

**LEGISLATION ON  
COMMUNITY RADIO BROADCASTING**

*Comparative study of the legislation of 13 countries*

**Division for Freedom of Expression,  
Democracy and Peace  
Communication and Information Sector**

**UNESCO**

**2003**

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The study, which was supervised, coordinated and edited by Marcello Scarone Azzi, Programme Specialist in the Division of Freedom of Expression, Democracy and Peace, Communication and Information Sector of UNESCO, was carried out in close consultation with professional organizations that are concerned with freedom of expression and the promotion of community radio broadcasting, such as the World Association of Community Radio Broadcasters (AMARC), the Centre for Media Freedom in the Middle East and North Africa (CMFMENA), Article 19, the American University of Beirut and many other such organizations, which we would like to thank for their valuable assistance.

The author is responsible for the choice and presentation of the subject matter and opinions of this study, which are not necessarily those of UNESCO and do not commit the Organization.

The designations employed and the presentation of material throughout this publication do not imply the expression of any opinion on the part of UNESCO concerning the legal status of any country, territory, city or area, or concerning any of their authorities and/or governments.

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## INTRODUCTION

The aim of this inquiry is a comparative study of recent legislation on community radio broadcasting in different countries of the world. It does not claim to be an exhaustive guide to legislation in this field – an undertaking that would exceed our ambitions – but rather an analysis that seeks to highlight certain similarities and differences between the general legislative background to community radio broadcasting in recent years in 13 countries.

We have thus chosen to concentrate on countries that represent various regions of the world and have differing legal approaches to community radio broadcasting. Our sample will include Argentina, Australia, Canada, Colombia, El Salvador, Ghana, India, Lebanon, the Philippines, Poland, Spain, South Africa and Uruguay. In the introductory section we shall approach the whole issue in general terms, before going on to define the concept of community radio broadcasting, and describe its beginnings and the most important international principles that underpin it and are intended to achieve a consensus in its defence.

In the first chapter of this study we shall present tables for each country showing in the first column the regulations – or suchlike – governing community radio broadcasting; in the next column their main provisions, and, in the third, our interpretation of the consequences or significant facts relating to their implementation. This schematic presentation of the data will help to give a clear idea of the dates and main norms, without the need to read everything in the table.

The second part will contain a critical analysis of the legal situation of community radio broadcasting in each of the 13 countries and will place them in the region to which they belong. This will give us a general picture of each region, showing the advances, problems or difficulties which the community radio stations in the countries in our study have encountered in recent years.

In the third chapter, we shall examine seven topics accompanied by UNESCO's proposals, which in our opinion could help to overcome existing problems. That part of the study will include an examination of the similarities and the differences encountered with regard to community radio legislation in the 13 countries. In the final part, we shall present the general conclusions of the study together with the outlook in this field.

This study seeks to make a small contribution to the legal recognition of the work of thousands of ordinary people keen to participate in their own way and with their own resources in the process of communication, without any concern for the economic benefits that may result from such an undertaking. We hope that it will also help all those who are not yet involved in this initiative or who are opposed to it to gain a better understanding of the whole issue and of the claims of this sector.

### **What is community radio?**

The phrase “a radio service by the people, close to the people and for the people” sums up the essential features of this service. This means that community radio must not only be run by but also serve the interests of the community. For all the wide range of existing definitions, UNESCO sees

community radio as a medium that gives a voice to the voiceless, serves as a mouthpiece of the marginalized and is central to communication and democratic processes within societies.<sup>1</sup>

A community radio station is a non-profit organization consisting of members of the community and its programming is based on community access and participation. It reflects the special interests and needs of its listeners whose first duty it is to serve.<sup>2</sup> Community radio treats its listeners as subjects and participants and not as objects. As stated in principle 13 of the Charter of Community and Citizen Radio Broadcasters, what defines community radio is the sociocultural benefits that it brings.

UNESCO shares the views of the World Association of Community Radio Broadcasters that community radio stations should represent the interests of the community, whether that be a small locality or a broad social sector. They provide opportunities for citizen involvement where all views can find expression and the diversity of languages and cultures can be defended. The challenge has always been the same: *to democratize the word so as to democratize society*. As was clearly stated by the previous Director-General of UNESCO, Federico Mayor, “these broadcasting stations, genuine forums open to the whole of society without discrimination on the grounds of race, gender, social class, sexual orientation, disabilities or political or religious opinions, are indispensable for the promotion of social dialogues and the culture of peace”.<sup>3</sup>

### **First steps**

The first two experiments in community radio broadcasting in the world go back a little over 50 years in Latin America. Poverty and social injustice were the main factors stimulating such projects. The year 1947 saw the appearance in Bolivia of *Radio de los Mineros* (Miners’ Radio Station) and in Colombia of *Radio Sutatenza*. The main purpose of the first of these stations was to unite the mining community in the struggle to obtain better and fairer working conditions. For its part, *Radio Sutatenza*, although inspired by the objective of supporting the community of peasant farmers, was neither owned nor run by them. It was set up by Father Joaquín Salcedo, who made the first systematic attempt to educate through the use of radio, a venture that later led to the establishment of the Latin American Association for Radio Education (ALER).<sup>4</sup>

Although the community radio movement began in Latin America, it was in Europe that it became a vital factor and an alternative to the major State and private radio corporations. During the 1960s and 1970s the huge increase in the number of pirate radio stations in Western Europe led governments and national broadcasting systems to introduce officially authorized local radio stations.

In Africa the establishment of community radio stations turned into a social movement after the disappearance of the apartheid regime in South Africa. In Asia the various pressure groups that had encouraged the growth of community radio broadcasting in various parts of the world were less in evidence. Consequently, it was UNESCO and other organizations that took the initiative to assist the establishment of community radio stations in that continent. In some cases, in a number of Asian countries it was the broadcasting organization that initially set up community radio services.

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<sup>1</sup> Ondobo, Claude, Assistant Director-General for Communication and Information and Director of the Communication Development Division at UNESCO, in *Community Radio Handbook*, UNESCO 2001.

<sup>2</sup> Independent Radio and Television Commission of Ireland, 1988.

<sup>3</sup> Message by Federico Mayor, Director-General of UNESCO, on the occasion of the seminar *to democratize the radio band*, held in Caracas on 15 November 1995.

<sup>4</sup> ALER was the first Latin American association for educational radio.

## Legal advances

In recent years steps have been taken to approve or, at the very least, to begin to draft laws designed to provide a legal framework for this sector of radio broadcasting. Such measures are the result of a number of economic, technical and political factors. Among the first of these is the fact that radio programmes are both cheap to produce and to receive. Of the mass communication media it is the cheapest and most universal as well as the most flexible and immediate.

The technical factors include the advent of FM (frequency modulation) radio broadcasting, cheap transistor radios and cheap, low-powered transmitters, all of which helped to create a boom in community radio broadcasting. Finally, the political factors worth mentioning were the partial surrender of the radio broadcasting monopoly by many governments, together with the gradual acceptance of private electronic media, indifference on the part of the private commercial services and the expansion of the democratic system and of freedom of expression in various regions of the world. All that has helped to open the doors to community initiatives and especially to community radio stations.

However, the advance of the community radio movement in the world has been accompanied by certain problems, such as the saturation of radio frequencies by often excessive and uncontrolled growth in the number of broadcasting stations together with a lack of proper regulations that would provide a balanced framework for such expansion. This new situation was reflected in the urgent concern to legislate in this field. However, this point deserves special attention, as stated in Principle 7 of the Charter of Community and Citizen Radio Broadcasters,<sup>5</sup> “community and citizen radio broadcasters cannot be regulated by unconstitutional means, such as the arbitrary establishment of minimum power levels, the ban on the sale of advertising or the establishment of networks, or the restriction, without technical reasons, on the number of frequencies assigned per locality or region. Such broadcasters seek no special privilege over the commercial or State media, but nor can they accept any discrimination towards them”.

## International principles

Among the internationally recognized principles that promote community radio broadcasting, it is worth citing **Article 19 of the Universal Declaration of Human Rights**, which guarantees freedom of opinion and expression and the freedom to receive and impart information and ideas through any media and regardless of frontiers, and **Article 19 of the International Covenant on Civil and Political Rights**, which recognizes everyone’s right to hold opinions without interference, as well as the right to freedom of expression, which includes freedom to seek, receive and impart information and ideas regardless of frontiers.

In addition, **Article 13 of the American Convention on Human Rights** and **Article 10 of the European Convention on Human Rights** guarantee the right to freedom of thought and expression and stipulate that this right may not be restricted by indirect methods or means, such as the abuse of government or private controls over frequencies or equipment used in the dissemination of information, or by any other means tending to impede the circulation of information and ideas. Similarly, the **Inter-American Declaration of Principles on Freedom of Expression** states that freedom of expression in all its forms and manifestations is a fundamental

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<sup>5</sup> The Charter of Community and Citizen Radio Broadcasters was prepared in 1988 by the World Association of Community Radio Broadcasters (AMARC).

and inalienable right of all individuals. Additionally, it is an indispensable requirement for the very existence of a democratic society.

It was on that basis that the UNESCO General Conference unanimously adopted on 15 November 1989 at its 25th session the **New Communications Strategy**, which already reflected the profound changes in the political landscape of Europe and the world at large. The new strategy was intended to encourage the free flow of information at international as well as national levels, to promote a wider and better-balanced dissemination of information without impeding freedom of expression, and to create all the appropriate media so as to strengthen communications capacities in the developing countries in order to increase their participation in the communication process.

It is worth mentioning that **radio frequencies** have been internationally recognized as the common heritage of humanity by the Torremolinos Treaty of the International Telecommunication Union and by Article 33 of the International Telecommunication Convention with the modification agreed in Nairobi. As a result, the administration of this limited resource is the responsibility of States, which have a duty to treat the various sections of society equitably.

At the **Ibero-American Meeting on Community Radio**, held in Havana, Cuba, from 23 to 26 November 1996, community radio was defined as that form of broadcasting which, taking as its starting point the tastes and interests of the community, broadened the exercise of democracy in society. The emphasis on the community need not stand in the way of the production of high-quality competitive programmes nor of a station's economic viability, even though it may be a non-profit organization. What define community radio are its objectives of serving the community and encouraging the active participation of the community in radio broadcasting. Community radio seeks to democratize the word so as to help democratize society. Among the issues raised by the meeting was the quest for national communication policies that legalize community radio stations. In this context, the meeting declared itself in favour of proposing to ITU that specific frequencies be awarded for the official use of community radio stations.

**Article 9 of the African Charter on Human and Peoples' Rights** stipulates that every individual shall have the right to receive information, while the **Windhoek, Alma-Ata, Santiago, San'a** and **Sofia** declarations, adopted at seminars under the auspices of UNESCO, assert that the creation and maintenance of and support for a free, pluralist and independent press are essential for the development of democracy and for economic development. In addition, the **People's Communication Charter** states that communication and information policies must be based on respect for fundamental human rights and the public interest, besides defining the rights and responsibilities of broadcasters and of those who receive the information.

The abovementioned **AMARC Charter of Community and Citizen Radio Broadcasters** includes among its 20 principles the following:

- radio broadcasting, as a means of public expression, is an exercise of freedom of expression;
- like freedom of the press, the State should guarantee freedom of the airwaves;
- there is agreement on the growing importance of community radio in the democratic process;
- community radio stations offer high-quality news, educational and entertainment programmes;



- community radio stations represent the interests of their community and owe one another mutual support;
- the monopoly and oligopoly of radio frequencies harm freedom of expression.

The **Milan Declaration on Communication and Human Rights** of 29 August 1998 calls for international recognition of the community broadcasting sector as an essential public service and as a vital contributor to media pluralism and freedom of expression and information. It also requests governments, private enterprises and international institutions to help to promote the right to communication through the following:

- regulation of the telecommunication sector that will be favourable to the development of a communications infrastructure in the countries of the South;
- the allocation of a percentage of public funds for development projects that include improvements in communication capacities;
- an assessment of the extent to which governments respect the right to free and unhindered communication.

## CHAPTER I

Our intention in this chapter is to outline the norms that apply to community radio broadcasting in the countries included in our study. The 13 countries represent the following regions: North America, Latin America, Southern Asia, South-East Asia, Southern Africa, West Africa, Western Europe, Central Europe, Oceania and the Middle East.

The periods of time covered vary from country to country depending on when norms relating to community radio broadcasting first appeared. In any event, it should be pointed out that in general our intention is to cover the last three decades and, whenever possible, the period up to the present. The first column of the tables contains the norms and regulations and the year when they were introduced or, in some cases, events relating to the growth of community radio broadcasting such as seminars, conferences, projects, wars, popular movements, etc. In the second column we have included the main provisions of the norms or, failing any specific legal text, the most significant facts. We should make it clear that it is not our intention to provide a complete picture of the relevant norms, but rather a general idea of their objectives from the legal point of view.

In the last column we have sought to outline the results which we believe to have arisen from the actual application of the norms or regulations. In fact, the results have not always been as expected and thus it has been thought necessary to include this section so as to provide a fuller picture of the situation. Finally, we have also included in this column remarks or comments on the norms or on events that relate to them.

**Country: ARGENTINA**  
**Period: 1980-2002**

Norm	Main provisions	Application
<p>Law 22.285 of 1980, implemented by regulations in Decree 286/81</p>	<p>This law, dating from the last military dictatorship, provides in Article 5 that “radio broadcasting services must assist in the cultural enrichment of society, in accordance with the objectives laid down by this law with regard to the contents of radio programmes, which shall be directed towards the raising of moral standards, and also the respect for freedom, social solidarity, the dignity of the individual, human rights, respect for the institutions of the Republic, the strengthening of democracy and the preservation of Christian morality”.</p> <p>As for the conditions and requirements that individuals must fulfil in order to obtain a licence, Article 45 stipulates that licences will be awarded to an individual or a commercial company legally established in the country. Both individuals and members of commercial companies must, both at the time of submitting their application through public tender and throughout the period of applicability of the licence, meet the following requirements and conditions:</p> <ul style="list-style-type: none"> <li>• be Argentine by birth or naturalized and of full legal age;</li> <li>• be of proven moral standing and of a suitable cultural level as demonstrated by objective criteria;</li> <li>• possess sufficient financial backing for the investment to be made and be able to prove the source of the funds;</li> <li>• not be legally incapacitated, under either civil or criminal law, to enter into contracts, or to carry on business, nor have been convicted or tried for fraud, nor have defaulted on the payment of taxes or social security contributions;</li> <li>• not have any legal links with or be otherwise dependent on foreign newspaper or broadcasting companies, unless agreements signed by the Argentine Republic with third countries so permit;</li> </ul>	<p>One of the main results was the competitive bidding for the award of frequencies in the different broadcasting services: National Broadcasting Plan (PLANARA).</p> <p>According to Article 45 of this law, social organizations or non-profit making bodies could not obtain frequencies. Licences could only be awarded to “individuals or enterprises of a commercial nature”.</p>

Norm	Main provisions	Application
	<ul style="list-style-type: none"> <li>• not be a member of the judiciary, legislature, the civil service or the armed forces, or active security staff.</li> </ul> <p>This law stipulates that, faced with a choice between similar proposals, preference will be given to that which can clearly demonstrate greater suitability, experience and standing.</p> <p>As to the conditions and requirements applying to companies, Article 46 stipulates that companies must comply with, <i>inter alia</i>, the following requirements:</p> <ul style="list-style-type: none"> <li>• they may not be branches or subsidiaries of, nor be controlled or directed by, foreign individuals or entities;</li> <li>• the shares shall be registered;</li> <li>• the articles of incorporation or statutes may not be amended without the approval of the Federal Broadcasting Committee;</li> <li>• Equities, stocks or shares may not be transferred or assigned without the authorization of the Federal Broadcasting Committee (COMFER) or the National Executive Authority (PEN), other than to other partners or third parties that meet the conditions and requirements laid down by the above-mentioned article.</li> </ul>	
Decree 1151/84 of April 1984	Suspension of PLANARA and of all invitations for competitive public bidding.	This norm restricted not only the freedom of the press but also freedom of choice since the suspension of PLANARA had the effect of blocking any increase in the number of service providers.
Article 65 of Law 23.696 on Reform of the State of 17 August 1989	This article authorizes the National Executive Authority (PEN) – until such time as a new broadcasting law is passed – “to regulate the operation of those media not included in the provisions in force up to the time of the authorization of this emergency law”.	This brought within the law those radio stations that appeared clandestinely as a consequence of the suspension of invitations to competitive bidding laid down by PLANARA.
Decree 1357/89 of 6 December 1989	<p>The main provisions of this norm are:</p> <ul style="list-style-type: none"> <li>• to establish a register of FM radio stations that comes within the criteria of Law 23.696;</li> </ul>	All radio broadcasting stations must be included in this register so as to obtain a number that would enable them to continue operating. Failure to register –

Norm	Main provisions	Application
	<ul style="list-style-type: none"> <li>to oblige COMFER to submit to PEN the list of criteria and conditions, and the Technical Plan which will apply to the competitive bidding (it will take 10 years to achieve these objectives).</li> </ul> <p>However, this decree does not set a time limit for the bidding.</p>	<p>despite the provisions of Article 65 – resulted in their being classified as “clandestine”.</p> <p>Under the broadcasting law the Technical Plan had to be approved by decree prior to the invitations to tender.</p>
<p>Decree on Deregulation 2284/91 of 1991</p>	<p>This norm liberalizes the conditions with regard to the provision of goods and services. Furthermore, the decree provides for the establishment of an advisory commission to carry out the deregulation process in radio and television broadcasting (Art. 117).</p>	<p>It was PEN’s understanding that the restrictions preventing legal persons that were not commercial undertakings from obtaining licences no longer applied. Consequently, civil societies and associations, trade unions, cooperative associations, etc. were entitled to apply.</p> <p>However, this was not put into effect.</p>
<p>Decree 859/91 of 10 May 1991</p>	<p>It orders the closure of all FM radio stations simultaneously with the invitation to tender for such services.</p>	<p>In response to the wave of legal applications, COMFER explained that the competitive tenders were impracticable as they had not been previously included in the Technical Plan on Frequencies. Many radio stations began to broadcast in response to PEN’s failure to act.</p>
<p>Decree 909/91 of 14 May 1991</p>	<p>This norm orders the direct award of broadcasting licences to the bishoprics of the Catholic Church.</p>	<p>This decree permitted the legalization of <i>LRI 208 Radio El Sol</i>, a broadcasting station whose frequency was held by the bishopric of Lomas de Zamora, and which was founded in September 1988. It was the first Argentine Catholic radio station and the driving force behind the establishment of the Association of Catholic Broadcasters in Argentina (ARCA).</p>
<p>Draft Resolution of May 1991</p>	<p>This draft text approved by the Communications Committee of the Chamber of Deputies calls for suspension of the application of Decree 859/91 as contrary to the spirit of Article 65 of Law 23.696.</p>	

Norm	Main provisions	Application
<p><i>LT22 La Colifata</i> begins to broadcast in August 1991</p>	<p>This radio station is wholly operated by the inmates of the “José Borda” psychiatric hospital in Buenos Aires. This innovative project, despite the fact that it comes under the private radio-broadcasting regime, combines community and therapeutic activities so as to create a multidimensional health care service. The broadcasting studio is in the open air in a courtyard of the hospital, forming an area to which any one of the 1,200 inmates has access, while also open to community participation: students, listeners, broadcasters, or occasional visitors who want to come and join the inmates in the broadcasts. Each Saturday, about 50 people – between 25 and 30 inmates and 15 to 20 visitors – sit down around a worktable to broadcast their programmes.</p> <p>The radio programmes produced are edited and made available to 55 Argentine and Uruguayan radio stations that broadcast them. In return, they are requested to record the audience feedback on the material sent and to send back the recordings with the views of the broadcasters and the messages of the listeners. This material is subsequently listened to by the inmates with a view to assisting their recovery and social integration.</p> <p>In addition, those inmates who have achieved a greater degree of autonomy go to a community radio station in a district of Buenos Aires, from which they broadcast their programmes live, encouraging community participation by means of the messages and announcements broadcast over the air.</p> <p>Other more recent developments are the <i>news service</i> and the <i>Colifato multimedia</i>. The first is an area – courtyard of the hospital – where the inmates can go to put out their news and views, which may emerge from delirium itself or take the form of criticizing specific practices in the hospital. The <i>Colifato multimedia</i> takes the form of the production of notes, columns and other news items that are later included in newspapers with a varied and wide-ranging readership.</p>	<p><i>La Colifata</i> is now – after over 10 years’ existence – recognized by Argentine society as a community radio station which has managed to eradicate, in its own way, the prejudices of a society, which discriminates against people with mental problems. It has managed to integrate the inmates of the José Borda hospital into the community and establish the station as a recognized news outlet which, like other media, receives press accreditation so as to be able to attend various social events.</p>
<p>Decree 890/92 of 11 June 1992</p>	<p>This regulation ordered the Ministry of the Economy and Public Works and Services – acting through the Communications Subsecretariat – to draw up a Technical Frequencies Plan in 90 days without any kind of discrimination between the broadcasting services.</p>	<p>The 90 days elapsed without any implementation by PEN of the regulations that it itself had issued.</p>

Norm	Main provisions	Application
Resolution 341/93 of COMFER of May 1993	This resolution reopened the register of FM radio stations that had been established by Article 5 of Decree 1357/89, so that such stations might update the modifications to the conditions of service and thereby enable the implementing authority to update its register.	The conditions of service to be updated concerned the power and frequency used.
Decree 1143/96 and the Regulatory Resolution of the Communications Secretariat of SECOM/142/96 of 10 October 1996	<p>These regulations reinterpret the scope of Article 45 of the broadcasting law so that only commercial enterprises may enjoy the status of radio broadcasters. In addition, they lay down regulations for the implementation of Article 65 of the Law on the Reform of the State so as to regularize the situation of broadcasting stations outside that law. Both sets of regulations provide for the regularization of the spectrum (all the frequencies used for FM broadcasting). The first of these is the modification of the technical operating norms (regulation on the height of aerials, power, etc.).</p> <p>This modification of the technical norm provides for the existence of all the licence holders, the setting aside of frequencies under international agreements and the optimization of the use of the frequencies and a register of all those who have insecure and provisional authorizations <i>a posteriori</i>.</p> <p>Those operators already running a service are then allocated a site on the basis of their sworn statements to COMFER in 1990 (Decree 1357) and in 1993 (Resolution 341).</p> <p>In the case of interference between different operators using the same frequency or close together in the same area, an ad hoc commission must deal with the problem. If it is unable to do so, lots are drawn in the presence of a public notary.</p> <p>It was also stipulated that no new allocations would be made until the regularization process had been completed.</p>	<p>The direct consequences of the implementation of this process of regularization were:</p> <ul style="list-style-type: none"> <li>• the allocation of licences to operators already having prior authorization;</li> <li>• legally recognized broadcasters were allowed access;</li> <li>• the Technical Plan suspended since 1984 was reactivated and amended;</li> <li>• broadcasting stations already operating or in the process of being set up which “merit recognition on account of the relevancy of their social, cultural and other activities” were allowed to register.</li> </ul> <p>Broadcasting stations that had no kind of legal basis were thus enabled to regularize their situation.</p> <p>Consequently, societies, civil associations, trade unions, corporate associations, mutual benefit societies and foundations whose social objectives include the provision of radio broadcasting services were authorized to provide such services.</p>
Decree 1260/96 of 8 November 1996	Article 5 of this decree repeals <i>in toto</i> Decree 1143/96, which had defined the scope of Article 45 of the broadcasting law. By Decree 1144/96, powers to regulate the use of the spectrum that had previously been assigned to the Communications Secretariat were transferred to COMFER.	Infringement of Article 16 of the Argentine Constitution and Article 13 of the Pact of San José, Costa Rica.

