

DRAFT LAW
No. _____, dated _____

**ON THE INTRODUCTION OF EXPERIMENTAL DIGITAL BROADCASTING IN THE
REPUBLIC OF ALBANIA**

In reliance on articles 78 and 83.1 of the Constitution, on the proposal of _____,

**THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

DECIDED:

Article 1
Objective and Scope

1. The aim of this law is to establish a regulatory framework for the introduction of digital broadcasting in the Republic of Albania. Within the framework set by this law, broadcasters and multiplex operators will be allowed to begin the transmission of digital broadcasting services of an experimental nature.
2. The National Council of Radio and Television of Albania (NCRT) shall grant temporary licenses for the operation of digital terrestrial broadcasting networks. For this purpose, the NCRT will make available two frequencies for the operation of two single frequency networks. These licenses will allow multiplex operators to establish terrestrial digital platforms and to start and develop digital terrestrial broadcasting services in Albania. Multiplex/platform operator functions comprise the operation and management of a digital broadcasting platform, including aggregation and distribution of content, maintenance of a Conditional Access System and the provision of the technology for Interactive Services.
3. The assignment of frequencies for digital broadcasting services may require the use of frequencies presently occupied by analogue broadcasters. The NCRT may determine to assign these frequencies to multiplex operators. In such a case, the NCRT will grant the analogue broadcaster with a new frequency which will allow the analogue broadcaster to cover the same area. The multiplex operator benefiting from the exchange of frequencies will pay the costs of the analogue broadcaster resulting from this operation.
4. The NCRT will grant temporary licenses to digital satellite broadcasting platform operators.
5. The NCRT will specify the frequencies, the power, the location and the area for which the licenses will be granted.

Article 2
Licensing Procedure

1. The holder of an analogue terrestrial broadcasting license for the territory of the Republic of Albania who wishes to transmit his programs in a digital format is to obtain a temporary digital broadcasting license from the NCRT. This license can be granted without the

competition procedure envisaged by the Law No. 8410, but the NCRT reserves the right to change the frequency according to the needs of the frequency plan.

2. Applicants for a multiplex licence who do not hold a valid analogue broadcasting license are to participate in a competition process the details of which shall be determined by the NCRT. In assessing the applications received the following criteria are to be given particular importance:

- The quality of the technical solutions, including the degree of flexibility the chosen solutions offer to the end-users regarding choice of services. In this connection, importance shall be attached to, among other things, the selection of non-proprietary standards, where technically feasible, and solutions for Application Program Interface (API) and access control systems.
- Plans for investment and development of the network, including marketing and availability of decoders, pace of development and costs to the general public.
- Which services the applicant wishes to offer. Importance will be attached to a broad and varied television offering to different groups of viewers. This applies both to different types of program content and the relationship between free-to-air television channels and Pay-TV channels.
- The applicant's capability and competence in relation to carrying out its plans, in particular the commercial realism of such plans.

3. The holder of a multiplex license who wishes to use his/her digital platform for his/her own broadcasting activities is to obtain a separate digital terrestrial broadcasting license from the NCRT for each individual program.

4. The NCRT will grant licenses to transmit programs to those applicants who wish to transmit their programs via the multiplex or satellite platform, subject to an agreement with the multiplex and satellite platform operators. These licenses can be granted without a competition procedure envisaged by the Law 8410.

5. Operators of digital satellite platforms require a license from the NCRT. These licenses can be granted without a competition procedure envisaged by the Law 8410.

Article 3

Rights and obligations of the multiplex licensees

1. Holders of multiplex licenses and licensees of satellite platforms are required to finance and build the digital platforms and the transmission networks for the distribution of digital broadcasts and new digital services. If they fail to carry out these obligations in a time frame to be established by the NCRT, the NCRT will be entitled to revoke the license.

