

The Media Ownership Act

Act No 53 of 13 June 1997 relating to media ownership (the Media Ownership Act).

Section 1 Purpose of the Act

The purpose of this Act is to promote freedom of expression, genuine opportunities to express one's opinions and a comprehensive range of media.

Section 2 Definition

For the purpose of this Act, acquisition of an ownership interest shall mean:

Any form of assumption of an ownership interest, including purchase, exchange, gift, lease, acquisition by inheritance or distribution of an estate, coercive sale and expropriation, and also subscription for an ownership interest in an enterprise. An acquisition of assets which entails the full or partial acquisition of a business shall also be regarded as acquisition of an ownership interest.

Section 3 The substantive scope of the Act

The Act shall apply to enterprises which operate daily newspapers, television, radio or electronic media, and to enterprises which as owners exercise an influence on such enterprises.

Section 4 The geographical scope of the Act

The Act shall apply to acquisitions of ownership interests or cooperation agreements which have an effect or are liable to have an effect in the realm.

Section 5 Organisation of the supervisory authority

The supervisory authority pursuant to this Act is the Norwegian Media Authority (hereafter the Media Authority).

Section 6 Relationship between the supervisory authority and the central government authorities

The King may not give general instructions to the Media Authority regarding enforcement of this Act, nor give orders concerning the exercise of authority in individual cases. Pursuant to this Act, decisions of the Media Authority may not be reversed by the King.

Section 7 Duties of the supervisory authority

The Media Authority shall be responsible for continuous supervision pursuant to this Act, and shall hereunder

- a) supervise market conditions and ownership in the daily press, television, radio and electronic media,
- b) contribute to creating greater openness about, awareness and knowledge of ownership in Norwegian media, and
- c) make decisions pursuant to section 9.

Each year the Media Ownership Authority shall prepare an annual report on its activities pursuant to this Act. The report shall be sent to the Ministry by the end of March of the following year.

Section 8 Appeals Board

The King will appoint a board for appeals against individual decisions pursuant to this Act. The board shall consist of three members and two deputy members, and the King will determine who shall be the chairman and vice-chairman of the board.

The Appeals Board may not reverse decisions of the supervisory body on its own initiative.

The provision in section 6 shall apply correspondingly to the relationship between the King and the Appeals Board.

Any legal action taken shall be brought against the State as represented by the Appeals Board for Media Ownership.

In connection with acquisitions of ownership interests where the Media Authority does not exercise its power to intervene pursuant to section 9, the Appeals Board may request a written explanation.

Section 9 Intervention against the acquisition of an ownership interest

The Media Authority may intervene against the acquisition of an ownership interest in enterprises that operate daily newspapers, television or radio if the person acquiring the interest alone or in cooperation with others has or gains a significant ownership position in the national or regional media market, and this is contrary to the purpose set out in section 1 of the Act.

A decision to intervene pursuant to the first paragraph may entail:

- a) prohibiting the acquisition,
- b) ordering the divestment of ownership interests that have been acquired and issuing orders necessary to ensure that the purpose of the divestment order is achieved, or
- c) allowing an acquisition on such conditions as are necessary to prevent the acquisition from conflicting with the purpose set out in section 1 of the Act.

The Media Authority may adopt a temporary prohibition against concluding an acquisition or adopt other measures where there are reasonable grounds for assuming that the conditions for an intervention have been satisfied and the Media Authority considers it as necessary in order to carry out any later decision to intervene.

Prior to carrying out an intervention pursuant to the first subsection, the Authority shall have attempted to reach an amicable solution with the acquirer, or with the person against whom it is intended to intervene.

The Media Authority may intervene against an acquisition by making a decision not later than six months after a final agreement has been entered into concerning the acquisition. If special considerations so warrant, the Authority may intervene within one year of the same date.

The provisions of this section shall apply correspondingly to cooperation agreements giving a contracting party the same or a corresponding influence on the editorial product as an acquisition.