Norm	Main provisions	Application
<p>Decree 310/98 of March 1998</p>	<p>Regulations for the direct allocation of licences by public bidding within a period of 365 days.</p> <p>The main features are:</p> <ul style="list-style-type: none"> <li>• to restrict allocations of frequencies on demand to radio stations in categories E, F and G (i.e. with a power less than one kilowatt);</li> <li>• broadcasting stations with a power of over one kilowatt are subject to a competitive bidding regime;</li> <li>• in order to submit applications under the regularization regime the following conditions must be met: to have registered in 1989 under Decree 1357 and to have completed re-registration under Decree 341/93; to be the owner of radio stations that used frequencies and were operating under firm agreements prior to October 1966; or to submit an application for the allocation of a licence but not to have been operating prior to the application;</li> <li>• licences are awarded for eight years with a possibility of indefinite extensions until such time as a new broadcasting law is approved;</li> <li>• COMFER is authorized to set fixed fees, to establish radio frequency locations for the one-kilowatt-plus categories subject to competitive bidding, and to issue supplementary regulations.</li> </ul>	<p>This norm disregards the previous regulations and provides for a new process of regularization that ignores the rights of radio broadcasters.</p> <p>These changes seriously restrict the rights of the stations subject to Decree 1144/96, which are ordered to be closed.</p> <p>While the 1996 Decree allowed the registration and establishment of new broadcasting stations, this Decree orders their closure by notifying them they will not be registered or awarded licences.</p> <p>The allocation of radio frequency locations to stations in the category of over one kilowatt created serious problems for the smaller radio stations that were operating on the same frequency, since – although such frequencies might be allocated on request – the frequency allocated to a higher-powered station could harm their right to operate.</p>
<p>Resolution 2344/SECOM/98 of 1998</p>	<p>This norm establishes a Technical Frequencies Plan for the FM radio broadcasting service.</p> <p>This Technical Plan provides a list of radio frequency locations, that is to say, the geographical position of a radio station specifying its power and frequency (channel).</p>	<p>This plan should have taken account of the register provided for by SECOM Resolution 142/96 and should have recognized those radio stations authorized by Decree 310/98 (those registered or with legal authorization) but did not do so.</p> <p>In addition, it disregarded the fact that the basis of any system of regulation after 1989 was Law 23.696. It did not include a large number of frequencies that were operating at that date and which had been registered under Decree 1144/96 of 1996.</p>



Norm	Main provisions	Application
		Furthermore, frequencies used by low-powered broadcasting stations were envisaged for medium-powered stations, with the result that they were forced to compete and forfeit their rights.
PEN Decree 2/99 of 8 January 1999	<p>The main purpose of this decree is to ratify the Frequencies Plan presented by SECOM. However, it also introduces new changes in the rules.</p> <p>Article 5 stipulates that all FM stations that have not been awarded licences under the Normalization Plan shall be required to stop broadcasting on pain of having their assets seized and being declared clandestine.</p> <p>According to the timetables published in the official gazette of 19 February 1999, the process of regularization would extend from 31 August 1999 to 31 August 2000, while the date of closure would be 31 October 2000.</p>	With regard to the dates for the end of the period of regularization and final closure, it would seem that a broadcasting station would only receive 60 days' notification of closure.
COMFER Resolution 16/99 of 1999	<p>It establishes the requirements and conditions for direct competitive bidding and awarding of licences, including references to Article 65 of Law 23.696.</p> <p>This resolution approves the conditions contained in the Normalization Plan. It contains one part covering the general conditions and two annexes: one for stations of over one kilowatt power – to which competitive bidding applies – and another for low-powered-stations, for which licences are awarded on request.</p>	<p>This resolution introduces new restrictions on the rights of radio broadcasters. This raises serious problems for radio stations:</p> <ul style="list-style-type: none"> <li>• which were established and registered on the basis of SECOM Resolution 142/96;</li> <li>• which stated that they were of less than one kilowatt, and did not qualify for licences on request, because a more powerful station was operating on the same or neighbouring frequency and was thus given priority in the competitive bidding;</li> <li>• which, on account of being registered under Resolution 142 at over one kilowatt, do not qualify for a licence to be awarded on request;</li> <li>• for which insufficient space has been provided in the zone of available frequencies;</li> <li>• whose frequencies had not been included in the plan.</li> </ul>

Norm	Main provisions	Application
<p>IPDC-UNESCO Prize for Rural Communication 2001 awarded to the <i>Huanacache</i> radio network in the province of Mendoza</p>	<p>The <i>Huanacache</i> radio network brings together all the schools and communities in the north-east of the Argentine province of Mendoza, which covers 90% of the Lavalle desert. The network includes three schools, which operate as broadcasting stations, and another eight educational centres operating as substations. They are governed by the legislation on private radio broadcasting legislation, i.e. Law 22.285.</p> <p>The Prize – shared with another radio broadcasting project in Peru – was awarded by the Intergovernmental Council of the UNESCO International Programme for the Development of Communication. The main aim of this radio network is to promote communication between the communities belonging to the Huarpe ethnic group and solve the problems arising from the lack of communication as a result of geographic isolation.</p> <p>The more specific objectives are:</p> <ul style="list-style-type: none"> <li>• to bring together the schools and communities in the desert through the network;</li> <li>• to keep the population informed about local, provincial and national events;</li> <li>• to rehabilitate various aspects of traditional Huarpe culture, particularly the customs and forms of artistic expression;</li> <li>• to improve the quality of life of these communities through programmes relating to education, agricultural technology, nutrition, etc.;</li> <li>• to develop the oral and written skills of students through distance education programmes.</li> </ul>	<p>The activities carried out by this radio network have markedly contributed to the integration of the members of the community through the community radio network. This has helped to establish communication links so as to overcome geographical isolation and encourage community integration, the recovery of indigenous traditions and cultures, the search for identity and sociocultural values, the development of learning processes (agricultural techniques, literacy programmes, etc.).</p>
<p>Draft law establishing sanctions on radio and television broadcasters that operate without COMFER licences (2001)</p>	<p>This law provides for the addition of three articles to the Argentine Penal Code. One of the articles to be included, Article 197, stipulates that “Those who broadcast radio and television programmes on a permanent or temporary basis without the authorization of COMFER shall be liable to prison terms of between one month and one year and special disqualification from radio broadcasting for a period equivalent to twice the corresponding prison sentence”.</p> <p>In October 2001, the draft text was rapidly approved – with little debate and without the</p>	<p>Among those opposing this draft law are the Argentine Forum of Community Radio Stations (FARCO), which rejected the draft law and called for the drafting of a new broadcasting law before proceeding to establish sanctions. In addition, opposition to this draft law was also expressed by representatives of human rights organizations, press unions, faculties of communication, associations of</p>

Norm	Main provisions	Application
	<p>participation of the parties involved – in the Chamber of Deputies. It then went on to be considered by the Chamber of Senators.</p> <p>On 4 September 2002, on account of the lack of consensus in the Senate, the text was sent to the Communications and Penal Affairs Committees.</p> <p>At its session of 12 September 2002, the Senate postponed consideration of the draft law to the session of 25 September. However, once again the draft text was not considered on that date by the Chamber of Senators and returned to the parliamentary Committees for consideration.</p>	<p>journalists, Reporters sans frontières, the Committee to Protect Journalists (CPJ), the Latin American Association for Education by Radio (ALER), and the World Association of Community Radio Broadcasters (AMARC).</p> <p>A different position was taken by the Employers' Commission of Independent Communication Media (CEMCI), which called for urgent consideration of the draft law. The Chairman of the Communications Commission stated that "there is no intention to close broadcasting stations, but rather to regularize the situation of those that are illegal".</p> <p>At a press conference in early October 2002, various television and radio broadcasting organizations called upon parliament to approve this law. There were thought to be at that date some 6,000 unlicensed radio stations in the country. Representatives of the Argentine Cable Television Association (ATCV), the Association of Argentine Journalists' Groups (ADEP), and the Association of Argentine Television and Radio Broadcasters (ATA) asserted that "illegal broadcasters create several simultaneous problems: the infringement of international agreements, interference of legal broadcasts and serious interference of air safety systems".</p>
<p>Approval "in general terms" of the draft law on illegal radio broadcasting, 23 October 2002</p>	<p>After its passage through the Chamber of Deputies, this controversial draft law, which provides for the addition of three articles to the Argentine Penal Code establishing sanctions on illegal radio broadcasting, was also approved by the Chamber of Senators.</p> <p>The draft law was approved "in general terms" since some amendments to the text were anticipated. Despite the fact that there had been</p>	<p>Under this law clandestine radio broadcasting is no longer regarded as a mere violation of the law, but becomes an offence included in the Penal Code with a maximum period of one (1) year's imprisonment.</p> <p>After this law had been approved by the Senate, the Argentine</p>

Norm	Main provisions	Application
	<p>no final decision by the Chamber of Senators by the beginning of 2003, should it approve the draft law “in detail” but with amendments, it would return to the Chamber of Deputies and, if approved there, would subsequently be issued by the Executive so that it could become law. It establishes prison sentences for clandestine radio and television broadcasting. The sentences for the heads of broadcasting stations or their relay stations which have not been authorized by COMFER range from one month to one year’s imprisonment together with disqualification from broadcasting for twice as long as the prison sentence.</p> <p>In addition, the periods of imprisonment and disqualification are doubled in the event that the clandestine broadcasts affect the broadcasts of authorized stations.</p> <p>The head of the Communications Commission proposed two amendments to the text: one to exclude from the law low-powered stations located in communities of less than 3,000 people, and the other to establish a period of 90 days so that COMFER could regularize the situation of radio broadcasting services (by speeding up the bidding for wavelengths), before bringing into force the sanctions laid down in the law.</p>	<p>Forum of Community Radio Stations (FARCO) issued a communiqué addressed to the senators in which it stated its concern at the approval “in general terms” of the draft law which places penalties on radio broadcasting. “We consider it to be unconstitutional, inapplicable and inadvisable. We believe essentially that it is wrong to penalize radio stations while there are no democratic mechanisms for gaining access to licences. The de facto Law 22.285 of the military dictatorship, which has been unsatisfactorily amended by various decrees, remains in force. COMFER itself is not fully in conformity with the law (it should have one representative for each of the three armed forces) and has been under supervision for 20 years. In its present state, the draft text before the Senate infringes the American Convention on Human Rights (Pact of San José, Costa Rica).”</p> <p>Opposition to this draft text was also expressed by all the Argentine press unions, the journalists’ association, human rights organizations, social and religious organizations, and international institutions such as the International Freedom of Expression Exchange (IFEX), AMARC, ALER, Reporters sans frontières, etc.</p>

**Country: AUSTRALIA**  
**Period: 1972-1997**

Norm	Main provisions	Application
Red Report 1972	<p>This document was drawn up by the Australian Broadcasting Control Board. On the basis of this report the Australian government introduced, in addition to public and commercial broadcasting, a third non-governmental non-commercial broadcasting sector called “public/community” broadcasting. However, the Broadcasting Act takes no account of this innovation and therefore the establishment of community radio stations is not legal. The restrictions establishing English as the only language to be used by the broadcasting services were lifted.</p>	<p>Recognition of this third kind of broadcasting was the outcome of the community movement that began in the 1960s. In 1961 the University of New South Wales was authorized to establish a radio station under the Wireless Telegraph Act. In 1962 <i>RMIT Campus</i> began broadcasting; this university radio station run by students did not require a licence since it was broadcast by cable and only within the limits of the university campus. In the late 1960s and early 1970s small illegal radio stations grew up in order to protest against the government’s role in the conflict in Indo-China.</p>
McLean Report, March 1974	<p>The purpose of this report, which was ordered by the federal government, was to carry out an inquiry into FM radio broadcasting. The report was issued after the broadcasting minister, Senator Douglas McLean, had announced the possibility of awarding 200 new licences for AM (amplitude modulation) broadcasting.</p> <p>The report also recommended the establishment of FM services in Australia.</p>	<p>Following the recommendations of the report, the Department of Communication Media organized a national conference on public broadcasting, which was followed by a non-governmental national conference on the same subject. Following the latter, the Australian Public Broadcasting Association, now called the Community Broadcasting Association of Australia (CBAA) was established. This report led to the establishment of other social groups, which called for public access to broadcasting, such as the Alternative Radio Association in Melbourne, Victoria and the Public Broadcasting Association in Sydney, New South Wales.</p>

Norm	Main provisions	Application
<p>Memorandum establishing the Community Broadcasting Association of Australia (CBAA) in 1974</p>	<p>Some of the objectives of the Association as set out in this document are as follows:</p> <ul style="list-style-type: none"> <li>• to support the development of radio broadcasting in Australia;</li> <li>• to support the principle that community radio broadcasting should be supervised and operated at the local level by autonomous bodies;</li> <li>• to promote the principles of independence in programming, diversity, the access of the community to radio broadcasting, the expression of the culture and aspirations of the Australian people, cooperation between community radio broadcasters, etc.;</li> <li>• provide various services to their members;</li> <li>• coordinate at the national level the efforts of the members and other organizations with similar objectives;</li> <li>• represent them both nationally and internationally to governments and other bodies.</li> </ul> <p>This memorandum also stipulates that the Association may not affiliate itself with any political party or religious group. The responsibility of the members of the Association is limited. In addition, each member must contribute financially to the support of the Association. At least once a year, the Association's accounts must be examined and audited by a qualified auditor.</p>	<p>The CBAA is a national organization that represents community radio broadcasters, including both stations with licences and groups aspiring to obtain a permanent licence. This Association encompasses the national community radio satellite service, which disseminates the programmes produced by the member stations and affiliated groups, including some 150 stations all over Australia.</p> <p>Although still of an experimental nature, there being no legislation allowing the granting of legally recognized licences, the public/community radio-broadcasting sector already occupied a place in Australian radio broadcasting.</p>
<p>The approval of the first experimental FM licences in September 1974</p>	<p>The Government approved these first experimental FM radio stations with restrictions under the Wireless Telegraph Act.</p>	<p>The first legal FM community radio station started broadcasting in December 1974 in Sydney (New South Wales). It was followed by another in Melbourne (Victoria) and yet another in Adelaide (South Australia). Australian community radio broadcasting began in this way with the ideal of providing education and culture.</p>

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
<p>Formation of Adelaide Ethnic Broadcasters Incorporated in March 1975</p>	<p>This association began to broadcast ethnic programmes in Danish and Italian. Until that time, only commercial stations had broadcast in foreign languages.</p>	<p>The demand for and interest in community radio broadcasting began to make itself felt when the Australian Broadcasting Council received in Melbourne, in April 1975, 11 licence applications for community radio stations as compared with five for licences for commercial stations in May of the same year. In view of that situation, the government decided to award “experimental” FM licences to 20 tertiary educational establishments.</p>
<p>Broadcasting Services Act 1992</p>	<p>This law arose from the need to provide a legal framework so as to encourage diversity in broadcasting services in Australia. The law establishes for all licence-holders definitions and regulations which are intended to ensure the operation of broadcasting services and to reflect Australian identity, character and cultural diversity. It seeks to promote higher standards in community broadcasting, accessibility to the services and a competitive broadcasting industry that responds to the audience’s needs.</p> <p>Its main objectives are:</p> <ul style="list-style-type: none"> <li>• to help to bring different kinds of radio and television services within the reach of audiences throughout Australia by offering entertainment, education and information;</li> <li>• to provide a regulatory framework so as to facilitate the development of the broadcasting industry;</li> <li>• to encourage commercial and community broadcasting service providers to meet the need for a fair and balanced coverage of subjects of public interest and local significance;</li> <li>• to encourage broadcasting service providers to respect community criteria of quality in provision of programme material.</li> </ul> <p>The act delegates to the Australian Broadcasting Authority (ABA) responsibility for supervising the broadcasting industry, devising regulatory policies, punishing infringements of the law and conducting inquiries with regard to such infringements, etc.</p>	<p>Prior to this law Australian community radio stations were called “public”, but owing to confusion in the use of terms it became necessary to distinguish between the non-governmental public broadcasting stations – which wished to be known as “public” because they provided for public access – and the governmental public broadcasting stations – which wanted to use the name “public” since they were financed from public funds. Consequently, this law introduces the term “community broadcasting stations” to refer to those which are public but non-governmental in nature.</p> <p>Another important aspect is the provision establishing that all broadcasting services must regulate themselves through the formulation of their own Codes of Practice. This is a great advance in freedom of expression.</p>

Norm	Main provisions	Application
	<p>The law classifies broadcasting services into the following categories:</p> <ul style="list-style-type: none"> <li>• national broadcasting services;</li> <li>• commercial broadcasting services;</li> <li>• community broadcasting services;</li> <li>• subscription broadcasting services;</li> <li>• subscription narrow-casting services;</li> <li>• open narrow-casting services.</li> </ul> <p>In addition, the act provides that all broadcasting services must regulate themselves through the formulation of a Code of Conduct.</p> <p>In particular, section 15 states that community broadcasting services:</p> <ul style="list-style-type: none"> <li>• are provided for community purposes;</li> <li>• are not operated for profit or as part of a profit-making enterprise;</li> <li>• provide programmes that are able to be received by commonly available equipment and are made available free to the general public.</li> </ul> <p>Section 22 lays down the subjects to which the ABA is to have regard in making clarifications or giving opinions in relation to broadcasting services:</p> <ul style="list-style-type: none"> <li>• the geographic coverage of those services;</li> <li>• the number of persons who receive or are able to receive those services;</li> <li>• the accessibility of those services;</li> <li>• the duration and frequency of the provision of those services;</li> <li>• the nature of the audience to which those services are targeted;</li> <li>• the nature of the programmes being provided by those services, including the level of interest in the subject matter of those programmes and whether they are directed at a specialized audience, and the social and cultural impact of those programmes.</li> </ul>	



