

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4602 of 02 August, 2019

B. 31/19

TRANSFRONTIER TELEVISION (COUNCIL OF EUROPE) ACT 2019

ARRANGEMENT OF CLAUSES

Clauses

Part 1 Preliminary

1. Title and commencement.
2. Application of this Act.
3. Interpretation.

Part 2 Authority

4. Designation of Authority.
5. Duty of Authority.
6. Functions of the Authority.
7. Power to require information etc.
8. Making false or misleading statements.
9. General restrictions on disclosure of information.
10. Directions by the Authority.
11. Administrative notices.
12. The power of the Authority to issue notices.

Part 3 Jurisdiction

13. Jurisdiction.

Part 4 Broadcasting Standards

14. Broadcasters' duties.
15. Information in respect of broadcasting providers.
16. Requirements of advertising and tele-shopping.
17. Insertion during programmes.
18. Duration of advertising and tele-shopping.
19. Form and presentation.

20. Advertising and tele-shopping of particular products.
21. Advertising and tele-shopping directed specifically at a CTT State.
22. Sponsored television programmes.
23. Tele-shopping and self-promotion channels.
24. Proportion of distribution and production of television programmes.

Part 5

Exclusive rights and short news reports in television broadcasting.

25. Exclusive rights to major events.
26. Short news reports.

Part 6

Right of reply

27. Right of reply.

Part 7

Regulation of Broadcasts

28. Regulation of Broadcasts.

Part 8

Exchange of information and other assistance

29. Exchange of information.
30. Other cooperation.

Part 9

General

31. Codes of practice.
32. Regulations.
33. Relationship with other legislation.
34. Amendments to the Broadcasting Act 2012.

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4602 of 02 August, 2019

B. 31/19

BILL

FOR

AN ACT to give effect in Gibraltar to the Council of Europe European Convention on Transfrontier Television made in Strasbourg on 5 May 1989 and its amending Protocol adopted on the 9th September 1998 in Strasbourg for the purposes facilitating the transfrontier transmission and retransmission of television programme services.

ENACTED by the Legislature of Gibraltar.

Part 1 Preliminary

Title and commencement.

1. This Act may be cited as the Transfrontier Television (Council of Europe) Act 2019 and comes into operation on exit day or the day the Convention is extended to Gibraltar, whichever is later.

Application of this Act.

2.(1) This Act applies-

- (a) to any programme service transmitted or retransmitted by broadcasting entities or by technical means in Gibraltar whether by cable, terrestrial transmitter or satellite, and which can be received, directly or indirectly, in one or more CTT States other than Gibraltar; and
- (b) for the purposes of giving effect to the Convention in Gibraltar.

(2) This Act does not apply to domestic broadcasters.

Interpretation.

3. In this Act-

“advertising” means any public announcement in return for payment or similar consideration or for self-promotional purposes, which is intended to promote the sale, purchase or rental of a product or service, to advance a cause or idea, or to bring about some other effect desired by the advertiser or the broadcaster itself;

“amending Protocol” means the Protocol adopted on the 9th September 1998 in Strasbourg, amending the Convention;

“the Authority” means the Gibraltar Regulatory Authority established under section 3(1) of the Gibraltar Regulatory Authority Act 2000 or such person or agency as the Minister may, from time to time, appoint;

“AVMS Directive” means Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services, as amended from time to time;

“broadcaster” means the natural or legal person who has editorial responsibility for the composition of television programme services for reception by the general public and transmits them or has them transmitted, complete and unchanged, by a third party;

“the Convention” means “the Council of Europe European Convention on Transfrontier Television made in Strasbourg on 5 May 1989 and its amending Protocol;

“CTT State” means a State Party which is for the time being a party to the Convention including Gibraltar;

“domestic broadcaster” means a broadcaster whose transmissions are intended solely for reception in Gibraltar and do not provide full coverage to any other CTT State;

“European Audiovisual works” means creative works, the production or co-production of which is controlled by European natural or legal persons;