2. Holders of multiplex licenses and licensees of satellite platforms are obliged to provide the Albanian Radio and Television (RTSH) with the capacity required to distribute current analogue broadcasts with a corresponding quality at no additional cost. The licensees are further obliged to rent capacity on their networks on reasonable, fair and non-discriminatory terms to other Albanian broadcasters.

3. Holders of multiplex licenses and licensees of satellite platforms are obliged to ensure that 50% of their digital broadcasting services will be provided without any costs to the user. Out of the free-to-air programs, up to 30% can be transmitted in an encrypted form.

4. Holders of multiplex licenses and licensees of satellite platforms are obliged to offer 50% of their broadcast services in the Albanian language either by transmitting Albanian programs or by offering subtitles/synchronization for programs in foreign languages.

5. The frequencies granted to multiplex operators shall be used primarily for broadcasting. They may, however, also be used for other types of services. The NCRT is to ensure that any services provided for broadcasters by multiplex operators are made on fair, reasonable and non-discriminatory terms. For conditional access systems, application program interfaces and electronic program guides, the NCRT will apply the principles laid down in the EU Directive of 7 March 2002 (Access Directive).

6. If in assessing the applications received, the NCRT concludes that only one applicant meets the criteria set out in article 2.2., the NCRT may determine to grant both multiplexes to one licensee. In such a case, the licensee of these two multiplexes is to make available 50% of his capacity on reasonable, fair and non-discriminatory terms to Albanian broadcasters in line with principles established by the EU institutions in the area of effective competition.

7. Multiplex operators, satellite platform operators and digital broadcasters are to provide the NCRT with all the relevant information in order to allow the NCRT to make an assessment of the technical and commercial aspects of their test operations. On the basis of this information, the NCRT will draw up a report to the Assembly of the Republic of Albania.

8. Multiplex operators and providers of digital broadcasting services are entitled to offer programs containing explicit sexual content, provided the reception of such programs is restricted by technical means to adults only. The prohibition included in Article 38.4 of Law no. 8410 to broadcast pornographic programs does not apply to these services.

9. During the experimental period, the simulcasting of broadcasting services in both analogue and digital form will require more than one license for national and possibly for local television and radio programs. The provisions in article 20 of Law no. 8410 prohibiting the holding of more than one national and local television and radio license will not apply to digital terrestrial broadcasting during the experimental period.

Article 4 Fees

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Article 5 Standardization and interoperability of digital interactive broadcasting services

The NCRT will encourage multiplex operators and satellite platform operators to implement an open application program interface that conforms to standards or specifications adopted by a European standards organization and to provide consumers with compatible decoders. The NCRT may, at the end of the experimental term, impose such standards and specifications in

light of the market situation of digital services prevailing at that time by taking into account the needs of the consumers and the objective of promoting the development of a viable environment for the provision of such services in the Republic of Albania.

Article 6 Duration of the license

The licenses of multiplex operators, of satellite platform operators and of digital broadcasters are to be coterminous. These licenses will be granted for an initial period of 3 years with the condition that the NCRT has the right to amend the terms of the licenses to reflect international obligations and requirements resulting from spectrum management. At the end of this term, the NCRT will inform the Assembly of the Republic of Albania in its Annual Report about the experiences obtained during this test period, together with a digital strategy and proposals for detailed and comprehensive legislation on the transition from analogue to digital broadcasting. If the Assembly of the Republic of Albania does not adopt such a law before the expiry of the licenses, the NCRT may extend the licenses for periods of one year, until this temporary law has been replaced by the permanent law. Multiplex operators and digital broadcasters with a valid license at the time the new law comes into effect shall have a preference in the public tender for new multiplex and digital broadcasting licenses over those competing for the first time, provided that they have complied with the provisions of this law and that they meet all the conditions required by the public tender.

Article 7 General legal framework for broadcasting activities

With the exception of those provisions specifically exempted by this law, Law No. 8410 on Public and Private Radio and Television in the Republic of Albania continues to govern all broadcasting activities in the Republic of Albania.

Article 8 Entry into force

This law shall enter into force 15 days after its publication in the Official Journal.