Norm	Main provisions	Application
<p>The Community Broadcasting Code of Practice of the Community Broadcasting Association of Australia (BAA), 1994</p>	<p>This code contains the rules of conduct to be followed by Australian community broadcasting stations. This collection of principles, duties and obligations derives from the provisions of the Broadcasting Services Act 1992, which states that all broadcasting services should regulate themselves through the formulation of a code of practice. The periodic revisions of the community broadcasting code of practice are the responsibility of the Community Broadcasting Association of Australia (CBAA), which is the organization that represents the majority of licence-holders.</p> <p>The Code defines community broadcasting in terms of access, democratic decisions, tolerance of diversity and Australian music content. The stations are allowed to broadcast four minutes of sponsorship announcements in any one hour.</p> <p>According to the Code the role of ABA is to determine whether radio stations have complied with the measures contained in the Code of Practice, which is divided into eight separate codes.</p> <p>The first code deals with the responsibilities of broadcasting to the community, including: to operate on a non-profit basis, be controlled and operated by an autonomous body which is representative of the licensees' community, have organizational mechanisms to provide for active participation by that community in its management, development and operation; incorporate programme policies which oppose prejudice based on race, sex, religion, nationality, etc.</p> <p>The second code sets out guidelines for general programming and for news programmes. All the guidelines are directed to avoiding and breaking down prejudice, censorship and discrimination, and to preventing the broadcasting of material which is contrary to community standards, government regulations and the principles of community broadcasting. The third code fixes the proportions that must be devoted to Australian music: not less than 20% for stations with diverse formats and not less than 10% for ethnic and classical stations.</p> <p>The fourth code covers sponsorship. It stipulates that community broadcasters must adopt and implement – in consultation with their communities – a sponsorship policy so as to ensure, <i>inter alia</i>, that overall programming is not influenced by sponsors. The fifth code deals with the subject of volunteers and calls upon licensees to establish guidelines that outline the principles of volunteering, and the rights and responsibilities of volunteers within the organization.</p>	<p>This document marks a very important step forward in freedom of expression since it provides for the self-regulation of community radio broadcasting. The eight codes which make up this Code of Practice are very clear and precise with regard to the responsibilities, duties, powers, etc. of those in charge of community radio stations.</p>

Norm	Main provisions	Application
	<p>The sixth code concerns conflict resolution and states that its purpose is to prescribe appropriate methods of dealing with internal disputes and conflict resolution in community broadcasting organizations, for example, mediation, conciliation and arbitration.</p> <p>The seventh code prescribes how complaints from the public will be dealt with. Finally, the eighth code seeks to ensure that all codes are maintained and where necessary revised to accurately reflect contemporary community broadcasting principles. CBAA will periodically review these codes. Before any changes to the codes, CBAA will consult with ABA and seek a majority vote of community broadcasting stations, together with public comment.</p>	
<p>Australian Communication Authority Act 1997</p>	<p>This act provides for the establishment of ACA, while the Telecommunications Act 1997 and the Radio Communications Act 1992 define its functions.</p> <p>ACA is responsible for regulating telecommunications and radio communications, including promoting industry self-regulation and managing the radio frequencies spectrum. It also has significant consumer production responsibilities. This organization grants licences for the operation of radio communications and telecommunication services, administers legislative provisions relating to powers and immunities of carriers in the construction of telecommunications facilities. ACA may grant, modify or cancel licences. One of the ACA's major roles is to work with the communications industry in the development of self-regulatory codes and standards. ACA registers the codes, supervises their application and sets standards when the standards set by the codes are inappropriate or inadequate.</p> <p>Industry self-regulation is encouraged through the development of voluntary industry codes of practice and technical standards and, consequently, the Australian Communications Industry Forum was established to support this process. ACA has the power to require the establishment of codes of practice and set mandatory standards (including technical standards) if necessary.</p> <p>Access to the radio frequency spectrum is facilitated by ACA through licensing, managing interference and ensuring industry compliance with mandatory standards and conditions. ACA organizes spectrum auctions in areas of spectrum scarcity and high market demand as a means of allocating spectrums fairly and efficiently. ACA also advises on the use of the spectrum and investigates interference complaints.</p>	<p>Since the establishment of this institution the Australian government has attempted to support the process of preparing and compiling voluntary codes of practice of the different sectors of the telecommunication industry.</p> <p>The legislation has helped develop a flourishing community radio broadcasting sector. Up to 1997 there were 130 licensed community broadcasting stations throughout Australia, in addition to 130 groups "on trial" which were waiting to receive licences. Most of the stations direct their broadcasts to the following groups or issues: women, students, homosexuals, senior citizens, young people, ecology, etc.</p> <p>In addition to these 130 stations, there are some 80 aboriginal stations in remote areas.</p>

**Country: CANADA**  
**Period: 1985-2000**

Norms	Main provisions	Application
Canadian Radio-television and Telecommunications (CRTC) Act 1985	<p>This law provides for the establishment of the Canadian Radio-television and Telecommunications Commission (CRTC). This Commission consists of 13 full-time and six part-time members, appointed by the governor in council. Members are appointed for a term not exceeding five years.</p> <p>The functions and powers of the Commission with regard to radio broadcasting are set out in the Radio Communication Act 1985.</p>	The functions of CRTC were subsequently restated in the Broadcasting Act 1991.
Direction to the CRTC (Ineluctability to hold broadcasting licences) DORS/85-627, 1985	The regulation stipulates that as of 27 June 1985 the Commission may not issue nor renew broadcasting licences to the heads of provinces, municipal administrations or other organs of local government. In the case of the local governments, the Commission may renew their licences if a substantial portion of the area in question has not been nor will be served by another undertaking already authorized by the Commission, if the refusal to renew the licence was against the public interest, or if the community programming provided by the municipal government provides an opportunity for the expression of different views on matters of public interest.	Under this regulation government employees may not be granted licences, thereby ensuring fairer competition.
Broadcasting Act, 1 February 1991	<p>This law is a revised version of the Radio-communication Act 1985, which it abrogates. Among its major provisions is Article 3 setting out the main lines of Canadian broadcasting policy:</p> <ul style="list-style-type: none"> <li>• radio programming content must be predominantly Canadian;</li> <li>• the radio service must provide its audience with varied programming covering a wide range of sources, including public radio stations, private commercial stations and non-profit-making stations;</li> <li>• radio must provide a service that is of relevance to local communities;</li> <li>• the programming must reflect Canada's situation as a bilingual country;</li> <li>• the programming must reflect Canada's cultural diversity, including the needs and interests of the indigenous peoples;</li> </ul>	<p>This act marks a very important advance with regard to community broadcasting since it recognizes it as one of the main elements of the Canadian broadcasting system.</p> <p>In addition, it stipulates, among the main lines of Canadian broadcasting policy, the need for programming to reflect the cultural diversity of Canada, including the needs and interests of the indigenous peoples. The act sets out the Commission's functions as well as its responsibilities and powers.</p>

Norms	Main provisions	Application
	<ul style="list-style-type: none"> <li>• it must provide educational and community broadcasts.</li> </ul> <p>Article 3(1)(b) states that the Canadian broadcasting system comprises public, private and community elements which make use of radio frequencies that are public property and provides through its programming, principally in French and English, a public service essential to the maintenance and enhancement of national identity and cultural sovereignty. In addition, subparagraph 1(a) of the same article declares that the Canadian broadcasting system shall be effectively owned and controlled by Canadians.</p> <p>The act states that, since the Canadian broadcasting system is a single system, the best way of attaining its objectives is to entrust its regulation and supervision to a single autonomous body, the CRTC.</p> <p>It is the function of CRTC to regulate and supervise all aspects of the Canadian radio broadcasting system. Subject to other provisions, the Commission shall:</p> <ul style="list-style-type: none"> <li>• establish classes of licences;</li> <li>• issue licences for terms not exceeding seven years;</li> <li>• amend any condition of a licence;</li> <li>• issue renewals of licences for terms not exceeding seven years;</li> <li>• suspend or revoke any licence;</li> <li>• require any licensee to carry such programming services as the Commission may deem appropriate.</li> </ul> <p>The act states that whosoever carries on a broadcast undertaking without a licence is liable to a fine of between \$20,000 and \$200,000 .</p> <p>Furthermore, the act lays down the powers of the various members of the Commission. Thus, it provides that the Minister of Industry is responsible for technical aspects and for granting radio licences and broadcasting certificates, as well as for laying down the technical requirements for transmission equipment and approving each site where a radio station is to be located. In granting licences for the establishment of radio stations, the Minister may make use of the system</p>	

<b>Norms</b>	<b>Main provisions</b>	<b>Application</b>
	<p>of competitive bidding in selecting the persons to whom a licence will be issued.</p> <p>However, the governor in council has the power to issue regulations regarding the fulfilment of the technical aspects and lay down the procedures for issuing radio licences, and the terms, conditions and restrictions for authorizing radio stations, etc.</p> <p>The act also lays down the powers of the inspectors and other officials. Furthermore, the act is very specific regarding the sanctions to be applied in the case of failure to comply with the regulations on radio broadcasting.</p>	
<p>Public Notice CRTC 1997-104 of 1 August 1996: An Agenda for Reviewing the Commission's Policies for Radio</p>	<p>This norm contains a review of the policies for commercial, public and not-for-profit broadcasting. It establishes seven categories of radio station: public, commercial, native, community, campus, digital and ethnic.</p> <p>As regards community radio stations, this norm stipulates that in order to ensure that they provide alternative programming, licensees must complete a very detailed Promise of Performance which covers matters that commercial radio stations are not required to address. In particular, community radio stations rely heavily on the work of volunteers to produce programming. The Commission considers it appropriate to develop a more streamlined approach to community radio that will reflect the particular characteristics of these stations, while ensuring that they provide alternative programming of relevance to their communities.</p>	<p>As part of this Agenda the Commission announced the launching of a consultation programme involving all parties interested in this matter.</p> <p>This consultation period finished in autumn 1998.</p>
<p>Public Notice CRTC 1998-135 of 22 December 1998</p>	<p>The Commission announced that it would be reviewing the broadcasting policy reflecting Canada's linguistic and cultural diversity. This document also includes a call for comments inviting the public to participate in this review.</p>	<p>In early February 1999 the Commission undertook public consultations in Halifax, Montreal, Toronto, Winnipeg and Vancouver. It received 171 written comments from parties representing a wide range of persons, groups and societies.</p>

Norms	Main provisions	Application
		<p>The comments were favourable to the 1985 policy framework with regard to ethnic radio stations. In addition, it emerged from the consultations that there was a strong demand by Canadians for broadcasts in different languages.</p>
<p>Public Notice CRTC 1999-75 of 5 May 1999. A proposed policy for community radio</p>	<p>This document sets out the proposed policy for community radio and invites comments from community broadcasters and other interested parties. The Commission received comments up to 7 July 1999.</p> <p>The proposed policy covered a number of areas, including:</p> <ul style="list-style-type: none"> <li>• the definition, role and mandate, and types of community radio stations;</li> <li>• various means to ensure that the programming provided an alternative to that offered by other types of stations;</li> <li>• requirements for Canadian music, French language vocal music and local talent development;</li> <li>• advertising and community stations.</li> </ul> <p>The Commission also proposed a streamlined approach for licensing very low-power “developmental” community radio stations that would serve as a first step towards the establishment of higher-power community radio stations. It defines community radio stations as those owned and controlled by not-for-profit organizations. They operate with limited financial resources and generally reach smaller audiences than other sectors of the radio industry. It goes on to point out that community radio stations draw principally on the work of volunteers for their various operations.</p> <p>The Commission proposes to continue to apply the distinction between type A and type B community radio stations. A type A community radio station is one which, when the licence is issued, is the only station operating in the language – apart from the stations belonging to the Canadian Broadcasting Corporation (CBC) – in all or part of its market. If one or more stations are authorized to operate in the same language in all or part of the same market when the licence is renewed the station retains its type A status.</p>	<p>The consultation phase was completed in 1998. Before then the Commission had granted 50 licences for radio community stations, of which nine were in English, 35 in French, three bilingual and one mainly in French but with a high degree of ethnic programming.</p> <p>The consultation process, which included community radio broadcasting associations and other interested parties, was held from April 1998 to January 1999. There were informal meetings with the Association des Radio Diffuseurs Communautaires (ARC) de Québec, the Alliance de Radios Communautaires du Canada, etc. In addition, a formal consultation meeting was held on 22 October 1998, attended by representatives of ARC of Quebec, ARC of Canada, the National Campus and Community Radio Association (NCRA), the Canadian Association of Broadcasters (CAB), CCR and the Ministry of Culture Communications of Quebec. Finally, written consultations were held with community radio stations having no official representation by an association.</p>

Norms	Main provisions	Application
	<p>A type B community station is a station in a market where, when the licence is issued, at least one other station, other than a CBC station, is licensed to operate in the same language.</p>	<p>During the consultations, ARC of Canada and ARC of Quebec asserted that the definition of community radio stations in Public Notice 1992-38 implied that such stations must reflect all the interests of their respective communities.</p>
<p>Public Notice CRTC 1999-117 of 16 July 1999: Ethnic broadcasting policy</p>	<p>This document sets out the Commission's revised policy for ethnic broadcasting, concluding the review announced in Public Notice CRTC 1998-135.</p> <p>Section 3(d)(iii) of the Broadcasting Act states that the Canadian broadcasting system should reflect the circumstances and aspirations of Canadians, including the multicultural and multiracial nature of Canadian society. As one way of furthering this objective, the Commission has licensed ethnic television and radio broadcasting stations. Ethnic programming is programming directed to any culturally or racially distinct group other than one that is Aboriginal Canadian, or from France or the British Isles.</p> <p>The Commission has decided to continue the basic framework of the 1985 ethnic broadcasting policy. The changes to the 1985 policy made by the Commission are designed to provide more flexibility to the broadcasting industry and to streamline regulatory requirements.</p> <p>In recognition of their particular roles, campus radio stations and also type A community radio stations are allowed to provide, in areas without an ethnic station, up to 40% third-language programming without seeking Commission approval. Type A community stations provide the only private radio service in English or French in a community.</p>	<p>This document provides a legal framework for the establishment of multicultural radio and television stations with programmes directed to indigenous groups.</p>
<p>Public Notice CRTC 2000-12 of 22 January 2000: Campus radio policy</p>	<p>This policy replaces the policy in force since 1992 (CRTC 1992-38). With the implementation of this revised policy, the Commission introduced greater flexibility to campus radio stations, by streamlining the various regulatory and administrative requirements to which they are subject.</p> <p>The document defines campus radio stations as not-for-profit undertakings associated with institutions of post-secondary education. They rely almost exclusively for their programming and exploitation on volunteers from the campus and from the community at large. The term "volunteer" includes students.</p>	<p>Before the establishment of this policy, the Commission received 43 observations from authorized campus stations (including instructional stations), from the National Campus and Community Radio Association (NCRA), the Canadian Association of Broadcasters (CAB), the Association des Radio Diffuseurs Communautaires (ARC) du Québec, etc.</p>

<b>Norms</b>	<b>Main provisions</b>	<b>Application</b>
	<p>This new policy modifies the distinction between the two types of campus stations: campus/community radio stations and instructional stations, replacing the first kind by “community-based campus stations” so as to avoid confusion between this type of station and the community station.</p> <p>The community-based campus stations are those whose programming is produced primarily by volunteers, either students or members of the community, and whose primary objective is not the training of professional broadcasters.</p> <p>On the other hand, the primary objective of the instructional stations is the training of professional broadcasters.</p> <p>All campus stations should provide programming that is complementary, not only to that of commercial stations, but also to that of community stations and other campus stations operating in the same location.</p> <p>The new policy includes a number of features:</p> <ul style="list-style-type: none"> <li>• Canadian music and local talent development;</li> <li>• the structure of the boards of directors of campus stations;</li> <li>• the policies respecting advertising aired on the stations.</li> </ul> <p>In addition the Commission also adopted a streamlined procedure for issuing licences to low-power developmental campus stations (for a period of three years) that would subsequently obtain the status of regular radio stations.</p> <p>The Notice states that high school stations are not covered by these provisions, but are regulated by the community radio broadcasting policy.</p> <p>An important point is that, following the implementation of this Notice, the Promise of Performance will cease to apply.</p>	<p>Although most of the observations were favourable to this policy, many expressed opposing views on issues such as:</p> <ul style="list-style-type: none"> <li>• the structure of the boards of directors of these stations;</li> <li>• the requirements on Canadian music content in cases where little was available from Canadian sources.</li> </ul> <p>Many observations pointed to the need to make a clear distinction between campus-based community radio stations and instructional stations.</p>
<p>Public Notice CRTC 2000-13 of 28 January 2000: Community radio policy</p>	<p>This document sets out the Commission’s revised policy on community radio broadcasting and replaces the policy in place since 1992 (Public Notice CRTC 1992-38). With the implementation of this revised policy, the Commission introduced greater flexibility for community radio stations, streamlining the various regulatory and administrative requirements placed upon them.</p>	<p>During the consultation phase on these proposals, the Commission received 79 written comments, including comments from individual stations, associations representing Canadian community radio stations: the Alliance des</p>



<b>Norms</b>	<b>Main provisions</b>	<b>Application</b>
	<p>It establishes that the primary objective of the community radio sector is to provide a local programming service that differs in style and substance from that provided by the public commercial stations. Community radio stations should offer programming that is different from and complements the programming of other stations in the radio market.</p> <p>The document defines community radio stations as those owned by not-for-profit organizations and operated by members of the community, who are principally responsible for the control, programming and operation of the station.</p> <p>One of the primary roles of community radio stations is to promote access by the community to frequencies and provide diversified programming that reflects the interests and needs of the community that they serve.</p> <p>It maintains the distinction between type A and type B community radio stations. However, with regard to advertising, this document eliminates all the restrictions on the amount of advertising that may be broadcast by type B stations, thereby bringing them into line with type A stations. The Commission also adopted a streamlined procedure for issuing licences to low-power developmental community radio stations (for a period of three years) which should subsequently obtain the status of campus stations. In addition, the Promise of Performance was waived as a requirement for the application for a licence for the installation or renewal of a community radio station.</p>	<p>Radios Communautaires (ARC) du Canada, the Association des Radiodiffuseurs Communautaires (ARC) du Québec, the National Campus and Community Radio Association (NCRA), the Canadian Association of Broadcasters, the World Association of Community Radio Broadcasters (AMARC) and the Canadian Broadcasting Corporation (CBC). Other comments were submitted by community groups, municipalities, Members of Parliament, etc. With a few exceptions, the parties were generally in agreement with the main lines of the policy. One of the subjects most commonly raised regarding the new definition of community radio stations was the requirement that at least 5% of musical selections broadcast be selections from category 3, and the elimination of the restrictions on advertising.</p>

**Country: COLOMBIA**  
**Period: 1995-2000**

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
Decree – Law 1901 of 1990	<p>This law recognizes the support by the Ministry of Communications for community participation in the development and management of communication services and, in general, establishes the rules that determine the objectives of telecommunications (Art. 3).</p> <p>It also provides in Articles 3, 4, 5 and 6 the necessary ways and means to ensure that the radio broadcasting service should have national coverage and reach those people living in rural areas, the different cultural ethnic groups and, in general, those living far away from the major urban centres, and should become a means of communication that would educate, inform and contribute through its programmes to recreation and to economic and social development, and preserve the indigenous local values through the organized communities.</p>	The role of community participation in the development of communications is recognized in this law, but not community broadcasting.
Decree 1445 of 1995	<p>This decree establishes the National Technical Plans for AM and FM Radio Broadcasting. The two plans form part of the General Radio Broadcasting Plan. Its provisions include:</p> <ul style="list-style-type: none"> <li>• aim and scope of application (allocation, assignment, broadcasting channel, etc.);</li> <li>• technical criteria for VHF radio broadcasting (type of programme and bandwidth, channel separation, class A, B, C and D stations, studio equipment, transmitting system, etc.);</li> <li>• average height above sea level;</li> <li>• planning of the network of transmitters;</li> <li>• channel identification;</li> <li>• channel allocation plan;</li> <li>• channel distribution plan; and so forth.</li> </ul>	Community radio stations follow the guidelines of the FM Technical Broadcasting Plan since they are not recognized as a separate broadcasting sector.
Decree 1446 of 1995	<p>This decree regulates the provision of radio broadcasting services, which may be managed directly or indirectly.</p> <p>This decree classifies broadcasting services according to various criteria: management of the</p>	This decree legally recognizes community stations as a third type of broadcasting service distinct from State or commercial stations. However, it places an obstacle in the way of community radio stations

Norm	Main provisions	Application
	<p>service, programming policy, level of coverage and transmission technology.</p> <p>The services are classified according to the type of management:</p> <ul style="list-style-type: none"> <li>• Direct management: the State provides the service through legally authorized public bodies or under a licence granted directly by the Ministry of Communications;</li> <li>• Indirect management: the State provides the service through Colombian nationals, organized communities or corporations duly established in Colombia under Colombian management and control and with 75% of its paid-up capital of Colombian origin and duly licensed beforehand by the Ministry of Communications.</li> </ul> <p>Depending on the programming policy, the broadcasting service is classified as commercial, public or community. The decree defines the latter as a broadcasting service whose programmes are specifically intended to meet the needs of an organized community.</p> <p>As for the level of coverage, the service is classified and defined according to the class of station and the operational criteria laid down in the technical plans:</p> <ul style="list-style-type: none"> <li>• area coverage: class A and B stations;</li> <li>• local coverage: class C stations;</li> <li>• restricted local coverage: class D (community) stations.</li> </ul> <p>Depending on the transmission technology, the service is classified as follows:</p> <ul style="list-style-type: none"> <li>• Amplitude Modulation Broadcasting (AM);</li> <li>• Frequency Modulation Broadcasting (FM);</li> <li>• New technologies. Transmission methods that differ from those previously used are placed in this category.</li> </ul>	<p>since it prohibits the formation of networks (Art. 11.2).</p>