“exit day” shall have the same meaning as section 3(1) of the European Union (Withdrawal) Act 2019;

“HM Government of Gibraltar” means “Her Majesty’s Government of Gibraltar;

“Member States” means Member States of the European Union;

“Minister” shall have the same meaning as section 2(1) of the Broadcasting Act 2012;

“non CTT State” means a State which is not a State Party to the Convention;

“programme service” means all the items within a single service provided by a given broadcaster within the meaning of the definition of broadcaster;

"retransmission" signifies the fact of receiving and simultaneously transmitting, irrespective of the technical means employed, complete and unchanged television programme services, or important parts of such services, transmitted by broadcasters for reception by the general public;

“sponsorship” shall have the same meaning as in section 2(1) of the Broadcasting Act 2012;

“Standing Committee” means the Standing Committee established under Article 20 of the Convention;

“tele-shopping” shall have the same meaning as in section 2(1) of the Broadcasting Act 2012; and

“transmission” means the initial emission by terrestrial transmitter, by cable, or by satellite of whatever nature, in encoded or unencoded form, of television programme services for reception by the general public. It does not include communication services operating on individual demand.

Part 2 Authority

Designation of Authority.

4. The Gibraltar Regulatory Authority is designated as the competent authority for the purpose of this Act.

Duty of the Authority.

5.(1) The Authority shall perform the functions assigned to it or the duties conferred upon it under this Act or any other enactment.

(2) Without prejudice to subsection (1) the Authority shall undertake such other function or duty as the Minister notifies to it in writing.

Functions of the Authority.

6. The principal function of the Authority, without prejudice to the generality of section 5, shall include-

(a) exchange of information as provided for under this Act and for the purpose of compliance with the Convention;

(b) liaising as necessary with an authority of a CTT State;

- (c) acting as the Authority for Gibraltar in any case where Gibraltar is the requesting CTT State; and
- (d) performing such other functions as may be prescribed under this Act or any other enactment or law.

Power to require information etc.

7.(1) The Authority may, for the purpose of performing the functions assigned to or conferred upon it by or under this Act, by notice-

- (a) require any person to produce, at a time and place specified in the notice, to the Authority, or to any person appointed by it for the purpose, any information which is specified or described in the notice and is in that person's custody or control; or
- (b) require any person carrying on any business to furnish to the Authority, such estimates, returns or other information as may be specified or described in the notice, and specify the time, the manner and the form in which any such estimates, returns or information are to be furnished, but no person shall be compelled for any such purpose to produce any documents which he could not be compelled to produce in civil proceedings before the court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.

(2) A notice issued under subsection (1) shall-

- (a) be proportionate to the use to which the information is to be put in carrying out of the Authority's functions; and
- (b) give the reasons justifying the requirement for the information, including a statement as to which of the Authority's functions gives rise to the request.

(3) A person served with a notice pursuant to subsection (1) must provide the information requested in the notice in such manner, detail and within such reasonable period as may be specified in the notice.

(4) A person who, without reasonable excuse, fails to do anything duly required of him by a notice under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) If a person makes default in complying with a notice under subsection (1), the court may, on the application of the Authority, make such order as the court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of, and incidental to, the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.

(6) The Minister may by regulations prescribe-

- (a) any further particulars which may apply in specific cases and circumstances to a requirement to provide information pursuant to this section; and
- (b) the cases and circumstances under which a financial penalty may be imposed on a person who fails to comply with a notice issued under this section.

Making false or misleading statements.

8.(1) A person who-

- (a) intentionally alters, suppresses or destroys any document, including a document in electronic form, which he has been required to produce by a notice under section 7(1);
- (b) by furnishing any estimate, return or other information required of him under a notice under section 7(1), or otherwise in purported compliance with a requirement under this Act, furnishes information or makes any statement which he knows to be false or misleading in a material particular, or recklessly furnishes information or makes a statement which is false or misleading in a material particular; or
- (c) with intent to avoid detection of an offence or liability to a penalty under this Act removes from Gibraltar, destroys, conceals or fraudulently alters any books or papers including any material held electronically,

commits an offence.