Section 10 National restrictions on ownership

A significant ownership position in the market nationally shall normally be considered to exist:

- a) in the case of control through a share of 40 percent or more of the total daily circulation for the daily press,
- b) in the case of control through a share of 40 percent or more of the total viewing figures for television,
- c) in the case of control through a share of 40 percent or more of the total listening ratings for radio,
- d) in the case of control through a share of 30 percent or more in one of the media markets mentioned in litras a), b) or c), and 20 percent or more in one of the other media markets mentioned in litras a), b) or c),
- e) in the case of control through a share of 20 percent or more in one, 20 percent or more in another and 20 percent or more in a third of the media markets mentioned in litras a), b) or c) or
- f) when an enterprise controlling 10 percent or more in one of the media markets mentioned in litras a), b) or c) becomes owner or part-owner of an enterprise forming part of another grouping controlling more than 10 percent or more within the same media market (cross ownership).

Section 11 Regional ownership restrictions

A significant ownership position in the media market regionally shall normally be considered to exist in case of control through a share of 60 percent or more of the total daily circulation of regional and local newspapers in one media region.

The King shall lay down regulations establishing the media regions.

Section 12 Advance clearance

Any person who has a relevant interest in ascertaining whether an intervention may be carried out against acquisition pursuant to section 9 can notify the Media Authority of the acquisition of an ownership interest before making the acquisition. If the Media Authority does not within 30 days of receipt of the notification give notice that an intervention may be carried out, the Authority may not decide to intervene against the acquisition pursuant to section 9.

The Media Authority may lay down further provisions concerning notification pursuant to this section.

Section 13 Duty to provide information, etc.

Every person has a duty to provide the Media Authority and the Appeals Board for Media Ownership with the information required by these authorities in order to be able to perform their functions pursuant to this Act, among other things in order to:

- a) examine whether the criteria for intervention laid down in the Act have been satisfied,
- b) examine whether a decision pursuant to the Act has been contravened, or
- c) contribute to creating greater openness about, awareness or knowledge of ownership in the Norwegian media.

It may be required that information pursuant to the first subsection must be provided in writing or orally within a specified time limit.

The Media Authority may give anyone a standing order to send notification of any acquisitions of shares or interests in enterprises as mentioned in section 3. Such orders may not be given for more than three years at a time.

Information required pursuant to the first paragraph may be provided notwithstanding the statutory duty of confidentiality that is otherwise incumbent on the tax assessment authorities, other tax authorities and authorities charged with monitoring public regulation of economic activity. Nor shall the said duty of confidentiality preclude the surrender of documents in the possession of such authorities for examination.

Section 14 Coercive fine

To ensure compliance with an individual decision made in pursuance of this Act, the Media Authority may decide that the person against whom the decision is directed shall pay a continuous daily fine to the State until the matter has been remedied.

The fine shall not be applicable until the time limit for appeals has expired. If an appeal is lodged against the decision, no fine shall be applicable until a decision has been made on the appeal, unless the Appeals Board decides otherwise.

The imposition of a coercive fine shall be enforceable by execution.

The Media Authority may remit the imposition of a coercive fine when this is deemed reasonable.

Section 15 Coercive sale

If a decision regarding the sale of ownership interests pursuant to section 9 is not complied with, the Media Authority may have interests sold through the enforcement authorities pursuant to the rules relating to coercive sale insofar as they are appropriate. The provisions concerning the relationship to rightholders with higher priority in section 8-16 of Act No. 86 of 26 June 1992 relating to enforcement and interim security shall not apply.

Section 16 Penalties

Any person who wilfully or negligently

- a) contravenes a decision pursuant to section 9,
- b) fails to comply with an order to provide information pursuant to section 13,
- c) gives the Media Authority or the Appeals Board for Media Ownership incorrect or incomplete information, or
- d) is an accessory to a contravention as specified in litras a) to c)

shall be liable to fines or imprisonment for a term not exceeding two years.

Section 17 Commencement

This Act shall enter into force from the date decided by the King.

Section 18 Transitional provisions

[1]This document is an unofficial translation.