Norm	Main provisions	Application
	<p>This decree authorizes linked-up transmissions: radio stations can be linked up periodically or occasionally to broadcast programmes that any one of them might produce.</p> <p>However, Article 11(2) stipulates that community radio stations may not belong to a network.</p>	
<p>Decree 1447 of 1995</p>	<p>This decree regulates the licensing of radio broadcasting services that are directly or indirectly managed, defines the General Radio Broadcasting Plan and lays down rates and charges, and penalties applicable to the service.</p> <p>It defines radio broadcasting as a public telecommunications service, under the authority and ownership of the State, designed to meet telecommunications needs through broadcasts received by the general public.</p> <p>Chapter V of the decree is devoted to community broadcasting which is defined as a not-for-profit public service, considered as a telecommunications activity under the authority of the State, which manages it indirectly through organized communities duly established in Colombia. The Ministry of Communications directly issues the relevant licence in accordance with the following procedure: acting either automatically or at the request of the interested parties, that body issues public invitations, through any of the nationwide mass media, calling for applications from those wishing to provide such a service, and sets a time-limit for filing such applications. This service is provided on the channels defined as class D stations in the National Technical Plan for Frequency Modulation Radio Broadcasting, or on other channels and by other means that the Ministry may determine, taking into account the availability of frequencies and the needs of the service.</p> <p>Article 22 stipulates that the aim of community broadcasting services should be to broadcast programmes of social interest for the different sectors of the community so as to foster socio-economic and cultural development, healthy recreational activities and essential national values within a framework of integration and civic solidarity. All licensees must therefore adapt their programmes to those objectives.</p> <p>The communities organized to provide the service must have legal personality; their statutes must have as their social objective the promotion of mass communication as an instrument of development</p>	<p>This decree marks an important step forward since Chapter V regulates community broadcasting services and assigns to the Ministry of Communications the task of ensuring that radio stations fulfil their objectives.</p> <p>From the date of publication of this decree up to July 1998, the Ministry of Communications had granted 564 licences to organized communities for the provision of radio broadcasting community services.</p> <p>In Latin America, Colombia is in the forefront in religious education broadcasting which, in many cases, is directed towards ethnic groups. <i>Radio María Colombia</i> buys and builds radio stations throughout the country.</p> <p>There are also other radio stations belonging to the <i>Minuto de Dios</i> Movement. At the end of the 1940s, a member of the Salesian order founded <i>Radio Sutatenza</i> with a view to providing education by radio to people's homes, combating illiteracy among rural communities and the poor, and offering basic education and information on healthcare and religion.</p>

Norm	Main provisions	Application
	<p>and community participation, and they must be domiciled in the municipality in which the station is to be set up (Art. 23).</p> <p>In respect of licence applications once invitations to bid have been publicly announced, those interested must provide the following information in their applications: name of the organized community, statement in which the community agrees to comply with the National Technical Plan for Radio Broadcasting, the programming plan for its broadcasts, etc. (Art. 24).</p> <p>The organized communities, to which the licence is granted, have six months to provide the community broadcasting service (Art. 26).</p> <p>In the case where several applications meet all the requirements, the Ministry of Communications shall take the contents of the programming plan, experience in community work and the number of members into consideration before granting the licence.</p> <p>According to Article 27, the licensees of the community service shall use all the resources that the radio station obtains from the commercialization of air-time, sponsorship, support, financial backing from international organizations or national governmental bodies so as to invest in its smooth operation, the improvement of equipment and the programmes that it transmits and, in general, to ensure proper continuity in providing the service and in achieving the community objectives.</p> <p>As regards the commercialization of air-time, community stations may carry advertising, other than of a political nature, and mention their programme sponsors and acknowledge their support. Furthermore, they must provide assistance for official campaigns and may retransmit pre-recorded programmes from other radio stations provided they have prior authorization from the station that produced the programme.</p>	
Decree 1439 of 1998	This decree amends some articles of Decree 1447 of 1995. They include Article 26, which extends from six months to one year – starting from the issuing of the licence – the period for setting up a station and beginning operations.	To make it easier for organized communities to fulfil the objectives of community broadcasting, the time-limit granted under Decree 1447 for setting up stations and making them operational was extended.

Norm	Main provisions	Application
	<p>The licensee must submit a technical study duly approved by the Services Division of the Ministry of Communications before the station can become operational. Failure to do so may lead to the cancellation of the licence.</p>	
<p>Proposed decree regulating telecommunications services for ethnic and cultural diversity, 1998</p>	<p>It proposes to regulate the access by ethnic groups to the electromagnetic spectrum, to public telecommunications services and to the State mass media, to create mass media for ethnic groups and to establish guidelines for the formulation of the Plan for the Development of Telecommunications for Ethnic Groups. As for access to the electromagnetic spectrum, the Ministry of Communications must set aside, at the national level, 10% of the frequencies for ethnic groups.</p> <p>The proposal makes provision for the creation of radio stations for ethnic groups. Under Article 11 of Law 74 of 1996, broadcasting for ethnic and cultural diversity is exempt from the payment of operating fees, charges for the use of the spectrum and annual taxes. Air-time may also be commercialized, but religious or political proselytism is not allowed.</p>	<p>Up to the end of 2002, this proposal had not been adopted.</p>
<p>Draft Law 183/99 on establishing radio broadcasting services</p>	<p>This draft law confirms the authority of the Ministry of Communications to grant licences for the provision of community radio broadcasting services. Licences will be granted through a public bidding process. Where several applications to provide the service are submitted, the Ministry shall take the content of the programming plan, experience in community work and the area of influence within the communities into consideration before granting the licence.</p> <p>It makes provision for a minimum of 10% of the value of the official advertising rate to be distributed equitably among the community radio stations.</p> <p>It provides for the formation of an advisory committee having a supervisory function over community broadcasting services.</p> <p>It permits the broadcasting of proselytizing programmes which may take up a maximum of 10% of the total programming. In addition, it provides for the establishment of community radio networks (Decree 1446 prohibits networks).</p> <p>Another key point is that it allows operating radio stations not subject to legal provisions to apply for a licence from the Ministry of Communications.</p>	<p>Unlike Decree 1446, this draft permits the establishment of community radio networks. To our knowledge, this draft has still not been adopted.</p>

**Country: EL SALVADOR**  
**Period: 1975-1998**

Norm	Main provisions	Application
The first community radio stations 1975	The Archbishop of El Salvador, Oscar Arnulfo Romero, made available to the public the broadcasting facilities of the radio station of the Catholic Church known as <i>YSAX La Voz Panamericana</i> .	<i>YSAX</i> was used to publicly condemn the kidnappings, murders and disappearances that were frequent throughout the counter-insurgency war. The guerrillas' clandestine radio stations <i>Venceremos</i> and <i>Farabundo Martí</i> were also active in condemning the situation.
Signing of the Chapultepec Agreements, January 1992	The Government of El Salvador and the <i>Frente Farabundo Martí para la Liberación Nacional</i> signed those agreements, thereby reaffirming the goal set out in the Geneva Agreement (April 1990) to end the armed conflict through a political process, promote the democratization of the country, guarantee the unrestricted respect for human rights and reunify Salvadorian society.	Other radio stations with similar objectives, located in communities in the capital and throughout the country, started to broadcast. Most of those stations began operating "illegally" since they were not provided for in either laws or regulations.
Foundation of the <i>Asociación de Radios y Programas Participativos del Salvador</i> (ARPAS), 1993	This association was founded with the support of the Latin American Association for Education by Radio (ALER).  ARPAS includes: <ul style="list-style-type: none"> <li>• radio stations which, from the start, have had official licences to operate from San Salvador, with sufficient power to allow extensive coverage;</li> <li>• medium-power radio stations which cover more than one department within the country;</li> <li>• low-power radio stations which only cover localities or municipalities in various departments of the country;</li> <li>• associations and bodies which produce participatory radio programmes.</li> </ul>	ARPAS will fulfil a very important task in respect of the struggle for the legal recognition of Salvadorian community radio stations.
Search for a new legal framework, 1995	During that period which could be defined as "illegal", Salvadorian community radio stations began a series of actions to secure legal recognition for community radio broadcasting: <ul style="list-style-type: none"> <li>• applications for frequencies to the Administración Nacional de Telecomunicaciones (ANTEL);</li> </ul>	The Supreme Court of Justice ordered the return of the equipment seized and declared illegal the administrative act that had ordered it.  The joint commission, for its part, concluded that a technical solution to the crisis was possible and proposed five options. In the end,

Norm	Main provisions	Application
	<ul style="list-style-type: none"> <li>• ANTEL issued an administrative decree by which it ordered closures, imposed fines and seizure of the equipment of the community radio stations that were broadcasting without authorization;</li> <li>• ARPAS lodged an appeal on the grounds of unconstitutionality before the Supreme Court of Justice, invoking the violation of the right to freedom of expression;</li> <li>• the Supreme Court of Justice ruled in favour of the owners of the radio stations. It declared the measure unconstitutional;</li> <li>• a Joint Commission (members from ANTEL and ARPAS; observers from MINUSAL and the Attorney-General’s Office for the Defence of Human Rights) was established to examine the problem.</li> </ul>	<p>that resolution was not signed by the representatives of ANTEL.</p>
<p>Process for the privatization of telecommunications and new laws 1996</p>	<p>During this period, Salvadorian community radio stations continued their struggle for legal recognition. To that end, the following steps were taken:</p> <ul style="list-style-type: none"> <li>• a set of proposals to incorporate community radio broadcasting into a new legal framework was submitted to various legislative bodies;</li> <li>• those negotiations were affected by the launch of a privatization process that brought with it the establishment of new legislation – to be the telecommunications law – and of governmental bodies responsible for regulating the radio-electric spectrum;</li> <li>• in that connection the preliminary draft law on community radio broadcasting was presented, which was to be examined at the same time as the draft telecommunications law;</li> <li>• ARPAS submitted observations on the governmental draft law;</li> <li>• ARPAS lodged an appeal on the grounds of unconstitutionality against the recently adopted telecommunications law;</li> <li>• at the same time as that appeal, ARPAS submitted a set of proposals called the Preliminary Draft Amendments to the Telecommunications Law.</li> </ul>	<p>Although community radio broadcasting was considered jointly with the draft telecommunications law presented by the Government, the preliminary draft was not adopted on the grounds that it dealt with a particular area of broadcasting and would exclude all the remaining areas.</p> <p>The observations by ARPAS on the draft law reformulated the key points in the proposed preliminary draft law on community radio broadcasting that had not been endorsed. However, they were not adopted, but the telecommunications law was.</p> <p>The appeal on the grounds of unconstitutionality lodged by ARPAS alleged the violation of the right to freedom of expression and economic and social order.</p> <p>For their part, the set of proposals by ARPAS sought to initiate a process to amend and improve the adopted law.</p>



Norm	Main provisions	Application
<p>Revision of the privatization process, repeal and amendment of the laws adopted, 1997</p>	<p>First, the previously adopted legal framework was repealed. With that, the ruling on the appeal on the grounds of unconstitutionality was dismissed “because the law was no longer in force”.</p> <p>Subsequently, an ad hoc commission was set up to monitor the formulation and adoption of the Telecommunications Law and, in general, the overall regulatory framework for telecommunications and electricity.</p> <p>For its part, ARPAS appeared before the Commission to present the case for community radio broadcasting.</p> <p>The Government approved Decree 56 which provides for a range of reforms which introduce into the law a set of regulations endangering freedom of expression.</p> <p>ARPAS submitted “Proposed amendments to the new draft telecommunications law”.</p>	<p>The proposed amendments to the new draft telecommunications law gave rise to intense discussion in the mass media.</p>
<p>Adoption of the Telecommunications Law of 6 November 1997</p>	<p>Finally, this law containing several articles concerning community radio stations was adopted. They include Article 118(2), which stipulates that “in order to avoid problems of harmful interference and to encourage a more effective use of the radio frequency spectrum allocated to free available radio broadcasting services, the narrowest width between adjacent channels shall be 30 kHz for amplitude modulation (AM), 525-1705, and 400 kHz for frequency modulation (FM), 88-108 MHz”.</p> <p>The third paragraph of the same article reserves channel 88.1 FM so as to prevent possible interference with the broadcasting frequency of television channel 6.</p> <p>Articles 81 and 82 regulate the bidding process, which is established as the only procedure for settling disputes arising from the granting of licences to operate the various services regulated by law (including broadcasting). In a bidding process, the best financial offer wins.</p>	<p>Article 118 excludes any possibility of using in certain parts of the country channels that could be used if the implementing agency, the Superintendencia General de Electricidad y Telecomunicaciones, were given discretionary power to determine a narrower width between channels.</p> <p>As for the interference that it seeks to avoid, this is imaginary since channel 88.1 FM is not used by television for its sound broadcasting. Therefore, by deciding that the FM band should begin at channel 88.5 and not 88.1, no use is made of a channel which might be assigned to not-for-profit broadcasting, thereby optimizing its use by dividing up the use of that frequency.</p> <p>The fact of having a purely financial approach to the settlement of conflicts means that the characteristics, values and criteria relevant to the issue of justice and the free and equal access of the population to the mass media are not taken into account.</p>

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
		This leads to the violation of freedom of expression as a result of the restriction placed on the free flow of ideas through the <i>a priori</i> exclusion of access to the mass media.
ARPAS buys the rights to a commercial frequency (1998)	To alleviate the effects of the Telecommunications Law of 1997 and conscious that the legal battle would be long, ARPAS bought – with financial backing through international assistance – the rights to a commercial frequency. It then divided it up in order to increase the possibilities for setting up radio stations.	This fosters the emergence of new community radio stations with limited coverage in most of the country's municipalities.

**Country: GHANA**  
**Period: 1992-2001**

Norm	Main provisions	Application
<p>The Constitution of the Fourth Republic, April 1992</p>	<p>The Basic Law of Ghana is fairly specific on fundamental rights and freedoms, and on freedom and independence of the media.</p> <p>Article 21(1)(a) guarantees freedom of expression, including freedom of the press and other media.</p> <p>Under Chapter 12 on freedom and independence of the media, Article 162(3) provides that there shall be no impediments to the establishment of private press or media; and in particular, there shall be no law requiring any person to obtain a licence as a prerequisite to the establishment or operation of a newspaper, journal or other media for mass communication or information.</p> <p>However, Article 21(4)(e) lays down that no law shall be in conflict with the constitutional provisions aimed at safeguarding the people of Ghana against disrespect for the nationhood of Ghana, the national symbols and emblems or incitement to hatred against other members of the community except so far as the thing done under the authority of that law is shown not to be reasonably justifiable in terms of the spirit of the Constitution.</p> <p>Article 166 provides that the Parliament shall establish a National Media Commission composed of 15 members, of which 10 shall be nominated by civil associations. The functions of this body include:</p> <ul style="list-style-type: none"> <li>• promoting and ensuring the freedom and independence of the media for mass communication or information;</li> <li>• taking all appropriate measures to ensure the establishment and maintenance of the highest journalistic standards;</li> <li>• insulating the state-owned media from governmental control and making regulations by constitutional instrument for the registration of newspapers and other publications, except that the regulations shall not provide for the exercise of any direction or control over the professional functions of a person engaged in the production of newspapers or other means of mass communication.</li> </ul>	<p>Defenders of media pluralism have argued that, in accordance with the Constitution, the National Media Commission is responsible for administering broadcasting frequencies. However, the Government maintains that responsibility for the proper administration of radio frequencies rests with an administrative body of the State.</p> <p>The first frequency granted to a private operator was allocated to an experimental station in 1992. The successful bidder was Opong-Twamasi, a Kumasi engineer who produced his own equipment.</p> <p>As regards State radio, the Ghana Broadcasting Corporation operates two national radio networks:</p> <ul style="list-style-type: none"> <li>• <i>Radio One</i> is a network that broadcasts in Ghana's six main languages: Akan Ga, Ewe, Dagbani, Hausa and Nzema;</li> <li>• <i>Radio Two</i> broadcasts in English only and carries advertising, promotional broadcasts and sponsored programmes.</li> </ul>

Norm	Main provisions	Application
	<p>Article 172 stipulates that the National Media Commission (NMC) shall not be subject to the direction or control of any person or authority in the performance of its functions. At the same time, Article 173 specifies that the Commission shall not exercise any control or direction over the professional functions of a person engaged in the production of newspapers or other means of communication.</p>	
<p>The National Conference on the Promotion and Privatization of Radio and Television Broadcasting in Ghana (Ghana, 1993)</p>	<p>This Conference was organized by the School of Communication Studies of the University of Ghana with the support of the West Africa Regional Office of the International Development Research Centre.</p> <p>It provided an opportunity for academics, media professionals and government representatives to set out their vision for a new era of broadcasting in Ghana as well as to discuss legal, technical and financial issues.</p> <p>The participants drew up a series of recommendations concerning ownership, frequency distribution, deregulation of the Ghana Broadcasting Corporation, copyright, programming guidelines, rules for presenters, public-service programmes, professional training, economic viability for privatization and links between the private and public sectors.</p> <p>In his introduction to the Conference, Kwame Karikari, Director of the School of Communication Studies, said that economic and cultural development were best achieved when the media were free from State monopoly.</p> <p>Participants in the Conference agreed on the need for democratic regulation of broadcasting, arguing that since this was a public activity its content should be subject to public control and accountability, on the one hand, and to protection by the State, on the other. In particular, it was said that the public should be protected against fraud, indecency, bad taste, violence, inefficiency and poor quality.</p>	<p>The participants in the Conference evinced concern at the possibility that the State monopoly in broadcasting might be replaced by an oligarchy of a few rich businessmen and foreign capital. They made the point that radio and television should serve primarily as educational media. They observed that in a situation of pluralism the media could make a huge contribution to the promotion of open discussion on popular and community topics, and to public education on constitutional questions, development issues, boosting economic growth, etc.</p> <p>In February 1994, the University of Ghana received a radio frequency, becoming the second successful private radio bidder.</p>
<p>Seminar 1994 on Radio Pluralism</p>	<p>This seminar was the continuation of the March 1993 Conference and was sponsored by the School of Communication Studies of the University of Ghana in cooperation with the Friedrich Ebert Foundation and the Panos Institute. The main topic of discussion was the National Communications Authority Act prior to its examination by the Parliament. The participants sent a memorandum to the Parliamentary Subcommittee on Transportation explaining that they were opposed to the Act because it conflicted with the provision of Article 162(3) of the Constitution that no law should require the obtaining of a licence</p>	<p>In mid-November 1994, the Independent Media Corporation of Ghana (IMCG) began to operate an FM station, <i>Radio Eye</i>, without a licence. The station was closed down on 4 December; and, although the Supreme Court ordered its equipment to be handed back, a number of persons associated with IMCG were tried for disobedience. The radio station</p>

Norm	Main provisions	Application
	<p>as a prerequisite to the establishment or operation of mass communication media. The Minister of Transport and Communication, Edward Salia, recognized that under Chapter 12 of the Constitution the Government could not require possession of a licence to operate an organ of the media. He likewise gave an assurance that the Government wished to foster private participation in the development and provision of communication services and to avoid infringement of the right to information in any form whatsoever. However, he noted the worldwide acceptance of the fact that radio frequencies must be distributed in an orderly manner.</p> <p>In the end, the Act was vetoed by President Rawlings, leaving the task of allocating and monitoring frequencies in the hands of the Ghana Frequency Regulation and Control Board (GFRCB).</p>	<p>of the University of Ghana, <i>The Voice of Legon</i> (VOL) began transmitting towards the end of 1994, but it was suddenly ordered to stop on the grounds that its equipment needed to be inspected and that it was using an unauthorized frequency.</p> <p>After undergoing an inspection, VOL was able to resume broadcasting but on a different frequency.</p>
<p>Bonso-Bruce Preparatory Committee on Independent Broadcasting</p>	<p>This preparatory committee was convened by the Minister of Information, Kofi Totobi Quakyi, with the aim of drawing up a well-defined set of regulations and guidelines for private radio broadcasting in Ghana. Five of its nine members were members of the Government or GBC officials, while the chairman was T.N.L. Bonso-Bruce, a private communications consultant. The committee, which was known as “Bonso-Bruce”, heard the representatives of private and state media as well as GFRCB, GBC, Posts and Telecommunications, the Education Secretary and Kofi Awoonor, Permanent Representative at the United Nations.</p>	
<p>Guidelines for radio frequencies applications (February 1995)</p>	<p>Ghana Frequency Regulation and Control Board (GFRCB) published the guidelines for the submission of requests to operate private radio broadcasts.</p>	<p>In March 1995, Ghana Community Broadcasting Services (GCBS), after registering as a non-profit-making company, submitted a request to operate a station.</p> <p>In the first half of the same year, GFRCB was flooded with requests for frequencies.</p>
<p>Report of the Bonso-Bruce Preparatory Committee (April 1995)</p>	<p>This report, which had no legal force, was the result of the deliberations of the Bonso-Bruce Committee and contains recommendations relating to programme content and frequency allocation. It is recommended that frequencies be allocated only to nationals of Ghana or companies registered in Ghana with no more than 30% of their capital in foreign hands. Such entities should demonstrate that they have the appropriate equipment and that they meet the appropriate technical standards. It is also suggested</p>	<p>In July 1995, the Chairman of GFRCB, J.R.K. Tandoh, announced the list of operators whose bids had been accepted. These were asked to submit detailed work plans in various areas and to pay the sum of 20 million Cedis (US \$10,000), an amount subsequently halved. Tandoh furthermore explained</p>