(2) A person who commits an offence under subsection (1) is liable-

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both.

General restrictions on disclosure of information.

9.(1) Subject to the following provisions of this section, no information with respect to a particular business which-

- (a) has been obtained under or by virtue of this Act; and
- (b) relates to the private affairs of any individual or to any particular business,

shall during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

(2) Subsection (1) does not apply to any disclosure of information which is made for any one or more of the following reasons-

- (a) for the purpose of facilitating the performance of any duties or functions assigned to or conferred on the Minister or the Authority by or under this Act;
- (b) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
- (c) for the purpose of any civil proceedings brought under or by virtue of this Act;
- (d) to comply with directions of the Supreme Court;
- (e) in pursuance of an international obligation.

(3) Nothing in subsection (1) shall be construed as any one or more of the following-

- (a) limiting the matters which may be published under section 10 or which may be included in, or made public as part of, a report of the Minister or Authority under this Act;
- (b) applying to any information which has been so published or has been made public as part of such a report;
- (c) limiting the matters which may be published under any regulations made under this Act.

(4) Any person who discloses any information in contravention of this section commits an offence and is liable-

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment, to a fine.

Directions by the Authority.

10. The Authority may issue directions to persons who are subject to the provisions of this Act, whether individually or generally, requiring them to do or refrain from doing anything which the Authority may consider necessary for such person to comply with any provision of, or any condition, obligation or other requirement applicable to such person pursuant to, this Act and such person shall give effect to any such direction.

Administrative notices.

11.(1) Without prejudice to section 10, the Authority may cause to be published in the form of administrative notices statements setting out the criteria and any variation in the criteria from time to time by reference to which the Authority proposes to exercise its respective functions under this Act.

(2) Without prejudice to subsection (1), the Authority may publish in the form of administrative notices criteria to facilitate compliance in Gibraltar with any relevant international obligations.

The power of the Authority to issue notices.

12. Without prejudice to sections 10 and 11, the Authority may cause to be published in the form of notices any matter for which it is responsible under or pursuant to this Act including any international obligation with which the Authority is required to comply.

**Part 3
Jurisdiction**

Jurisdiction.

13.(1) This Act applies to the exercise by the Authority of a function under the enactments relating to broadcasting so far as the obligations of Gibraltar under the Convention are relevant to that function.

(2) In considering for the purposes of Article 3 of the Convention (field of application), whether a television satellite service provided by a person who is within the jurisdiction of one CTT State can be received, directly or indirectly, in another CTT State (“the relevant State”), the Authority must treat the service as one that can be so received if, but only if, the service can be received by the general public in all parts of the relevant State using standard consumer equipment.

(3) For the purposes of this Act, broadcasters under Gibraltar jurisdiction are any of the following-

- (a) those established in Gibraltar in accordance with subsection (4);
- (b) a broadcaster to whom subsection (5) applies.

(4) A broadcaster shall be deemed to be established in Gibraltar in the following cases-

- (a) the broadcaster has its head office in Gibraltar and the decisions on programme schedules are taken in Gibraltar;

