOCIEDAD ANÓNIMA.

Following promulgation of the Constitution, and in implementation of the provisions of Article 20.3 thereof, the Radio and Television Statute was passed, in Act no. 4 of January 10th 1980.

which, amongst other things, provided for the establishment of two Corporations named RADIO NACIONAL DE ESPAÑA and RADIO CADENA ESPAÑOLA, to manage the essential public sound radio broadcasting service provided by the State.

As radio broadcasting in general, and public ownership in particular, is considered to be a vehicle of particular importance for information, and the dissemination of culture and leisure amongst citizens, and in the light of the changes which have taken place during this decade in the Spanish radio broadcasting panorama, it has become advisable to make certain changes which make it possible to upgrade the provision of this public service by the State.

To this end, all the available resources are to be merged in a single corporation, thus improving the public radio broadcasting offer and the joint management of the media which are its proper realm, within the framework of the Telecommunications Act, no. 31 of December 18th 1987, which passed new regulations on the management of the radiophonic spectrum.

Therefore, making use of the authorization contained in Final Provision Eleven of the 1988 Budget, dated December 23rd 1987, Act no. 33, on the recommendation of the Ministers of Economy and Finance, of Transport, Tourism and Communications and of Relations with Parliament and the Government Secretariat, in accordance with the Council of State and following the deliberations of the Council of Ministers in its meeting of July 20th 1988,

I HEREBY PROVIDE AS FOLLOWS:

Article 1. The Corporation RADIO NACIONAL DE ESPAÑA, SOCIEDAD ANONIMA is hereby merged with the Corporation RADIO CADENA ESPAÑOLA, SOCIEDAD ANONIMA, by means of the absorption of the latter by the former.

Article 2. As a consequence of said merger, the Corporation RADIO NACIONAL DE ESPAÑA, SOCIEDAD ANONIMA shall have a share capital of 1,875,000,000 pesetas, fully subscribed and paid up, represented by 1,875 nominative shares each of a face value of 1,000,000 pesetas.

Article 3. Within the period of three months counted from the date on which this Royal Decree comes into effect, the General Manager of the Public Corporation Spanish Radio and Television shall submit the plan of action, main principles and general lines of programming, the percentages of RADIO NACIONAL DE ESPAÑA's own production and the personnel and budget modifications which will have to be made as a consequence of this merger, to the Board of Directors for its approval.

Article 4. Within the period of six months counted from the date on which this Royal Decree comes into effect, the General Manager of the Public Corporation Spanish Radio and Television shall take the measures required and execute the public deeds necessary in order to give effect to this merger, and shall report on such actions to the Board of Directors.

Article 5. Staff currently employed by RADIO CADENA ESPAÑOLA, SOCIEDAD ANONIMA shall be integrated in RADIO NACIONAL DE ESPAÑA, SOCIEDAD ANONIMA, maintaining their professional categories, seniority and the economic and social rights which have been acquired by said personnel.

Article 6. RADIO NACIONAL DE ESPAÑA, SOCIEDAD ANONIMA will be financed by subsidies consigned in the Government's Budget, and by its own commercial earnings.

Article 7. 1. The transmission facilities and all the technical and proprietary resources of RADIO CADENA ESPAÑOLA, SOCIEDAD ANONIMA shall be integrated into RADIO NACIONAL DE ESPAÑA, SOCIEDAD ANONIMA as a consequence of this merger, so that the latter can make a radiophonic offer with the following services:

- a) A short wave service, beamed overseas.
- b) A medium wave service, organized in a network of national scope and another which can duplicate in smaller geographical areas,

insofar as this is permitted by the availability of the radio-electric frequency spectrum.

c) A frequency-modulated service organized into two networks of national scope, a third network in each Autonomous Regional Community which permits regional or local cover and, where applicable, some transmission facilities which broadcast the national medium wave program on the frequency-modulated band in order to improve audience in some cities.

2. RADIO NACIONAL DE ESPAÑA shall manage the above-mentioned services directly, notwithstanding the provisions of Article 20.1 of Act no. 4 of January 10th 1980 (the Radio and Television Statute).

Article 8. 1. Prior to the integration of the transmission facilities and other technical resources, the Ministry of Transport, Tourism and Communications must approve the frequency and power plans, and the locations and other technical parameters for the installations needed for the services described in the previous paragraph.

2. If, as a consequence of said Plan, any of the transmitters now in use should be placed out of service, the frequency concerned shall be put at the disposition of the Ministry of Transport, Tourism and Communications for possible inclusion in the associated National Technical Plans, as provided for in the current legislation.

REPEAL PROVISION

Royal Decree no. 1615 of July 31st 1980 on fulfillment and implementation of the Radio and Television Statute is hereby repealed insofar as in conflict with this Royal Decree, along with such other provisions of the same or lower rank which, similarly are in conflict herewith.

FINAL PROVISION

This Royal Decree shall come into effect on the day following its publication in the Official State Gazette.

Given in Madrid on July 20th 1988.

- JUAN CARLOS, Rex.

The Minister for Relations with Parliament
and of the Government Secretariat.

VIRGILIO ZAPATERO GOMEZ

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SECRETARY OF STATE
DIVISION OF CORPORATIONS
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