Norm	Main provisions	Application
	<p>that the number of frequencies granted to the same individual or corporate entity should be limited. The committee agreed that political parties and district assemblies should not possess their own stations but was divided on the granting of frequencies to religious bodies. With regard to content, programmers should avoid indecency and incitement to ethnic, racial or religious hatred, among other things. The committee recommended the establishment of an independent body to promote a healthy private broadcasting industry, monitor programme content and authorize the use of radio frequencies.</p>	<p>that, for the sake of diversity, no company would be authorized to operate a radio station and television station at the same time.</p> <p>A year later, in August 1996, it was announced that frequencies would not be granted either to political parties or to religious organizations, although they would be free to acquire air-time or participate as guests in discussion programmes.</p> <p>Tandoh announced that six corporations would receive frequencies to operate FM radio stations in Accra and four in Kumasi.</p>
<p>National Communications Authority (NCA) Bill (October 1996)</p>	<p>This Bill established the National Communications Authority (NCA) to regulate wire, cable, radio, television, satellite and related technological communications in the interest of the ordered development and efficient operation of communication services in Ghana. The Bill is an attempt to rationalize the administration of telecommunication systems in Ghana and to bring it into line with international legal and technical standards. The NCA is composed of a seven-member Board appointed by the President in consultation with the Council of State. Under Article 5, this Board includes a chairperson, a director-general of the NCA, a representative of the National Security Council and four other specialists in matters relating to the Authority's functions. However, it does not include any member of the National Media Commission (NMC).</p> <p>In its second and third parts, the Act employs the term "licence" to refer to the allocation of frequencies, which could be seen as an infringement of the constitutional provisions.</p> <p>The Act provides that only corporations of Ghanaian citizens or associations registered in Ghana can be awarded a licence (Art. 10). A licence application shall be granted unless there are grounds preventing it. Those grounds must be based on technical considerations, public security or some other reasonable justification, which must be communicated to the applicant (Art. 13.2).</p>	<p>This Act is the subject of fierce debate since it establishes NCA as the sole authority for the regulation of all radio frequencies and fails to insulate broadcasting from State interference. In April 1996, the application of the Ghana Community Broadcasting Services was accepted and February 1998 saw the inauguration of <i>Radio Ada</i>, a rural community radio station situated in the east of Ghana. Various international organizations, including UNESCO, the Stem van Afrika of the Netherlands and the World Association for Christian Communication contributed with donations for the purchase of equipment and the installation of the transmitter.</p> <p><i>Radio Ada</i> did not request additional subsidies for its operating expenses, since the latter were wholly covered by income from advertising and low-cost social announcements (e.g. obituaries).</p> <p>One of the aims of this station is to foster development of the</p>

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
	<p>NCA has the power to modify, suspend or cancel the granting of a licence, provided that it gives the licensee 60 days' prior notice in writing and publishes the decision in the national press (Art. 25). Operators have the right to object to the action of NCA and to appeal to the Supreme Court of Justice against the decision.</p> <p>However, Article 27(5) prescribes that nothing in the Act shall permit the modification, suspension or cancelling of the frequency allocated to an operator by NCA as a consequence of the opinions expressed through the operator's media unless such opinions constitute breaches of the provisions of the Act.</p>	<p>aspirations and goals of the people of Dangme by promoting dialogue and considered action. Its coverage area takes in a population of some 600,000 people, 60% of whom are illiterate. It broadcasts in five local languages spoken by the Dangme ethnic group: Ada, Gbugbla, Klo, Ningo and Se.</p> <p>Its programming can be divided into the following categories: news and current affairs, socio-economic development, local culture, religion, programmes for young people, and general interest programmes. It is staffed by some 50 volunteers, 14 full-time workers and 20 field producers. Up to July 1998, over 45 stations had been authorized and 29 were transmitting. This figure included private commercial, university, community and GBC-affiliated stations. Private stations are operating in six of the 10 regions of the country, while GBC-affiliated regional stations operate in eight regions.</p> <p>In the absence of regulations relating to content, the negotiation of broadcasting policy was left in the hands of listeners and broadcasters. Members of the public helped to shape policy in various ways, among other things by voicing their opinion by telephone.</p> <p>A recent development in the expansion plans of GBC has been the introduction of FM broadcasting in 11 stations throughout Ghana. By early 2001, this had brought the number of FM stations in Ghana to over 40.</p>

**Country: INDIA**  
**Period: 1971-2000**

Norm	Main provisions	Application
<p>Indian Telegraph Act (1885) and the 1938 and 1971 amendments thereto</p>	<p>This Act – which is still in force today – places the broadcasting service within the parameters of telegraphy. It defines “telegraph” as any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, radio waves or Hertzian waves, galvanic, electric or magnetic means.</p> <p>Section 4 states that the Central Government shall have the exclusive privilege of establishing, maintaining and working telegraphs. It may also grant a licence, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph in India. Section 5 establishes the power of the Government to take possession of licensed telegraphs and to order interception of messages.</p> <p>Section 20 provides that anyone who establishes or works a telegraph in contravention of Section 4 or otherwise than as permitted by rules under that Section shall be punished with imprisonment of up to three years, or with fines, or with both.</p>	<p>Under this Act total control over broadcasting – and telecommunications – is vested in the Central Government of India through “All India Radio” (AIR).</p> <p>AIR was established in 1935 and was modelled on the British Broadcasting Corporation.</p> <p>According to recent studies, the radio audience in India is estimated at 98.5% of the country’s population. There are some 140 million radio sets in Indian households, double the number of television sets.</p>
<p>Chanda Committee Report on Broadcasting and Information Media, 1966</p>	<p>This document on broadcasting and information media claims that “it is not possible in the Indian context for broadcasting to flourish under a regiment of departmental rules and regulations. It is only by an institutional change that AIR can be liberated from the rigid administrative and financial procedures of the Government”.</p>	<p>This report sparked off the debate on terminating AIR’s monopoly. The Union Government announced that “the present is not an opportune time to consider the conversion of the All India Radio into an autonomous corporation”.</p>
<p>Enactment of the Prasar Bharati Bill in September 1990</p>	<p>Introduced the previous year, this bill was passed in 1990 by both Houses of the Indian Parliament, first by the Lok Sabha (<b>House of the People</b>) and then, with some opposition, by the Rajya Sabha (Council of the States) (<b>Upper House of Parliament</b>).</p> <p>The bill provided for the establishment of the Prasar Bharati (Broadcasting Corporation of India), a government organization whose main functions are:</p> <ul style="list-style-type: none"> <li>• to organize and conduct public service broadcasting;</li> <li>• to ensure a balanced development of radio and television broadcasting;</li> <li>• to conduct or commission programmes, audience research, market or technical services;</li> </ul>	<p>As it was not published in the <i>Official Gazette</i> this bill did not become law. For that reason, it did not come into force until 1997.</p>



Norm	Main provisions	Application
	<ul style="list-style-type: none"> <li>• to provide adequate coverage to the diverse cultures and languages of the various regions;</li> <li>• to provide high quality reception and also comprehensive broadcast coverage through the use of appropriate technology and optimum utilization of available broadcast frequencies.</li> </ul>	
<p>Ruling 1236 of the Supreme Court of Justice of India, 9 February 1995. Judges: P.B. Sawant, S. Mohan Reddy and B.P. Jeevan Reddy</p>	<p>This ruling states that “(i) the airwaves or frequencies are a public property. Their use has to be controlled and regulated by a public authority in the interest of the public and to prevent the invasion of their rights”.</p> <p>In subparagraph (ii) it maintains that “the right to impart and receive information is a species of the right of freedom of speech and expression guaranteed by Article 19(i)(a) of the Constitution”. Consequently, the ruling determines in subparagraph (iii) that “the Central Government shall take immediate steps to establish an independent autonomous public authority representative of all sections and interests in the society to control and regulate the use of airwaves”.</p> <p>Other points in the ruling establish that as broadcasting is a means of expression, in a democratic polity, no private individual, institution or organization nor any government can claim exclusive right over it. The Constitution forbids monopoly either in the print, or electronic media. However, the monopoly in broadcasting and telecasting is often claimed by the Government to utilize the public resources in the form of the limited frequencies available for the benefit of society at large. It is justified by the Government to prevent the concentration of the frequencies in the hands of the rich few who can monopolize the dissemination of views and information to suit their interests.</p> <p>The Government sometimes claims monopoly also on the ground that having regard to the all pervasive presence and impact of the electronic media, it may be utilized for purposes not permitted by law and the damage done by private broadcasters may be irreparable. For that reason, the Court considered that regulatory provisions including those for granting licences to private broadcasters should be enacted. The Court’s ruling also maintains that if the Government were vested with the power to grant or refuse to grant the licence or access to the media, it would be able to suppress the freedom of speech and expression instead of protecting it. It is for this reason that in most of the democratic countries an independent autonomous broadcasting authority is created to control all aspects of the operation of the</p>	<p>The Secretary for Information and Broadcasting, Mr Bhaskar Ghose, welcomed the ruling, “particularly regarding the freeing of the airwaves”. He also said “The Government will soon be in a position to do exactly what the Supreme Court has asked us to do”.</p> <p>One consequence of the ruling was the granting of a measure of autonomy to AIR. The Central Government decided that AIR should concentrate on raising its own resources.</p> <p>Broadcasting in India subsequently began to shift from a government monopoly to highly commercial broadcasting.</p>

Norm	Main provisions	Application
	<p>electronic media. Such authority is representative of all sections of the society and is free from the political and administrative control of the State.</p> <p>“Every citizen of this free country has the right to air his or her views through the printing and/or the electronic media subject to permissible restrictions imposed under Article 19(2) of the Constitution.”</p>	
<p>Bangalore Declaration on community radio, September 1996</p>	<p>This document was the outcome of four days of debates and discussions by more than 60 people representing All India Radio, universities, non-government organizations, journalists and members of broadcasting enterprises.</p> <p>The Declaration stressed the basic elements of a national broadcasting policy: “Towards public service broadcasting through community radio”.</p> <p>The key features of public service radio defined include:</p> <p>(1) Regulatory Authority and Licensing Criteria:</p> <ul style="list-style-type: none"> <li>• establishment of a National Broadcast Trust (NBT) which will be an autonomous body, free from government control;</li> <li>• the setting up of a separate and independent tier of broadcasting – at village/community level;</li> <li>• no monopoly or exclusive control within the community will be permitted. The community should exercise democratic control over community broadcasting to afford equal opportunity to all groups in the community in respect of access to communication;</li> <li>• the granting of licences to other bodies serving the public interest (universities, medical institutions, cooperatives, etc.);</li> </ul> <p>(2) Programming:</p> <ul style="list-style-type: none"> <li>• in addition to granting licences, NBT will direct the All India Radio to provide the required development and technical support to the licensees, including training;</li> <li>• interactive format to make the programmes truly participatory;</li> <li>• building linkages between private broadcasters, on the one hand, and between local institutions,</li> </ul>	<p>The Government reported that AIR already had low-powered radio stations in rural areas – some 89 up to August 2000 – that could offer air-time to community representatives.</p> <p>Government authorities also maintained that it would be difficult to control the installation of radio stations in remote areas of India.</p>

Norm	Main provisions	Application
	<p>educational and professional bodies on the other;</p> <ul style="list-style-type: none"> <li>• NBT may lay down programme guidelines to promote public interest and may monitor community radio stations and it may even exercise sanctions;</li> </ul> <p>(3) Role of All India Radio (AIR):</p> <ul style="list-style-type: none"> <li>• AIR shall play a supportive role in the development of community radio broadcasting, under the guidance of NBT;</li> <li>• shall provide assistance to licensed community broadcasters in the design of their radio stations from a technical point of view;</li> </ul> <p>(4) Checks and Balances:</p> <ul style="list-style-type: none"> <li>• it is desirable that each community radio station should draw up its own code of conduct. A local ombudsman consisting of three persons shall be attached to each radio station to entertain complaints from individuals and institutions and decide on culpability;</li> <li>• if the regulatory authority directs a radio station to close down, AIR shall have the authority to keep the assets in trust till the problem is resolved;</li> </ul> <p>(5) Funding:</p> <ul style="list-style-type: none"> <li>• all community radio stations will work on the principle of no-profit. Initial capital expenditure shall be met largely by a grant through NBT, contributions from member institutions, donations from the public, advertisements, radio subscriptions, etc.;</li> <li>• the appropriate legal form for a community radio station could be a society registered under the Societies Registration Act;</li> </ul> <p>(6) Interim Measures:</p> <ul style="list-style-type: none"> <li>• in the interim period when the legislative framework of community radio is pending, the Government could provide for air-time in AIR local radio stations and in private radio stations for community programmes.</li> </ul>	

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
National Media Policy, 1996	<p>This document, drawn up by a parliamentary sub-committee, interpreted the Supreme Court’s ruling of 1995. The main points of this declaratory, but legally non-binding, policy statement were that:</p> <ul style="list-style-type: none"> <li>• there should be a regulatory body to oversee both public and private telecasting/broadcasting;</li> <li>• adequate care should be taken to promote the establishment of non-commercial broadcasting stations to be run by universities, educational institutions, communities, etc.</li> <li>• a new people-oriented production style should be developed. In tune with the policy framework suggested here, the Indian private sector, the State Government, non-governmental organizations and local governments should be allowed to enter the field of broadcasting and telecasting;</li> <li>• the principal regulatory body should be an independent autonomous authority, representative of all sections and interest in the society, set up to control and regulate the use of airwaves in the interests of the public and to prevent any invasion of their rights.</li> </ul>	Probably in response to growing requests, an Indian government representative announced in April 1997 that it had decided to grant 30 minutes daily for local programmes on all radio stations.
Constitution of a Committee for the implementation of the Prasar Bharati Act	<p>The Committee, chaired by Nitish Sengupta, recommended that a Radio and Television Authority of India be established, as advised previously by the Supreme Court.</p> <p>The Committee determined that the authority’s functions would be to license private channels, domestic and foreign, to impose appropriate terms and conditions on these licences in accordance with the Broadcasting and Advertising Codes and to receive complaints of violations of these Codes.</p>	This led to the establishment one year later of the Prasar Bharati Corporation, which had not yet been set up although it had been approved in the 1990 Act.
Implementation of the Prasar Bharati Act, 23 November 1997	<p>The Act – approved by the Indian Parliament in 1990 – was finally implemented when the Prasar Bharati Board took control of All India Radio and Doordarshan (National Television Service), which had operated previously as independent media under the Ministry of Information and Broadcasting.</p> <p>As stipulated in the text of the Act approved in 1990, the primary duty of the Prasar Bharati Corporation is to organize and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.</p>	In mid-November 1999, the Government announced that bidding for the establishment of 140 (FM) stations in 40 cities had been closed because of the overwhelming demand. As a result, 349 potential radiobroadcasters were left out of the competition. In early August 2000, it was announced that 26 companies had received letters of intent from the Indian Government as part of the 1999 bidding process.

Norm	Main provisions	Application
	<p>No provision of the Act may be interpreted in derogation of the provisions of the Indian Telegraph Act of 1885.</p> <p>The Act also provided for the establishment of a Broadcasting Council, whose chief function was to receive and consider complaints from persons and groups of persons claiming to have been treated unfairly.</p>	
<p>The Pastapur initiative on Community Radio Broadcasting, 19 July 2000</p>	<p>A group consisting of media professionals, researchers, educators, non-governmental organizations, journalists, representatives from All India Radio and mass communication and law students participated in the initiative to discuss and draw up a policy for community radio in India.</p> <p>As a result of the discussions, the group drafted a document that first of all urged the Government of India to free broadcasting from state monopoly, by expanding the available media space and permitting communities and organizations to run their own radio stations.</p> <p>It also urged the Government to establish a three-tier system of broadcasting: a State-owned public network, commercial private network and non-profit, community radio stations owned and managed by the people.</p> <p>The group requested the Indian Government to allocate frequencies for the creation, maintenance and expansion of community broadcasting in the country. Considering the socio-economic and communication disparities in the country, the group recommended that priority should be given when issuing community broadcasting licences to rural areas and other less developed regions and communities.</p> <p>Lastly, the group urged the Government to take immediate steps to license various community radio initiatives around the country and to formulate innovative policies that promote community radio.</p>	<p>One of the main outcomes after decades of debate on the subject has been a certain decentralization of AIR's local radio stations and a rapid growth of commercial stations using modulated frequencies that AIR owns but has ceded to private operators. It is estimated, nonetheless, that 75% of the Indian population is not covered by FM channels.</p> <p>To offset the lack of community radio stations, some of AIR's local stations are trying to draw closer to the community and to use styles specific to community broadcasting.</p> <p>In spite of calls to regulate community broadcasting, no progress had been made so far on the legal front.</p>

**Country: LEBANON**  
**Period: 1975-2000**

Norm	Main provisions	Application
Civil war 1975-1990	<p>During the civil war, local Lebanese communities struggling for survival used small radio and television stations, which therefore burgeoned all over the country, representing and serving the interests of the various factions.</p>	<p>The number of radio stations rose considerably during this period. There were more than 100 radio stations in Lebanon, most of them serving small communities.</p> <p>The <i>Voice of Lebanon</i> and <i>Radio One</i> radio stations began transmission during the war.</p>
Beginning of the reconstruction period, 1991	<p>The Government initiated a drive to establish a legal framework for the broadcasting service and, as a result, began to draw up and discuss a broadcasting bill.</p> <p>During that period, the Government – under leaders such as Prime Minister Rafiq Hariri – tried to encourage people to look beyond their own villages by implementing a radio policy which considered local broadcasting to be undesirable and promoted the licensing of radio stations of nation-wide scope.</p>	<p>After the civil war ended, the Lebanese Government launched a reconstruction programme that included the mass media. But the country returned to normalcy between 1995 and 1996, when the electricity supply and reliable telecommunications were restored.</p>
Law 382/94 (Broadcasting Act)	<p>This Act was approved by the Lebanese Parliament in October 1994, but it was applied only on 18 September 1996.</p> <p>With regard to broadcasting, the Act divides radio stations into two major categories:</p> <ul style="list-style-type: none"> <li>• those that are allowed to transmit news and political programmes; and</li> <li>• those that are forbidden to broadcast content of a political nature.</li> </ul> <p>The licence fees vary according to the category assigned. The Act revokes the State’s broadcasting monopoly, authorizing private radio stations to operate within the State’s borders.</p> <p>Under this Act, licence applicants are granted a temporary permit to operate for one year, after which they are given a licence for 16 years if they meet all the conditions.</p> <p>The Cabinet is the only body authorized to grant radio and television licences, without oversight by an independent authority.</p>	<p>The temporary one-year permit is, in practice, disregarded. Once the Cabinet has been advised as to the validity of the applications, it either grants or denies the licences immediately.</p> <p>After the Act came into force, the number of radio stations fell to 16, i.e. four amplitude modulation (AM) and 12 frequency modulation (FM) stations.</p> <p>These figures are not definitive because some broadcasters who have been denied a licence keep on applying and others continue to broadcast illegally.</p> <p>As to the legal requirement that shareholders must belong to the various religious communities, of the four commercial AM stations, <i>Voice of Lebanon</i> and <i>Radio Free Lebanon</i> are considered to be allied to Christian groups, while <i>Sawt al-Shaab</i> has Sunnite support.</p>