- (b) if a broadcaster has its head office in a CTT State but decisions on programme schedules are taken in Gibraltar, it shall be deemed to be established in the place where a significant part of the workforce involved in the pursuit of the television broadcasting activity operates. If a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Gibraltar and a CTT State other than Gibraltar, in which the broadcaster has its head office, the broadcaster shall be deemed to be established where it has its head office. If a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in neither Gibraltar nor that other CTT State, the broadcaster shall be deemed to be established where it first began broadcasting in accordance with the local law, provided that it maintains a stable and effective link with the economy of that jurisdiction;
 - (c) if a broadcaster has its head office in Gibraltar but decisions on programme schedules are taken in a State which is not a CTT State (or vice-versa) it shall be deemed to be established in Gibraltar, provided that a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in Gibraltar;
- (5) Broadcasters to whom the provisions of subsection (4) are not applicable shall be deemed to be under the jurisdiction of Gibraltar as the transmitting CTT State in the following cases-
- (a) they use a frequency granted by Gibraltar;
 - (b) although they do not use a frequency granted by Gibraltar, they use a satellite capacity appertaining to that of Gibraltar;
 - (c) although they use neither a frequency granted by Gibraltar nor a satellite capacity appertaining to that of Gibraltar, they use a satellite up-link situated in Gibraltar.
- (6) If a State is a Member State and also a CTT State, then if it has jurisdiction over a broadcaster for the purposes of the AVMS Directive, it would also have jurisdiction over that broadcaster for the purposes of the Convention.
- (7) This Act does not apply to television broadcasts which-
- (a) are intended exclusively for reception in non CTT States; and
 - (b) which are not received directly or indirectly in Gibraltar or in one or more CTT States.

Part 4 Broadcasting Standards

Broadcasters' duties.

14.(1) Every broadcaster under Gibraltar jurisdiction shall ensure that all programme services that they provide shall not prejudice -

- (i) the dignity of human beings;
- (ii) the fundamental rights of persons granted under the Gibraltar Constitution Order 2006; and
- (iii) that news broadcasted fairly presents facts and events and encourages the free formation of opinions;

(2) Every broadcaster under Gibraltar jurisdiction shall also comply with the requirements of sections 28 and 35(1) and (2) of the Broadcasting Act 2012 for the purpose of the Convention.

Information in respect of broadcasting providers.

15.(1) Where appropriate, the Authority shall, upon request by any natural or legal person, organisation, broadcaster or CTT State, provide information on-

- (a) the name under which the broadcaster is registered or known to the public;
- (b) the composition including the name of the legal representative, the seat and legal status of the broadcaster;
- (c) the composition of the capital, the nature, purpose and mode of financing of the programme service the broadcaster is providing or intends to provide.

(2) Every broadcaster under Gibraltar jurisdiction entitled to transmit programme services to CTT States with whom they have any contract, authorisations or arrangements shall, through the Authority, provide the competent authority of a CTT State with information of their responsibilities.

Requirements of advertising and tele-shopping.

16.(1) Every broadcaster shall present advertising and tele-shopping in a fair and honest manner.

(2) They shall not-

- (a) mislead or prejudice the interests of consumers;
- (b) exercise any editorial influence over the contents of the programmes; and
- (c) contravene section 29(4) of the Broadcasting Act 2012.

Insertion during programmes.

17.(1) As also provided in section 29(B)(1)(a) and (b) of the Broadcasting Act 2012, for programmes falling under this Act consisting of autonomous parts, sports programmes and similar structured events and performances comprising intervals, advertising and tele-shopping shall be inserted between the parts or at intervals provided such advertising and tele-shopping insertions also comply with the requirements of this section.

(2) For the purposes of this Act, the transmission of audiovisual works made for television (excluding series, serials, light entertainment programmes and documentaries) may be interrupted by television advertising or tele-shopping once for each scheduled period of at least forty-five minutes.

(3) The transmission may be interrupted by advertising or tele-shopping for each scheduled period of at least twenty minutes provided that the scheduled duration of the of the programme is greater than two or more complete periods of forty-five minutes.

(4) Transmissions may be interrupted for advertising or tele-shopping for programmes other than those covered under subsection (1) provided a period of at least twenty minutes elapses between each successive advertising or tele-shopping break within the programme.

(5) The transmission of current affairs programmes, documentaries and religious programmes may be interrupted by television advertising or teleshopping once for each scheduled period of at least thirty minutes, provided that the scheduled duration of the programme is greater than thirty minutes.

(6) Section 29(B)(2), (3) and(4) of the Broadcasting Act 2012 shall also apply to this Act.