Norm	Main provisions	Application
	<p>As to programme content, nothing that “promotes the development of relations with the Zionist entity” is allowed.</p> <p>Based on the French model, the Act establishes a National Audio-Visual Council (NAC). The 10 members of the Council, half of whom are elected and half designated, are required to examine licence applications (within a maximum of 45 days), advise the Cabinet about these applications and ensure that the Act is respected. The Council’s task is defined in the text of the Act by the word <i>riqaba</i>, which is often translated as “censorship” but also means “supervision”, which is a more fitting description of its role under the Act.</p>	<p>Furthermore, the FM radio stations transmit mainly music and their presenters speak a mixture of Arabic, English and French.</p> <p>Three FM radio stations (<i>Radio Scope</i>, <i>Nostalgie</i> and <i>RML</i>) are part of the media conglomerate owned by the Greek Orthodox Murr family.</p> <p>In September 1996, many criticisms were made to Human Rights Watch concerning the exclusive right vested in the Cabinet to grant licences. Most of the criticisms recognized the need to reorganize and regulate the media and the authority of the State to regulate broadcasting through a licensing system. But they stressed that the freedom of expression, including the expression of the diversity of political opinions, should not be sacrificed in the process.</p>
<p>Television and Radio Committee Report, January 1996</p>	<p>This technical report recommends that licences be granted to five private television stations and 10 private FM radio stations, in addition to the State-owned stations. The Committee also recommended that only the State should transmit in the AM band.</p>	<p>The complaints submitted to Human Rights Watch also criticized this report having regard to the number of frequencies available. They stressed that the Government had underestimated the capacity of the Lebanese airwaves in an attempt to keep the total number of frequencies as low as possible.</p> <p>But the criticisms of the Committee’s report were based mainly on political rather than technical or scientific considerations.</p>
<p>National Rally for the Defence of Freedoms, September 1996</p>	<p>This rally was attended by hundreds of people including parliamentary deputies, politicians, trade unionists, academics and media and broadcasting representatives. One of the organizers told Human Rights Watch that 300 delegates had been invited but more than 2,500 attended. On that occasion, it was announced that fresh rallies would be held in October.</p>	<p>The rallies that were to be held in October were blocked by the police, which gave rise to serious disturbances.</p> <p>As the Lebanese authorities were determined to prohibit these public demonstrations, a festival was scheduled for 2 and 3 November in Antelias, north of Beirut.</p>

Norm	Main provisions	Application
<p>Festival for the Defence of Rights and Freedoms, 2-3 November 1996</p>	<p>The event, organized by the Association for the Defence of Rights and Freedoms, focused on respect for Article 19 of the International Covenant of Civil and Political Rights. The participants criticized the Broadcasting Act and expressed concern at the increase in restrictions on the freedom of expression and association.</p> <p>The festival organizers called for the authority to grant licences to broadcasters (radio and television) to be transferred from the Government to an independent body; they also requested that licensed stations be monitored to ensure that they aired a variety of opinions and allowed for the expression of opposing views.</p> <p>They further demanded a term for the implementation of the Broadcasting Act and a time frame to allow unlicensed stations to submit new applications.</p>	<p>It is estimated that more than 2,500 took part in the event, including deputies, lawyers and representatives of unlicensed stations.</p> <p>The main result of the event was the submission on 12 November by a group of 10 parliamentarians of a bill to postpone the closure of stations operating without a licence to 30 April 1997 and to allow them to transmit news and political programmes in the interim.</p> <p>Some unlicensed stations whose papers were not in order were allowed to reapply. Others were given several months to close down, while some, such as the Islamist <i>Shaikh Subhi Tufayli</i> and <i>Said Shaaban</i> stations were forced to close down in mid-1997.</p>
<p>General strike of 28 November 1996</p>	<p>The strike was organized by the General Confederation of Lebanese Workers to demand <i>inter alia</i> the establishment of an independent council to grant broadcasting licences, respect for freedom of expression and public demonstrations, support for the bill extending the deadline for the closure of unlicensed stations and a review of the Broadcasting Act.</p>	<p>In Beirut, on the day of the strike, security troops patrolled the city checking identity documents. The demonstration – in which more than 1,000 persons participated – was broken up by the police. At least eight people were arrested and journalistic material was confiscated.</p> <p>The Lebanese Minister of the Interior justified police action saying that it had maintained order. He also said that the government was “open to dialogue” but “not under pressure”.</p>
<p>Allocation of new frequencies, 1999</p>	<p>The Lebanese Government has allocated 400kHz to each licensed station. At the time, only 32 stations had licences and two others, unlicensed, were granted transmission authorization.</p> <p>However, another 14 stations were operating without a licence. These illegal stations change name frequently and it is becoming difficult to identify them.</p>	<p>Although the Government often promises to close down illegal stations, this is politically controversial because they serve interests that combine religious and commercial concerns in many cases.</p>
<p>Attempt to regulate the radio frequency spectrum, 10 January 2000</p>	<p>The Lebanese Government wanted all licensed stations to be transmitting on the new frequencies and all illegal stations to be closed down by this date.</p>	<p>The radio frequency spectrum has not been regulated as the authorities wished because the frequencies are sometimes changed slightly to avoid interference.</p>



**Country: Philippines**  
**Period: 1963-1999**

Norm	Main provisions	Application
<p>Republic Act No. 3846 (1963) providing for the regulation of radio stations and radio communications in the Philippine Islands and for other purposes</p>	<p>Under this Act, no individual or company may construct, install, establish or operate a radio station without first obtaining a franchise from the Philippine Legislature and a licence from the Secretary of Commerce and Communications (SCC).</p> <p>No licence is granted for a period exceeding three years.</p> <p>SCC is authorized to regulate the establishment, use and operation of all radio stations and all forms of radio communication. Other functions include:</p> <ul style="list-style-type: none"> <li>• classifying radio stations and prescribing the nature of the services within each category;</li> <li>• assigning frequencies for each station licensed by SCC;</li> <li>• regulating so as to prevent and limit interference between stations;</li> <li>• establishing service areas or zones;</li> <li>• approving or rejecting licence renewal requests;</li> <li>• taking legal action against those who breach regulations or simply suspending or revoking licences; refusing to renew licences or punishing offenders.</li> </ul> <p>No licence is granted to citizens who are not citizens of the United States or the Philippine Islands.</p> <p>The Act also provides that, in the event of war, calamity or disaster, both the President of the United States and the Governor of the Philippines may order the closure of any radio station.</p>	<p>The first radio stations appeared during the period of United States presence in the Philippines. The first radio programmes consisted mainly of entertainment, particularly before the Second World War. The post-war period saw a maturing of the broadcasting system, with the focus on information and education. This marked the inception of “Development Broadcasting in Philippine radio”.</p> <p>However, the Philippine media prior to the introduction of martial law visibly lacked government control and enjoyed a total freedom of expression that in many cases led to excesses – for example, the emergence of a sensationalist press.</p>
<p>Presidential Decree No. 576-A (1974) regulating the ownership and operation of radio and television stations and for other purposes</p>	<p>This decree established the need to regulate the ownership and operation of radio and television stations, and to introduce measures to improve the quality of broadcasting material and serve the public interest. Its chief provisions were that:</p> <ul style="list-style-type: none"> <li>• to obtain a radio or television franchise, it was necessary to have enough capital to operate for at least one year, the franchise being</li> </ul>	<p>This norm was the result of the strict control exercised over the broadcasting industry between 1972 and 1986 by President Ferdinand Marcos. With a view to establishing government control, the Broadcast Media Council (BMC), the National Telecommunications</p>

Norm	Main provisions	Application
	<p>granted by the Board of Communications and by the Secretary of Commerce and Communications;</p> <ul style="list-style-type: none"> <li>• every radio station should devote at least two hours to public-service programmes;</li> <li>• no individual or corporation could possess, operate and administer more than one radio station in any municipality or city;</li> <li>• no radio station could be used in the interests of isolated groups to broadcast information or influence the public or government to serve or promote the aims of the group concerned.</li> </ul>	<p>Commission (NTC) and the Kapisanan ng mga Brodkaster sa Pilipinas (KBP) were created at that time.</p> <p>Extending the controls still further, the military government arrested and murdered dozens of journalists during the enforcement of martial law.</p> <p>Notwithstanding the fragility of the system, this period saw the creation of <i>Radio Womanwatch</i> and <i>Radio Veritas</i>. The first radio station was not so closely controlled by the military as the other private stations since it used official propaganda as a cover. <i>Radio Veritas</i>, a Catholic station, was one of the instruments that led to the downfall of the Marcos regime in 1986.</p>
<p>Creation in 1973 of Kapisanan ng mga Brodkaster ng Pilipina (KBP) - Association of Broadcasters of the Philippines</p>	<p>This institution comprising the major radio and television networks was set up, <i>inter alia</i>, to regulate the broadcasting industry, improve programme quality, promote social change, help disseminate government information and unify broadcasters in pursuit of common ends.</p> <p>In 1975, the association received the support of the dictatorship and started to introduce discipline in the area of radio broadcasting through self-regulation.</p> <p>In 1987, with the arrival of democracy in the Philippines, KBP received the support of the Supreme Court of Justice. Subsequently in 1992, a provision of the Securities and Exchange Commission similarly endorsed the authority of KBP for the accreditation of all broadcasters.</p> <p>In 1991, a memorandum of understanding between representatives of the Secretariat of Transportation and Communications (STC), the National Telecommunications Commission (NTC) and KBP reaffirmed the principle of self-regulation within KBP. The three bodies recognized the self-regulating authority of KBP to direct its members in matters pertaining to broadcasting rules and regulations, including the KBP radio and television codes of conduct. It was also laid down that, in the adoption and implementation of policies, plans and</p>	<p>In the Philippines, through to the present, broadcasting is regulated by the government and by the broadcasting industry. KBP, precisely because it represents the industry, constitutes an atypical case, since it is usually the government that controls private-sector activity. Philippine broadcasting, on the other hand, establishes its own standards and is self-regulating. The KBP membership has shown signs of discipline and responsibility in its observance of the norms. In the specific case of radio, NTC grants licences and permits to construct and operate radio stations and for the acquisition of broadcasting equipment. The Commission is responsible for allocating frequencies and for the enforcement of technical quality standards. It is interesting to note that the NTC technical standards were originally formulated by the</p>

Norm	Main provisions	Application
	<p>programmes, both STC and NTC should maintain a process of continuous dialogue and consultation with KBP on topics affecting the broadcasting industry.</p> <p>The idea of self-regulation evolved in step with the development by the broadcasting industry of its ethical code and guidelines based on consultation and the control of violations. The rules are imposed through a system of warnings and sanctions. KBP continually updates and strengthens radio and television codes of conduct and technical guidelines, which are officially recognized by the government.</p> <p>The principle of self-regulation includes a consultation process whereby broadcasters are questioned about the applicability of the proposed regulations.</p> <p>To become a member of KBP, the candidate company or organization must possess a franchise from the Congress and an authorization from NTC to establish a radio or television station.</p> <p>KBP Standards Authority (KBP-SA) acts as a semi-judicial body, imposing fines, suspensions and expulsions on its members.</p> <p>KBP-SA meets weekly to investigate and rule on complaints concerning breaches of the norms. It also initiates the framing of policy, guidelines, rules and regulations on the operation and discipline of broadcasting media. These must then be approved by the KBP Governing Board.</p> <p>KBP-SA conducts regular checks on broadcasting activities and periodic inspections of radio and television stations.</p>	<p>private broadcaster members of KBP. KBP is made up of some 50 local branches all over the country. Each local branch takes in one or more cities/provinces. The local branches are assisted in the maintenance of media quality by a Citizens Advisory Board (CAB) composed of distinguished members of the community in which the radio station operates. CAB is the mouthpiece of public opinion concerning radio programmes and also helps those in charge of local branches to become effective promoters of community development.</p>
Philippine Constitution	<p>Article 4, section 3, of the Philippine Constitution declares freedom of expression and of the press, together with the right of peaceful assembly, to be inviolable. While section 17 of the same Article lays down that in times of national emergency, when the national interest so requires, the State can temporarily take over or direct the operation of any firm or commercial undertaking engaged in providing a public service.</p>	<p>With the return of democracy after the 1986 People’s Power Revolution, the new President, Corazón Aquino, revised the Constitution, including the provision concerning the inviolability of press freedom. NTC and KBP were maintained.</p>

Norm	Main provisions	Application
<p>NTC Memorandum Circular No.10-8-91</p> <p>Subject: Criteria for the Grant of Commercial Radio Station Licences</p>	<p>This circular sets out guidelines for evaluating application for licences to establish, operate and maintain private commercial radio systems.</p> <p>The law permits an association between private commercial radio systems and various services in other sectors of the community: agriculture, industry, transport, public safety, financial institutions, etc. One of the sectors qualifying for a private radio licence is that involving religious and charitable organizations and community action groups, particularly those operating in remote and provincial areas, provided that such radio systems are solely concerned with the provision of services in those remote areas and between such areas and their head or provincial offices.</p> <p>The requirements to be met by anyone seeking a radio licence include:</p> <ul style="list-style-type: none"> <li>• he/she must be of Philippine nationality or, in the case of a company, 60% of the shares must be in the hands of a Philippine national;</li> <li>• the entity concerned must be a consortium engaged in lawful business in one of the services itemized in the norm.</li> </ul>	<p>Despite not being specific with regard to community radio, this standard is a very important step forward towards recognition of this area of broadcasting. It enables different sectors of the community to obtain licences for the establishment of community radios.</p>
<p>Office Order No.2-1-94.</p> <p>Licensing of local government and civic group radio networks</p>	<p>This Order lays down that Regional Offices can only authorize local government and community action radio networks operating within their own regional areas.</p> <p>The regional frequency licences must be limited to a single channel. The norm also lays down guidelines to be followed in relation to the aerial and power specifications of the radio equipment.</p>	<p>This norm gives two non-commercial groups access to the frequencies spectrum. This is another advance in community sound broadcasting.</p>
<p>Republic Act No.7925. An Act to promote and govern the development of Philippine telecommunications and the delivery of public telecommunications services</p>	<p>The main aims of this Act are to promote and manage the development of Philippine telecommunications and the delivery of public telecommunication services.</p> <p>The Act defines broadcasting in terms of the transmission of commercial radio messages for reception of a broad audience in a given geographical area.</p> <p>It also states that the radio frequency spectrum is a scarce public resource that should be administered in the public interest and in accordance with international agreements and conventions to which the Philippines is a party. It follows that the frequencies should be assigned to those best qualified to operate the stations.</p>	<p>This norm provides technical guidelines for public telecommunication services, including the broadcasting sector. One of the aims of the norm is to protect consumers against monopolies, which will serve indirectly to promote the existence of community broadcasting.</p>

Norm	Main provisions	Application
	<p>The National Telecommunications Commission should therefore take the necessary measures to implement the policies and objectives set out in the Act, including the protection of consumers against telecommunications monopolies and ensuring the quality, safety, compatibility and inter-operability of telecommunications facilities. Where demand for specific frequencies exceeds availability, the Commission shall hold open tenders to ensure wider access to this limited resource.</p>	
<p>Republic Act No. 8160, of September 1995, granting the University of the Philippines system a franchise to construct, establish, maintain and operate for educational and other related purposes radio and television broadcasting stations within the University of the Philippines and in such other areas within the scope of its operation</p>	<p>This Act grants the University of the Philippines a franchise to construct, establish, maintain and operate for educational and other related purposes radio and television broadcasting stations within its main premises and other areas within the scope of its operation with the corresponding technological auxiliaries or facilities, special broadcast and other broadcast distribution services and relay stations. The radio stations must be so constructed and operated as to minimize interference with the frequencies of other stations.</p> <p>The grantee must secure from the National Telecommunications Commission the appropriate permits and licences. It must also provide a reasonable public service to enable the Government to reach a large population group, provide balanced programming, and not use its stations to the detriment of the public interest or to incite or assist in subversive or treasonable acts.</p> <p>A special right is reserved to the President of the Philippines, in times of war, rebellion, calamity, etc., to temporarily take over and operate the station of the grantee (Section 5).</p> <p>The franchise is for a term of 25 years.</p> <p>Section 9 of the Act provides for the self-regulation of the grantee. The latter shall not require any previous censorship, provided that he/she takes off the air anything prejudicial to public interest or inciting immoral acts or rebellion. Wilful failure to do so shall constitute a valid cause for the cancellation of the franchise.</p>	<p>Although this Act only regulates the university radio stations of the University of the Philippines, we may infer that it is a first step towards recognition of university radio stations.</p>
<p>The Tambuli Community Radio Project set up in 1992 by UNESCO and Danish International Development Assistance</p>	<p>The main goal of this project is to establish community communication centres in remote villages in the Philippines. Its basic idea is that an interactive community is better able to assess and deploy its resources for rational development.</p>	<p>This programme comprises 20 stations situated in remote communities, each station serving an audience of about 10,000.</p> <p>Radio stations have been set up throughout the 7,000 islands</p>

Norm	Main provisions	Application
<p>(DANIDA) in association with the Philippine Foundation of Rural Broadcasters, the University of the Philippines, the Los Banos Institute of Communications Development of the University of the Philippines, the Diliman College of Mass Communication and the Philippine Press Institute</p>	<p>The project is guided by five objectives:</p> <ol style="list-style-type: none"> <li>(1) to provide local access to information;</li> <li>(2) to enable community members to express themselves;</li> <li>(3) to promote community unity;</li> <li>(4) to enhance the sense of identity;</li> <li>(5) to transform listeners from mere receivers to participants in and administrators of the communication system.</li> </ol> <p>The project is based on community empowerment: it is the community that constructs the radio station, organizes discussion groups to frame programme policy guidelines and also selects the radio team from people in different sections of the community, all of whom are volunteers.</p> <p>The project provides equipment, maintenance and help in identifying community development schemes.</p> <p>The operation of these radio stations is supervised by a Community Media Council (CMC) composed of people in farming and fishing, women, young people, tribal groups, religious and political leaders, etc. The Council oversees the broadcasts and makes decisions on programming, administration and other community activities. The project allows a certain amount of advertising, having regard to its impact on the community and the environment. Any income must be used for the maintenance and development of the facilities and for staff training.</p> <p>Each station is equipped with a low-power (10-100 watts) FM transmitter with a coverage area of 20 kilometres.</p> <p>The project also laid the bases for framing codes of conduct for community radio station staff. The Tambuli project conceived this code as an essential tool of professional self-regulation for achieving the levels of efficiency, integrity and positive image required for successful performance.</p> <p>This code has to be adapted to particular local needs and circumstances. The Tambuli project proposes guidelines to be followed in drawing up these codes. They include sections relating to programme production and ethics, conduct and teamwork during operations, studio work, care of equipment and the general conduct of broadcasters in their everyday life within the community.</p>	<p>making up the country – in Basco, Aborlan, Goa, Banga, Ibajay, Sta. Teresita, Barangay Imelda, Cabagan, Maragusan, Loreto, Tubajon, Inogbong, Mabuhay and then Lobo, Cabayugan, Cuyo Island, Gonzaga, Sultan Sa Barongis, Ipil and Joló. Each of these stations has an FM radio transmitter. These small community radios give the inhabitants of over 20 districts access to a radio station that belongs to them, discusses their problems and needs, and works with them to find solutions.</p> <p>One of the programmes under the project encourages people to run neighbourhood radio productions radio. This programme is called <i>Baranggayan sa Himpapawid</i> (Community on the air). This is not simply a radio programme for rural communities but is aimed at enabling people to make themselves heard. The programme is produced by the local community, enabling it to express its feelings, air its problems, etc. These small radio stations help to strengthen the democratic process by giving expression to a variety of viewpoints, building tolerance and encouraging local development. The communities involved are very proud to be the owners of their own communication media.</p>

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
<p>Radio Code developed by Kapisanan ng mga Brodkaster ng Pilipinas (1999 version)</p>	<p>This radio code – devised, developed and promoted by KBP – is prefaced by the statement that it is informed by the highest broadcasting ideals, being a testimony to self-regulation by the broadcasting industry.</p> <p>This safeguards the freedom of creation and self-expression and that of negotiating and operating within a context of individual freedom and social responsibility. However, these freedoms can lead to some abuses, hence the need for self-regulation so as to achieve freedom with responsibility.</p> <p>It is laid down that broadcasting should uphold the customs of civilized society, maintain respect for the rights of all, preserve honour, the family and the home, protect individual dignity and promote national unity.</p> <p>The code is divided into various sections dealing in a very detailed way with programming quality standards and the rules governing advertising. It also lays down guidelines with regard to the tariff structure of broadcasting, commercial administration and the purchase of air-time. It goes on to underline that all its members are subject to the jurisdiction of the regulatory body of KBP. It finally defines the disciplinary procedures and sanctions for habitual infringers of the code.</p> <p>In the section relating to programming, the code devotes an item to community responsibility. It states that radio broadcasters should ascertain the culture, traditions, needs and other characteristics of the community in order to serve it better. Another section provides that all stations should help promote national development in the educational, social, cultural and economic spheres. They should likewise foster Filipino identity, preserve traditions and develop the arts, science and culture. Radio programmes should enhance and complement the educational and cultural influence of the home, the school, religious institutions and the government.</p> <p>In another paragraph, the code provides that radio stations should enable the community to broadcast religious programmes. These should be presented by responsible and qualified individuals, groups and organizations, conveying to listeners a positive vision of the role of religion in society. Programmes should not ridicule other religious groups.</p>	<p>The code is evaluated periodically to ensure that it remains relevant to the broadcasting industry as it grows and develops.</p>

**Country: POLAND**  
**Period: 1992-2000**

Norm	Main provisions	Application
<p>Agreement between the Secretariat of the Episcopate of Poland and the Polish Radio Committee, 1989</p>	<p>Under this agreement the Catholic Church was given air-time each week to disseminate its own programmes on national radio and television stations.</p>	<p>Before this agreement was signed, the Catholic Church could only transmit mass on Sundays. Thereafter, it was allowed four hours each week to broadcast religious programmes by radio.</p>
<p>Agreement on relations between the State and the Catholic Church, 1991</p>	<p>This agreement set the seal on talks and negotiations between the Secretariat of the Polish Episcopate and the Ministry of Telecommunications on whether bodies belonging to the Catholic Church could be authorized to set up their own radio stations. It was established that each diocese could apply for a local radio frequency.</p>	<p>The next step was to draw up a map of the Church's needs, showing information on each station's territorial coverage and power.</p>
<p>Broadcasting Act, 29 December 1992</p>	<p>Chapter I of the Act lists the duties of the radio and television services, which are to provide information, ensure access to culture and art, facilitate access to scientific and educational achievements, disseminate civil education, provide entertainment and promote the domestic production of audiovisual works.</p> <p>Chapter II deals with the establishment and the powers of the National Broadcasting Council. This institution is described as an independent body composed of nine members, four of whom are appointed by the Chamber of Deputies, two by the Senate and three by the President of Poland.</p> <p>The Council's most important tasks are to grant and revoke broadcasting licences, supervise and evaluate the audiovisual media and draw up – in agreement with the Prime Minister – the State's policy guidelines on radio and television broadcasting.</p> <p>In the area of public service broadcasting, radio and television organizations are defined as those companies whose sole shareholder is the State Treasury, represented by the Minister of State Treasury. The Act provides that public broadcasting companies will operate under the provisions of the Commercial Code, thus ensuring their independence from government.</p> <p>The duties of public service broadcasting are to produce and transmit national and regional</p>	<p>Although the Act does not recognize the existence of community radio stations, they feature in the Polish frequency spectrum either as private local radio stations covering a very small area or as radio stations belonging to the Catholic Church and operating locally.</p> <p>One of the first consequences of the Act was the winding up of the Television and Radio Affairs Committee in January 1994.</p> <p>One criticism levelled against the Act was that none of its articles gave a clear definition of the concept of public or private radio.</p> <p>The first frequency allocation exercise was held in 1994. On that occasion, the National Council granted licences to 132 local stations, 46 of which belonged to the Catholic Church. In addition, three stations – <i>Radio Zet</i>, <i>Radio Myzyka</i>, <i>Fakty</i> (RFM) and <i>Radio Maryja</i> of the Curia of Toruń – obtained licences to</p>



Norm	Main provisions	Application
	<p>programmes; disseminate knowledge of the Polish language; promote artistic, literary, scientific and educational activities; encourage the development of citizens' views and shaping of the public opinion; enable citizens and their organizations to take part in public life by expressing diversified views and approaches and by exercising the right to social supervision and criticism; respect the Christian system of values; and take account of the needs of ethnic groups and minorities. They are also required to produce and broadcast educational programmes for schools and other educational institutions.</p> <p>The public radio service consists, on the one hand, of Polskie Radio, which produces and transmits external programme services, and, on the other, of companies founded to produce and transmit regional programmes.</p> <p>As to private broadcasting, the Act requires that at least 30% of monthly transmission time be reserved for musical compositions in Polish. It also prohibits advertisements for specific items, for example, alcoholic beverages and tobacco. Article 18.2 stipulates that programmes shall respect the religious beliefs of the public and especially the Christian system of values.</p> <p>The licensing procedure is open to the public and begins with an announcement in the printed press specifying the requirements for filing licence applications, the number of licences available, the deadline for applications, etc. The Chairman of the National Council is required to publish the list of applicants participating in the licensing procedure. Licences are granted to persons of Polish nationality who reside permanently in Poland or to legal persons permanently domiciled in Poland. The Act limits the share held by foreign investors in the capital of broadcasting companies to 33%.</p> <p>Transmission of radio or television services without a licence is punishable by a fine, restriction of liberty or imprisonment.</p>	<p>transmit national programmes. Furthermore, the National Broadcasting Council granted two licences for supra-regional networks. Fewer licences were granted for local stations than initially planned: only 60% of the 323 frequencies were granted.</p> <p>In the second licensing round, which began in 1995 and ended in 1996, only 38 were granted for radio stations.</p> <p>The number of private regional stations is rising.</p> <p>Apart from authorized stations, some illegal radio stations were also broadcasting between 1994 and 1997.</p> <p>As far as stations belonging to the Catholic Church are concerned, after the two licensing rounds, of the 69 frequencies assigned, 42 went to diocesan stations, two to parish stations and two to religious orders. The programmes of the Catholic stations may be divided into three major categories:</p> <ul style="list-style-type: none"> <li>• radio stations dedicated to prayers;</li> <li>• radio stations dedicated to reflection;</li> <li>• dynamic radio stations broadcasting sociocultural and local programmes.</li> </ul> <p>These radio stations are generally financed by the diocese or by the faithful although some, especially those in the third category, also carry advertisements. <i>Radio Maryja</i>, the Church's only radio station with nationwide coverage, does not carry advertisements</p>

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
		because it is financed by listeners. It is managed by priests and nuns. Most of its staff are volunteers, many of them students.
Winding up of the Television and Radio Affairs Committee, January 1994	This was a direct result of the provisions of the 1992 Broadcasting Act. This longstanding organization of the socialist era was broken up into 18 companies incorporated under civil law, and they became the new members of <i>Polskie Radio</i> .	This institution's demise marked the end of one of the symbols of the radio and television monopoly held by the socialist regime that governed Poland for nearly half a century.
Telecommunications Law, 21 July 2000	<p>The most important points laid down in the law include principles governing the use and monitoring of the use of radio equipment and the management of the radio frequency spectrum and orbital resources. The stated purposes of the law are to ensure universal access to telecommunications services throughout the territory of the country, protect the interests of telecommunications users and protect the State's interests in the areas of national defence, state security and public law and order.</p> <p>Authorization is required for all private telecommunications activities. A permit issued by the President of the Office of Telecommunications Regulation (OTR) is also required for radio communication. Such permits are issued for periods of 10 years.</p> <p>The President of OTR is also responsible for regulating telecommunications activities, managing frequencies and supervising electromagnetic compatibility requirements.</p>	As a complement to the Broadcasting Act, this law covers the technical aspects of radio broadcasting in Poland.

**Country: SOUTH AFRICA**  
**Period: 1993-1999**

Norm	Main provisions	Application
<p>Independent Broadcasting Authority Act (IBA) 153, 1993</p>	<p>This Act establishes an Independent Broadcasting Authority (IBA), a legal entity whose tasks are to formulate broadcasting policy, plan the broadcast frequency spectrum, grant licences, adjudicate in the event of dispute and regulate the broadcasting industry as a whole.</p> <p>The Authority operates independently of the State and of government and political party influences. It is a non-profit organization, funded partly by the State and partly from various paid-in fees.</p> <p>It is governed by a Council of seven members appointed by the President of the Republic. They have expertise in broadcasting policy, media law, journalism, entertainment, education and other fields.</p> <p>The main purposes of this Act are to:</p> <ul style="list-style-type: none"> <li>• promote a diverse range of broadcasting services nationally, regionally and locally to provide entertainment, education and information for all language and cultural groups;</li> <li>• promote the development of public, private and community broadcasting services that are responsive to the needs of the public;</li> <li>• develop and protect a national and regional identity, culture and character;</li> <li>• encourage ownership and control of broadcasting services by persons from historically disadvantaged groups;</li> <li>• ensure that private and community broadcasting licences are controlled by persons or groups of persons from a diverse range of communities in the Republic;</li> <li>• ensure equitable treatment of political parties by all broadcasting licensees during all electoral periods; and</li> <li>• ensure that broadcasting licensees adhere to a code of conduct acceptable to IBA.</li> </ul>	<p>This Act recognizes community broadcasting as a third category of the sound broadcasting service and puts it under the control and protection of IBA.</p> <p>Within this legal framework, the National Community Radio Forum (NCRF) was launched in December 1993, the high point of the <i>Free the Airwaves</i> campaign that had been waged for years during apartheid.</p> <p>Its main task is to promote the diversification of the airwaves and the creation of a dynamic broadcasting environment in South Africa. This is achieved by establishing community radio stations throughout South Africa.</p> <p>NCRF is an organization that represents a total of 75 affiliated community radio stations, to which it provides various types of services including organizational development, training in administration, market studies, advertising, programming, etc.</p> <p>This organization is funded by agency donations that are used to carry out plans and programmes.</p> <p>South Africa's community radio movement abides by principles that include the Windhoek Charter's definition of community broadcasting, which states that community broadcasting is broadcasting which is for, by and about the community, which pursues a social development agenda, which is non-profit and whose</p>

Norm	Main provisions	Application
	<p>The Act establishes three categories of broadcasting services:</p> <ol style="list-style-type: none"> <li>(1) public broadcasting services provided by the South African Broadcasting Corporation or by any other statutory body or by a person who receives his or her revenue from licence fees paid by the audience on their receiver sets;</li> <li>(2) private broadcasting services operated for profit and controlled by a person who is not a public broadcasting licensee;</li> <li>(3) community broadcasting services: <ul style="list-style-type: none"> <li>• which are fully controlled by a non-profit entity and are provided for non-commercial purposes;</li> <li>• which serve a particular community;</li> <li>• which encourage members of the community served by or associated with it to promote the interests of that community and to participate in the selection and provision of programmes for broadcast.</li> </ul> </li> </ol> <p>The above may be funded by donations, grants, sponsorships, advertising or membership fees, or by any combination thereof.</p> <p>The Act establishes two main types of community broadcasting service:</p> <ol style="list-style-type: none"> <li>(1) service provided to a geographically-based community;</li> <li>(2) service provided to a community of interests. The Act identifies various types of communities of interests: institutional, religious, cultural and other communities.</li> </ol> <p>The Act also lays down requirements to be met when applying for broadcasting licences and specifies that no licence shall be granted to any party, movement, organization or alliance that is of a political nature.</p> <p>It stipulates the procedure for the granting of licences, including temporary licences for community broadcasting.</p>	<p>ownership and management is representative of the community.</p> <p>The affiliated radio stations are organizations based on independent non-profit communities. The stations are owned by various local communities, by which they are managed and which participate actively in the development of programming activities for sustainable, discrimination-free local development.</p>

Norm	Main provisions	Application
<p>Community Sound Broadcasting Services, Discussion Paper, 26 April 1996</p>	<p>This draft policy document on community radio broadcasting was drawn up by the Independent Broadcasting Authority after conducting a national survey on the issue in 1994.</p> <p>Its purpose was to share IBA’s thinking on community sound broadcasting with the public, interest groups and potential broadcasters. The latter were requested to express their opinions through written submissions or oral representations at public hearings on the issue.</p> <p>The draft covers the following points, among others:</p> <ul style="list-style-type: none"> <li>• entities eligible for a community licence;</li> <li>• entities precluded from holding a licence;</li> <li>• definition of a community broadcasting licence;</li> <li>• financial requirements;</li> <li>• general content-related requirements;</li> <li>• advertising and sponsorship;</li> <li>• licence renewal;</li> <li>• permanent staff.</li> </ul>	<p>This was a great step forward for community broadcasting, not only in South Africa but also on the African continent. It is also a good example of the democratic mechanisms put into practice by the South African State.</p>
<p>Community Sound Broadcasting Services Policy, 10 June 1997</p>	<p>This document lays down the bases and statutory framework of South Africa’s community sound broadcasting services policy. In drawing it up, IBA was guided by statements made at public hearings held throughout the country and the agreement on granting temporary and short-term licences for community radio services.</p> <p>It maintains the definition of community broadcasting services and of the two types of community, i.e. geographical community and community of interests.</p> <p>The licensing procedure begins with the publication in the Government’s official gazette of an invitation to participate, is followed by public hearings and ends with the announcement of the IBA’s decision.</p> <p>Community stations must reflect the language requirements of the communities that they serve.</p> <p>Among the general requirements, IBA requires each community station to have at least two managerial staff members.</p>	<p>These community sound broadcasting policy lines were drawn up on the basis of the results of an earlier public consultation. It provided a legal framework that sets out broadcasters’ rights and their obligations towards the community.</p>

Norm	Main provisions	Application
	<p>In exceptional cases, IBA may require two or more licensees to share the same frequency.</p> <p>The document bans tobacco and alcohol advertisements during educational, religious or children’s programmes.</p> <p>The IBA is required to enforce the International Telecommunication Union (ITU) parameters and requirements and to monitor the use of the frequency spectrum.</p>	
<p>Broadcasting Act, April 1999</p>	<p>This Act repeals the 1976 Broadcasting Act, amends some provisions of the 1993 Independent Broadcasting Authority Act and clearly defines the Minister’s powers in regard to policy formulation and IBA’s powers with respect to regulation and licensing.</p> <p>The Act also provides a Charter for the South African Broadcasting Corporation Ltd (SABC) and establishes <i>inter alia</i> a Frequency Spectrum Directorate in the Department of Communications and a South African Broadcast Production Advisory Body.</p> <p>The prime objective of the Act – as stated therein – is to establish and develop a broadcasting policy in the public interest and, for that purpose, to contribute to democracy, the development of society, gender equality and nation building; encourage ownership and control of broadcasting services by persons from historically disadvantaged groups; ensure plurality of news and views and provide a wide range of entertainment and education programmes; ensure efficient use of the broadcasting frequency spectrum; provide for a three-tier system of public, commercial and community broadcasting services; ensure that commercial and community licences are controlled by persons or groups of persons from a diverse range of communities in South Africa; ensure that the services are effectively controlled by South Africans; encourage the development of local programming content, among other points.</p> <p>The Act requires that the South African broadcasting system be owned and controlled by South Africans.</p> <p>Chapter VI is devoted to community broadcasting services. It specifies the cases in which the IBA may grant licences for both community radio and television broadcasting stations. Licences must be managed and monitored by a board that must be</p>	<p>Between its establishment and 2000, IBA granted more than 80 licences for community radio stations and 10 for independent commercial radio stations.</p> <p>South Africa’s community broadcasting legislation is one of the most highly developed, being always open-ended and receptive to such self-sufficiency initiatives.</p>

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
	<p>democratically elected from members of the community in the licensed geographical area. The programming provided by a community broadcasting service must reflect the cultural, religious, language and geographical needs of the people in the community. It must also provide a distinct broadcasting service dealing specifically with community issues that are not normally dealt with by other services covering the same area; it must be informational, educational and entertaining; and it must focus on the provision of programmes that highlight grass-roots community issues such as health, development, environment, etc.</p> <p>All surplus funds derived from running a community broadcasting station must be invested for the benefit of the particular community and monitored by IBA.</p> <p>IBA is also required to conduct a public inquiry to determine priorities within the community radio sector.</p> <p>Chapter IV of the Act provides for the incorporation of the South African Broadcasting Corporation as a limited liability company with share capital. The Corporation consists of two separate operational entities, a public service and a commercial service, which are managed separately. Furthermore, the Act establishes a statutory Charter under which the Corporation is governed. IBA is required to monitor the Corporation and ensure that it complies with the Charter.</p> <p>The Act also establishes the National Electronic Media Institute of South Africa, the main objectives of which are to implement a human resource development programme and to provide training courses in programming.</p>	

**Country: SPAIN**  
**Period: 1959-1998**

Norm	Main provisions	Application
<p>1959 memorandum of understanding between the Ministry of Information and the Episcopal Commission on the Media through its national secretariat for cinema, radio and television</p>	<p>This memorandum was agreed in order to solve the problem of small parish radio stations (some 200 low-power stations which only broadcast for a few hours, carrying out pastoral tasks and helping parishioners with their needs). By means of this document, the Spanish authorities sought to introduce order in the radio spectrum, reducing the number of and regrouping stations in line with the international regulations accepted by Spain.</p>	<p>As a result of this memorandum the small stations were closed but, in exchange, the bishops asked for the licensing of one radio station for each diocese. A total of 44 licences were granted to diocesan bishops and the Jesuit and Dominican orders.</p> <p>The radio stations operated independently but joined forces in what was known as the Network of Popular Spanish Broadcasters (Cadena de Ondas Populares Españolas – COPES), which, at the time, was not a separate body and had no legal status. In this way, the foundations were laid for the creation of a national broadcasting network.</p> <p>The first statutes of COPES were approved in 1965 and confirmed two years later by the Episcopal Commission on the Media.</p> <p>In 1971 the company Radio Popular S.A. (better known as RAPOSA) was set up. The partners in the company were the Bishops' Conference, those dioceses which had radio stations, the Society of Jesus and the Dominicans. Radio Popular S.A. developed in view of the need to form a national broadcasting network, using membership agreements to link the company to individual radio stations with a separate legal status.</p>



Norm	Main provisions	Application
		<p>RAPOSA was set up as a service company for the other stations and subsequently organized the network's programming and publicity relations.</p>
<p>Spanish Constitution of 6 December 1978</p>	<p>Article 20 of the Spanish Constitution establishes the right to “express and impart freely thoughts, ideas and opinions; and to communicate and receive truthful information through any media”.</p> <p>Article 149.1.21 of the Constitution merely states that “the State has exclusive responsibility for the general regime of communication ...”; telecommunications ... and radio communication” and for the “basic norms of the press, radio and television system and, in general, all media, without affecting the powers of the Autonomous Communities in respect of the development and application thereof (Art. 149.1.27). The dual nature of broadcasting as a “medium” and as “a technical activity” which underpins it is indicated in the Constitution, which differentiates between “the general regime ... of telecommunications ...” (Art. 149.1.22<sup>a</sup>) and “the basic norms of the press, radio and television system and, in general, all media (Art. 149.1.27<sup>a</sup>).</p>	<p>Spanish broadcasting makes a distinction, for the purposes of subsequent legal regulation, between broadcasting as “a medium of communication” and the supporting technical activity.</p>
<p>1978 National Technical Plan for Sound Broadcasting</p>	<p>The plan aimed to adapt the Spanish situation to the distribution of frequencies achieved by the Geneva Convention and divided radio stations into two groups: public and private. At that time synchronized networks became established together with State participation of at least 25% in the share capital of the licensee companies.</p> <p>From that time on, the present-day COPES network grew increasingly important in the national information scene eventually becoming the third most important broadcaster in Spain. Another major feature of the network is the combination of national and local programmes. The local programmes demonstrate the deep roots and established nature of the radio stations and their ability to reflect local institutions, customs and cultures.</p> <p>Radio Popular S.A. COPES endeavours to draw inspiration and guidance from the principles of Christian humanism and seeks to make known the principles of the Catholic Church, promoting the human, social and cultural values of society as a whole – but always within the framework of freedom and independence.</p>	

Norm	Main provisions	Application
<p>Law 4/1980: Radio and Television Statute of 31 July</p>	<p>This law established radio and television broadcasting as “essential public services owned by the State” (Art. 1.2).</p> <p>It also provides that “the media concerned by the present Law are radio and television” (Art. 1.1). The reason for this consideration is given in the Statement of the Grounds: “Radio and television, organized as an essential public service ... are considered to be an essential vehicle for information and the political involvement of citizens, the shaping of public opinion, cooperation with the education system, the spread of the culture of Spain, its nationalities and regions, and also a vital means of ensuring that freedom and equality are real and effective, with particular attention to the protection of people on the margins of society and to the elimination of discrimination against women”.</p>	<p>In 1983 COPES started to network news, magazines, sports broadcasts and social and religious programmes. The definite intention of the COPES network is to provide programming linked to the public and its concerns, endeavouring to get closer to people by using the vernacular, for example Euskera in the Basque Country.</p>
<p>Law 31/1987 of 18 December on the Organization of Telecommunications</p>	<p>Many of its provisions were repealed by Law 11/1998. According to the preamble, “this law responds to the need to establish, for the first time in Spain, a basic legal framework containing the guidelines to which the provision of the various modes of telecommunication must conform, at a time when the functions and responsibilities of the public administration and the public and private sectors are being defined in detail”.</p> <p>The law also organized the provision of telecommunication services in a framework open to free competition and the incorporation of new services.</p> <p>As a general rule, the law defined telecommunications as essential State-owned services held in the public sector, identifying the public radio sphere and organizing its use, excluding at the same time specific services from the system. It established the Telecommunication Advisory Board as the Government’s main advisory body in the matter.</p> <p>Part IV of the law defined the broadcasting services as “telecommunication services providing simultaneous communication, in one direction only, to various points of reception. The assignment of these services to a system of indirect management shall be the subject of a government licence” (Art. 25).</p> <p>Article 26 (paras. 3, 4, 5 and 6) of the same part provided for the direct operation of radio broadcasting by the Government and for indirect management by legal entities or individuals. Such indirect management must be arranged through the granting of a licence by the Ministry of Public Works, Transport and the Environment or, as the case may be, the Autonomous</p>	<p>This law represents the first basic legal framework applicable to the telecommunications sector and the start of liberalization in Spain. The law was soon out of date and needed to be radically reformed. The law was thus subject to successive adjustments, either in the shape of direct amendments brought about by the changes introduced by Law 32/1992, of 3 December, and Law 12/1997, of 24 April, on the Liberalization of Telecommunications, or else as a result of the adoption of sectoral laws which established specific legal rules for particular areas, e.g. Law 37/1995, of 12 December, on Satellite Telecommunications or Law 42/1995, of 22 December, on Cable Telecommunications.</p> <p>Notwithstanding the provisions of the law, successive complaints were lodged with the Directorate General for Telecommunications and</p>