Duration of advertising and tele-shopping.

18.(1) Tele-shopping spots, advertising spots and other forms of advertising, with the exception of tele-shopping windows within the meaning of subsection (4) shall not exceed 20% of the daily transmission time.

(2) The transmission time for advertising spots shall not exceed 15% of the daily transmission time.

(3) The proportion of television advertising spots and tele-shopping spots within a given clock hour shall not exceed 20%.

(4) Tele-shopping windows shall-

- (a) be clearly identified as such by optical and acoustic means and shall be of a minimum uninterrupted duration of 15 minutes;
- (b) the maximum number of windows per day shall be eight;
- (c) the overall duration shall not exceed three hours per day.

(5) This section shall not apply to the types of announcement as set out in Article 12(4) of the Convention.

Form and presentation.

19. The following provisions of the Broadcasting Act 2012 in relation to the form and presentation of advertising and tele-shopping shall also apply for the purposes of this Act-

- (a) section 29(1)(a);
- (b) section 29(2)(b);
- (c) section 29(A)(1) (a) and (b);
- (d) section 29A(2); and
- (e) section 32.

Advertising and tele-shopping of particular products.

20. The following provisions of the Broadcasting Act 2012 in relation to the advertising and tele-shopping of particular products shall also apply for the purposes of this Act-

- (a) section 29(1)(b) and (c);
- (b) section 29(C); and
- (c) section 29 (D)(a), (b), (d), (e) and (f).

Advertising and tele-shopping directed specifically at a CTT State.

21.(1) In order to avoid distortions in competition and endangering the television system of a CTT State, advertising and tele-shopping which are specifically and with some frequency directed to audiences in a single Party other than Gibraltar, a Gibraltar broadcaster shall not circumvent the television advertising and tele-shopping rules in that particular CTT State.

(2) Subsection (1) shall not apply where-

- (a) the rules concerned establish a discrimination between advertising and tele-shopping transmitted by a Gibraltar broadcaster and advertising and tele-shopping transmitted by a broadcaster or any other legal or natural person within the jurisdiction of another CTT State; or
- (b) the Gibraltar broadcaster and the CTT State have concluded any bilateral or multilateral agreements between them in respect of advertising and tele-shopping broadcasts either before or after the extension of the Convention to Gibraltar.

Sponsored television programmes.

22. The following provisions of the Broadcasting Act 2012 in relation to sponsored programmes shall also apply to any broadcaster under Gibraltar jurisdiction for the purposes of the Convention-

- (a) section 31(1)(a), (b) and (c); and
- (b) section 31(2), (3) (4).

Teleshopping and self-promotion channels.

23.(1) The provisions of this Act shall apply mutatis mutandis to-

- (a) programme services exclusively devoted to self-promotion; and
- (b) programme services exclusively devoted to tele-shopping.

(2) In respect of advertising for self-promotion, advertising shall be allowed on such services within the limits in section 18(1), (2) and (3).

(3) In respect of tele-shopping, advertising shall only be permissible on such services within only the limits set out in section 18(1) and (2).

Proportion of distribution and production of television programmes.

24.(1) Broadcasters under Gibraltar jurisdiction shall ensure, where practicable and by appropriate means, that they reserve for European works a majority proportion of its transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping.

(2) Having regards to any responsibilities of broadcasters under Gibraltar jurisdiction to its viewing public in respect of information, education, culture and entertainment, the proportion under subsection (1) shall be achieved progressively, on the basis of criteria judged suitable for this purpose.

(3) Section 27 of the Broadcasting Act shall apply to the distribution of programmes by a broadcaster who is under Gibraltar jurisdiction for the purposes of the Convention, by means of a broadcast which is within the scope of the Convention.

Part 5

Exclusive rights and short news reports in television broadcasting

Exclusive rights to major events.

25.(1) For the purposes of this Act-

- (a) section 37(1) to (3) of the Broadcasting Act 2012 applies in relation to exclusive rights to events in Gibraltar of major importance; and
- (b) the list drawn by the Minister under this section shall be-
 - (i) within the limitations of the guidelines set out by the Standing Committee provided the Standing Committee has provided a positive opinion on the measures,
 - (ii) proportionate and shall contain the necessary information to enable other CTT States to take the measures referred to in this section.

(2) The Minister shall ensure that-

- (a) the Standing Committee is notified of the list and any legal measures within the time limit prescribed by the Standing Committee; and
- (b) the measures based on this section shall only apply to those events published by the Standing Committee in the annual list referred to in Article 9bis paragraph 3 of the Convention and to those exclusive rights purchased after the entry into force of the amending Protocol.

Short news reports.

26.(1) A broadcaster under the jurisdiction of a CTT State shall have access on a fair, reasonable and non-discriminatory basis to short news reports of events of high interest to the public which are transmitted on an exclusive basis by a broadcaster under the jurisdiction of Gibraltar. This section applies where-

- (a) a broadcaster under Gibraltar jurisdiction (“the transmitting broadcaster”) has exclusive rights to that event; and
- (b) another broadcaster (“the requesting broadcaster”) within Gibraltar or another CTT State wishes to use extracts of that event for short news reports.

(2) The requesting broadcaster may freely select short extracts from the transmitting broadcaster's signal with, unless impossible for practical reasons, at least the identification of the source, and use such extracts in short news reports.

(3) The requesting broadcaster-

- (a) shall use the short extracts solely for general news programmes;
- (b) may use the short extracts in on-demand audiovisual services but only if it offers the same programme on a deferred basis.

(4) The transmitting broadcaster shall be entitled to compensation from the requesting broadcaster in the amount of the additional costs directly incurred in providing access.

(5) Where a broadcaster under Gibraltar jurisdiction makes a similar request from a transmitting broadcaster under the jurisdiction of another CTT State, the Authority shall, if requested, ensure that the equivalent rights of the transmitting broadcaster under Article 3 of the Convention are upheld.

(6) The Authority may issue guidelines regulating access conditions for the purposes of this section and such guidelines shall cover the following matters-

- (a) the establishment of a procedure, other than the one set out in this section, which achieves access on a fair, reasonable and non-discriminatory basis;
- (b) the modalities and conditions for the provision of short extracts, including-
 - (i) compensation arrangements,
 - (ii) the maximum length of short extracts,
 - (iii) time limits regarding the transmission of short extracts.

Part 6 **Right of Reply**

Right of reply.

27.(1) The provisions on the Right of Reply under section 39 of the Broadcasting Act 2012 shall apply to broadcasters under Gibraltar jurisdiction for the purposes of this Convention.

(2) For the purposes of subsection (1), the name of the programme service or of the broadcaster responsible for this programme service shall be identified in the programme service itself, at regular intervals by appropriate means.

Part 7
Regulation of Broadcasts

Regulation of Broadcasts.

28.(1) The Authority shall ensure that broadcasters in the jurisdiction of Gibraltar guarantees a person's right of freedom of expression and information as required under section 10 of the Gibraltar Constitution Order 2006.

(2) The Authority shall guarantee freedom of reception and shall not restrict the retransmission in Gibraltar of programme services which comply with the terms of the Convention.

(3) The Authority is permitted to take measures derogating from subsection (2) in respect of programme services from CTT States only where the conditions of Article 24 or Article 24 bis of the Convention have been met.

Part 8
Exchange of Information and other assistance

Exchange of information.

29. If available, the Authority shall upon the request from the competent authority of a CTT State provide that State with information-

- (a) falling under section 15(1), relating to broadcasters with jurisdiction in Gibraltar;
- (b) information on Gibraltar law and practices in the fields covered by this Act.

Other cooperation.

30.(1) Where appropriate, the Authority shall upon the request from the competent authority of a CTT State cooperate with that State for the purposes of-

- (a) enhancing the effectiveness of the measures taken in implementation of the Convention;
- (b) considering any difficulties arising from the application of the Convention which is brought to the Authority's attention.

(2) The Authority shall endeavour to avoid that any programme services transmitted or retransmitted by a broadcaster or any other legal or natural person within their jurisdiction, within the meaning of section 2(a), endangers media pluralism.

Part 9
General

Codes of practice.

31. Section 22 of the Broadcasting Act 2012 shall apply for the purposes of empowering the Authority to issue codes of practice for matters relating to this Act and for the purposes of giving effect to obligations under the Convention.

Regulations.

32.(1) The Minister may make regulations in respect of any matter and for any purpose relating to the application of this Act and for more effectually carrying into effect the objects of this Act, and without in any manner restricting the foregoing powers, such regulations may provide for the following-

- (a) for any matter of purpose concerning the full and proper implementation of the Convention; and
- (b) the procedure and principles for the imposition of financial penalties on a person who fails to comply with an obligation imposed on that person under, or pursuant to, this Act or with any other requirement as may be specified under, or pursuant to, this Act.

(2) Regulations made under this Act may, without prejudice to subsection (1)-

- (a) as far as the contravention of any one or more of those regulations is concerned, prescribe that a contravention is an offence;
- (b) as far as the liability of a person guilty of an offence of the nature referred to in paragraph (a) is concerned, prescribe any one or more of the following and whether jointly or in the alternative-
 - (i) on summary conviction to imprisonment for a term not exceeding six months,
 - (ii) on summary conviction to a fine not exceeding level 5 on the standard scale,
 - (iii) on conviction on indictment, to imprisonment for a term not exceeding two years,
 - (iv) on conviction on indictment, to a fine,

- (c) make different provision for different cases, including different provision in relation to different persons, services, circumstances or localities,
- (d) exempt any person, or provide for any person to be exempted, from any of the provisions of this Act.

(3) A regulation made under this Act which prescribes a period within which things are to be done may, without prejudice to its generality, provide for extending the period so prescribed.

(4) Any power conferred by this Act to make regulations includes power, by a subsequent regulation to vary, add, substitute or revoke any regulation so made.

Relationship with other legislation.

33. Nothing in this Act affects the Broadcasting Act 2012 (or any other legislation) except where it expressly modifies it.

Amendment to the Broadcasting Act 2012.

34. The Broadcasting Act 2012 is amended as follows-

- (a) in the long title, by-
 - (i) replacing at the end the colon with a semicolon; and
 - (ii) after the semicolon, add “AND IMPLEMENTING IN PART THE COUNCIL OF EUROPE CONVENTION ON TRANSFONTIER TELEVISION MADE IN STRASBOURG ON 5 MAY 1989 AND ITS AMENDING PROTOCOL.”;
- (b) in section 2(1), after the definition of “Commission” insert-

““CTT State”shall have the same meaning as in section 3 of the Transfrontier Television (Council of Europe) Act 2019 ;”;
- (c) in Schedule 1, after paragraph 8, insert the following paragraphs-
 - “9. The need to ensure compliance with the Transfrontier Television (Council of Europe) Act 2019.
 - 10. Any failures to comply with the requirements of the Transfrontier Television (Council of Europe) Act 2019 and any codes of practice issued thereunder.”; and

- (d) In Schedule 3, substitute-
- (i) the title “**COVERAGE OF ANY ELECTION AND REFERENDUM**” with “**POLITICAL BROADCASTING**”; and
 - (ii) paragraph 1(1) with-
 - “1.(1) The Authority shall set, and from time to time review and revise, a code of practice for the political content of programmes or advertising to be included in television and radio services in Gibraltar.”.

EXPLANATORY MEMORANDUM

This Act implements the Council of Europe European Convention on Transfrontier Television made in Strasbourg on 5 May 1989 and its amending Protocol adopted on the 9th September 1998 in Strasbourg for the purposes facilitating the transfrontier transmission and retransmission of television programme services.