Norm	Main provisions	Application
	<p>Communities, which are responsible for FM broadcasting licences.</p> <p>The law specified the areas of operation of three types of sound broadcasting services:</p> <ol style="list-style-type: none"> <li>(1) shortwave and longwave sound broadcasting services shall be operated directly by the State or its public bodies;</li> <li>(2) medium-wave sound broadcasting services shall be operated on a competitive basis, as follows: <ul style="list-style-type: none"> <li>• managed directly by the State or its public bodies;</li> <li>• managed indirectly on the basis of a State licence by legal entities or individuals.</li> </ul> </li> <li>(3) VHF FM sound broadcasting services shall be operated on a competitive basis: <ul style="list-style-type: none"> <li>• directly by the public authorities or the competent public bodies, in accordance with the legislation on the media, and indirectly under a State licence by the local corporations;</li> <li>• managed indirectly on the basis of a State licence by legal entities or individuals.</li> </ul> </li> </ol> <p>Article 33 provides, with regard to indirect management, that a radio station without a licence may be closed down. Before beginning operation, under direct or indirect management, a service requires the approval of the Ministry of Infrastructure and Public Works for the technical projects or proposals relating to the installations, which must be inspected, and approval of the corresponding technical regulations and the regulations concerning the provision of services.</p> <p>The law's sixth provision lays down the requirements which must be met in order to obtain a licence for any public sound broadcasting service: for example, Spanish nationality. Under no circumstances may the same legal entity or individual hold more than one licence for the operation of medium-wave sound broadcasting services or more than two licences for the operation of VHF FM sound broadcasting services with substantially the same coverage. Licences are granted for a period of 10 years renewable.</p>	<p>with the ministries of the Autonomous Communities concerning the existence of FM radio stations not holding the requisite licence.</p>

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
<p>Royal Decree of 10 February 1989</p>	<p>By virtue of Articles 5 and 6 of the Decree, a State licence is required for the purpose of indirect management of FM radio stations. The Decree reaffirms the provision of the Law on the Organization of Telecommunications prohibiting illegal broadcasters.</p>	<p>The requirement for a licence has resulted in various rulings by the Constitutional Court (TC). Among these mention may be made of the ruling of 3 June 1991. A radio station facing closure invoked Article 20 of the Spanish Constitution: the right to impart ideas and opinions. The Court found that “this right has definite limits. With regard to the media’s right to create, the law has, indeed, a much greater capacity to shape the situation, being required to consider, in regulating such matters, other recurrent rights and values, without restricting essential content”. (STC 206/1990, FJ.6°).</p>
<p>Organic Law 9/1992: Transfer to the Autonomous Communities, of 23 December 1992</p>	<p>This law transfers to the Autonomous Communities responsibility for legislation and implementation in the area of the press, radio, television and other media, among other powers (Art. 3.2).</p> <p>It also provides that FM sound broadcasting services can be operated indirectly under State licence by the local corporations, either using their own employees or officials, or an autonomous local body established for the purpose, or a trading company whose share capital belongs entirely to the local authority.</p>	<p>The development of this norm helped to increase the public radio services sponsored by municipal and Autonomous Community bodies. These radio stations are, for the most part, designed as mass media and channels for communicating with citizens. They do not usually respond to any objective demand. As a result they are becoming sources of indebtedness and, in many cases, in defiance of all market logic, compete for funds to ease their financial situation. Their difficulties in keeping afloat have led to closures, shortage of resources, insecure operation, broadcasting in poor conditions, a commercial performance detrimental to all, and a recent phenomenon, the subcontracting of radio stations by some</p>

Norm	Main provisions	Application
		<p>municipalities to individuals who operate them on a commercial basis in exchange for a few hours of air-time for the town hall.</p>
<p>Royal Decree 1388/1977, FM National Technical Plan of 5 September 1997</p>	<p>Approves an increase in the number of frequencies for indirect management of radio stations, within the framework of the VHF FM National Technical Plan.</p> <p>This decree focuses on the technical problems that can be generated by saturating levels of radio emissions, which can interfere with the reception of other stations at their respective broadcasting times, the reception of the public television service or other radio services.</p> <p>Moreover, in view of the limited number of usable frequencies for FM stations under indirect management, the validity of the licence is subject to the use of the corresponding frequency by the licensees.</p>	
<p>General Law on Telecommunications 11/1998 of 24 April 1998</p>	<p>This law replaces the 1987 Law on the Organization of Telecommunications and establishes a uniform legal framework. It concerns radio broadcasting as a service and a technical activity.</p> <p>One important innovation introduced by this law is the establishment of a system of general authorizations and of individual licences for the provision of services and the installation or operation of telecommunication networks (Part II), by which the traditional schema of licences and government authorizations is adapted to the system for the granting of licences imposed by Community Directives. In Article 15.3 the law also provides that licences are required for the provision of services or the establishment or operation of telecommunication networks involving the use of the public radio sphere. The requirements which must be met by licence applicants include specification of the coverage; the timetable for the introduction of the service and the means of access to it, particularly from terminals which can be used by the public; satisfaction of the conditions in the basic documents governing tenders for licences; for the provision of specific services or the establishment or operation of telecommunication networks. The following may be individual licence holders: legal entities or individuals who are nationals of a Member State of the European Union, or nationals of other States if so provided in the international agreements to which Spain is a party.</p> <p>The law reiterates that the management of the public radio sphere and the facilities for its administration and control are matters for the State (Art. 61).</p>	<p>In 2000, COPES carried out the programme <i>Studio 2000</i> involving a mobile radio studio which travelled around Spain producing programmes of relevance to the areas concerned. It also included a perfectly designed and equipped set for any type of performance.</p>

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
	<p>Article 62 provides that the government has the power to regulate the conditions for the management of the public radio sphere, the formulation of plans for its exploitation and the procedures for the granting of rights of use of that sphere.</p> <p>For the purpose of drawing up future national technical plans for radio and television, the Government will take account of the coverage requirements at State and local levels and for the Autonomous Communities. It will ensure that there is an equivalent frequency provision for State and local coverage and for the Autonomous Communities on the basis of specific needs and taking account also of island specificities.</p> <p>The law provides for the establishment of the Telecommunications and Information Society Advisory Board, the Government's advisory body on telecommunications and the information society.</p> <p>Its functions are to study, discuss and make proposals in relation to telecommunications and the information society, without trespassing on the areas of responsibility of interministerial professional bodies whose role it is to report to the government on IT policy.</p>	

**Country: URUGUAY**  
**Period: 1977-2002**

Norm	Main provisions	Application
<p>Radio broadcasting decree law 14.670 of 28 June 1977, with regulations for implementation in decree 734/978 of 15 January 1979, as amended by decrees 327/980 and 350/986</p>	<p>These regulations, which currently govern community radio broadcasting, lay down technical guidelines and refer very little to the content of the information broadcast. This legal framework provides that the Executive shall decide, without recourse to tenders or competitions, on the time and expediency of inviting interested parties to apply for the allocation of “vacant” frequencies.</p> <p>Those applying for allocation of frequencies must meet, <i>inter alia</i>, the following requirements:</p> <ul style="list-style-type: none"> <li>• payment for the right to apply (US \$4,500, non-refundable if the application is refused) and payment of a considerable deposit;</li> <li>• applicants are requested to declare their “commitment to democracy” and demonstrate their good character. This last criterion is taken into account by the national executive authority at the time of evaluation and subsequent decision.</li> </ul>	<p>There is no national frequency plan and no technical criteria governing the occupation of the radio spectrum and, in the event of various parties responding to an invitation for applications, there are no selection criteria to facilitate objective evaluation of the proposals. The decision on frequency allocations is a political one – in other words, it is taken by the governing party.</p> <p>Discrimination in the allocation of frequencies operates to the detriment of both community and business groups wishing to gain access to the media.</p> <p>This encourages the creation of oligopolies, as in the case of three family-based economic groups that dominate television, radio and the written press.</p>
<p>Decree 15.671 of 8 November 1984</p>	<p>This decree brings the National Communications Authority under the Ministry of Defence.</p>	
<p>Amendment to Decree 15.671 of 1985</p>	<p>Parliament proposed amendments to Decree 15.671 – as well as to other laws dating from the dictatorship – and by an overwhelming majority voted that the National Communications Authority (DNC) should become an autonomous public body.</p>	<p>President Julio María Sanguinetti vetoed the measure, thus preventing the initiative from being implemented.</p>
<p>Law 16.099 of 3 November 1989</p>	<p>The second paragraph of Article 1 of the law establishes the “freedom to found communication media”, which is also enshrined in Article 36 of the Uruguayan Constitution, Article 23.1 of the Universal Declaration of Human Rights and Article 6 of the International Covenant on Economic, Social and Cultural Rights. Moreover, Article 2 of the law, under the title “Exclusion of preventive measures” provides that “owners of the communication media shall enjoy the right referred to in Article 1 without the need for prior authorization, censorship, guarantees or financial deposit”.</p>	<p>On the basis of this law it can be asserted that non-profit-making community, cultural, trade-union, popular or free radio stations cannot be prohibited, because of the application of the general principle of freedom.</p> <p>Similarly, the provisions dating from the time of the former regime, even those using the term “authorization”, should be</p>

Norm	Main provisions	Application
		<p>interpreted within the framework of the general principle of freedom and the abolition of the requirement of prior authorization, so as to mean simply that the operations of the broadcasting media, their coverage and their characteristics, etc., may be technically supervised with a view to the optimum exercise of the rights of all men and women.</p>
<p>Resolution 377/996 of 25 April 1996 of the National Executive Authority</p>	<p>This norm authorized the representatives of the World Association of Community Radio Broadcasters (AMARC) of Uruguay to use a frequency modulated channel (FM) for 24 hours in order to broadcast to the entire population the discussions and talks taking place as part of an event organized by the community radio stations. The event in question was called <i>Con los pies en la tierra y la voz en el aire</i> (With our feet on the ground and our voices on the airwaves).</p>	<p>The event was a success.</p>
<p>A call for stricter penalties against radio stations broadcasting outside the framework of the law (1996)</p>	<p>Two draft laws were submitted, aimed at making unauthorized radio broadcasting an offence</p>	<p>Spokespersons of communication enterprises and of the Government brought greater pressure to bear so as to increase the penalties against those broadcasting outside the framework of the law, after strong lobbying by ANDEBU (the union of private enterprises) and, the International Association of Broadcasting (IAB).</p>
<p>Draft law of 10 July 1997 aimed at penalizing unauthorized radio broadcasting</p>	<p>This draft law was submitted by the Herrerista group of members of parliament of the National Party to the Defence Committee of the House of Representatives. It seeks to penalize the operators of community radio stations with sanctions of up to 10 years' imprisonment, 18 years' disqualification and two to four years' complete forfeiture of civil rights. The draft law also proposes that anybody carrying out acts aimed at harming the integrity or affecting the unity of the State, or inciting people to commit crimes or disobey the law, or using the same means to promote disorderly meetings against public order or inciting the public to insult the nation, the State or its authorities, will be punished by six to 10 years' imprisonment and by four to eight years' total forfeiture of rights.</p>	<p>Representatives of ANDEBU (National Association of Uruguayan Broadcasters) suggested to the Ministry of Defence, the National Communications Authority (DNC) and the Ministry of the Interior that community radio stations in Uruguay should be closed on the grounds that, in addition to the fact that such stations operated outside the framework of the law, they did not – as implied by their name – fulfil their role vis-à-vis the community.</p>



Norm	Main provisions	Application
		They accused such radio stations of being “criminals”, and “inciting violence against public order”.
Draft law of March 1998 aimed at punishing those responsible for and those supporting unauthorized broadcasting stations	The draft law, submitted by the National Executive Authority, establishes penalties of up to four years’ imprisonment for the unauthorized operators and from three months to three years for those supporting such stations.	For the first time, penalties were established against those supporting community radio stations.
Legal guidelines for the regulation of community radio broadcasting (1998)	In that year, AMARC submitted guidelines to the Uruguayan Parliament for the reform of broadcasting legislation, proposing a consensual alternative within a legal framework.	
Budget law (2001)	Creation of the Regulatory Unit of Communication Services (URSEC), removing it from the authority of the Ministry of Defence (MDN) and placing it under the Office of Planning and the Budget (OPP) of the Executive Authority.	Although there is still some degree of administrative dependence on MDN, the most significant aspect is the removal of communications from its area of authority.
URSEC sets up a working group, inviting the participation of ANDEBU, RAMI and AMARC (September 2001)	The Government decided to convene representatives of community radio stations to form a “working committee” comprising technicians of URSEC (Regulatory Unit of Communication Services) and representatives of ANDEBU (National Association of Uruguayan Broadcasters), RAMI and AMARC (World Association of Community Radio Broadcasters). The initiative was aimed at finding a solution to the problems posed by low-frequency and community radio stations by establishing a regulatory framework that took account of the situation and regulated the way they operated. The president of URSEC stated that the Unit had decided to create this working committee “in order to try to reach a degree of consensus with the people directly involved so as to formulate a draft law on the regulation and operation of low-power radio stations”.	The new Government changed strategy, in keeping with the statements made by the Uruguayan President, Jorge Batlle, who had declared his intention to legalize the community radio broadcasting.  For the first time, the community radio stations were recognized as actors in their own right.
Press publications which held community radio stations responsible for incitement to looting, on 3 August 2002	The <i>El Observador</i> and <i>El País</i> newspapers of Uruguay published reports implicating community radio stations in the escalation of violence which the country was supposed to be experiencing. <i>El Observador</i> stated that “official sources had informed <i>El Observador</i> that various community radio stations in Cerro and La Teja were being investigated on the presumption of incitement to looting”. <i>El País</i> reported that “the acting Minister	In a press communiqué of the same day, the community radio broadcasters and organizations belonging to AMARC (World Association of Community Radio Broadcasters) of Uruguay expressed their anger at the reports published by

Norm	Main provisions	Application
	<p>of Defence had told <i>El País</i> that the authorities of the Regulatory Unit of Communication Services (URSEC) of the Ministry of Defence had, in the afternoon of the previous day, listened in to three clandestine radio stations which broadcast messages inciting people to loot supermarkets”.</p>	<p><i>El Observador</i> and <i>El País</i>.</p> <p>They felt that “these attempts to criminalize our movement have no other purpose than to make the social organizations a scapegoat for the situation we are now experiencing and to undermine the influence that the community radio stations, in particular, have acquired through their efforts and social work in their respective communities, building citizenship day by day throughout the length and breadth of the country.</p> <p>“In view of this situation, AMARC-Uruguay demands that URSEC put an immediate stop to the repressive measures being taken against the community radio stations and that the newspapers in question accord the right of rebuttal by publishing a clarification in the same conditions in which the report referring directly to us was published. We wish to place on record that if this demand is not met, we shall institute the legal proceedings required to ensure the observance of this right.” In a press communiqué, <i>El Puente FM</i>, the community radio station of La Teja, felt that a number of points had to be made clear: “Our radio station, a community radio station which has been broadcasting for eight years in La Teja and is a member of the World Association of Community Radio Broadcasters (AMARC), would like to place on record that there was no incitement whatever to looting or any other kind of violence in the course of its broadcasts which, in fact, are restricted to Fridays, Saturdays and Sundays.” It should be pointed out that the</p>

Norm	Main provisions	Application
		<p>looting occurred on a Thursday. Furthermore, the statement made it clear that the community radio stations were against the promotion of violence and that any station doing so should (just like a commercial station) be prosecuted.</p>
<p>Closure of community radio stations, August 2002</p>	<p>On 3 August the premises of <i>El Quijote FM 107.3</i>, a community radio station broadcasting in the district of the Jardines de Peñarol (Montevideo) were raided and searched. Officials of URSEC (Regulatory Unit of Communication Services) and police agents, in a heavy-handed operation, seized all the broadcasting equipment and closed the station. A little later a similar operation occurred in <i>La Voz FM</i>.</p> <p>On 16 August <i>Germinal FM</i> was also raided by URSEC officials and police agents.</p> <p>These were not isolated cases, since the Minister of Defence had announced that some community radio stations would be raided.</p>	<p>AMARC-Uruguay expressed its opposition to the closure of <i>El Quijote</i> even though that station did not belong to the association. Similarly, the organization demanded that “before the arbitrary closure of a media outlet the procedures laid down by the press law (14.670) should be followed”. It also rejected the interference by the Ministry of Defence in an area which was no longer within its competence since the budget law of 2001.</p> <p>AMARC-Uruguay went on to request the Government that, through URSEC, it should explain “what were its true intentions regarding community radio broadcasting in view of the fact that discussions were currently under way with the encouragement of that same organization with a view to regularizing that activity”.</p> <p>In a press communiqué, representatives of <i>Germinal FM</i> publicly rejected “this type of censorship carried out against the free expression of the community, since as well as dealing with matters and events beyond the studio, what we are really doing is expressing our views freely without committing any offence”.</p>

Norm	Main provisions	Application
<p>Draft law to regulate low-power radio broadcasting and university broadcasting, September 2002</p>	<p>URSEC, the media regulatory body in Uruguay, made this draft law available for public consultation up to 27 September 2002. The purpose of the law is to establish the regulations governing the provision of the low-power radio broadcasting service and the university broadcasting service, which constitute alternative services for the transmission of cultural, educational, artistic, news, religious or entertainment programmes.</p> <p>For its part, Article 3 defines low-power radio broadcasting as the FM broadcasting service operating with low power and restricted coverage and provided by not-for-profit civil associations, having sociocultural objectives; such a service has its headquarters in the area covered by the broadcasts, which are intended to be of public benefit to the inhabitants of that area by contributing to their social and cultural betterment and by disseminating ethical and social values of the individual and the family. “Low power” is defined as power limited to a maximum of 50 watts effective radiated power (ERP) with an average antenna height (AAH) of 30 metres. Restricted coverage means that the service covers an area not exceeding 1.5 kilometres.</p> <p>Article 4 defines a university broadcasting service as an FM radio service provided by duly authorized universities, which will be able to reach the whole country through the use of relay stations.</p> <p>According to Article 5, the low-power broadcasting service will be provided exclusively by not-for-profit civil associations, which must operate with the prime authorization of the Executive advised by the Regulatory Unit for Communication Services. The university broadcasting service will be provided exclusively by universities with the prior authorization of the Executive advised by the Regulatory Unit for Communication Services.</p> <p>The draft text stipulates that a not-for-profit civil association holding a low-power broadcasting may not have more than one station on the national territory, except in the case of associations having national representation and the church (Art. 7).</p> <p>Furthermore, according to Article 8, applications to operate the above-mentioned services may only be submitted by those who have not been operating unauthorized stations. According to Article 10 the Executive may grant temporary and revocable licences to interested parties on the basis of public invitations to apply.</p>	<p>In a press communiqué, AMARC-Uruguay, while expressing its satisfaction that the Uruguayan Government had decided to regulate community broadcasting, stated that it regarded as unacceptable “this draft law which provides no solution to the problem, but rather aggravates the situation of community radio stations”. Consequently, it launched an appeal to be able to participate in the public consultation by the Government so as to express:</p> <ul style="list-style-type: none"> <li>• its rejection of the draft law and its call for the preparation of another proposal that would allow access to the radio frequencies on the basis of equality;</li> <li>• its call for the establishment of a round table involving all the interested parties so as to work on the preparation of a draft law that would receive broad consensus.</li> </ul> <p>In the opinion of AMARC-Uruguay, there are at least four basic factors that make this draft text unacceptable:</p> <ol style="list-style-type: none"> <li>1. It preserves the discretionary system for the allocation of frequencies. The draft text submitted by URSEC does not alter, but even endorses, the current system for allocating frequencies which gives the Executive complete discretion in the choice of licence holders;</li> <li>2. Penalties. The draft text provides for sentences of up to two years’ imprisonment for those who broadcast without authorization;</li> </ol>

Norm	Main provisions	Application
	<p>The programmes must be of a cultural, educational, informative, entertainment or religious nature, and the broadcasting of commercial advertisements of any kind is banned. It must contribute to the sociocultural development of those living in the area of coverage (Art. 12).</p> <p>Article 18 stipulates that any person using the radio electric spectrum for the purposes of providing a broadcasting service, whatever its nature, power, or modality, without prior authorization from the Executive, will be subject to sentences of from three to 24 months' imprisonment.</p>	<p>3. Limited coverage. It seeks to set 1.5 kilometres as the maximum area of coverage;</p> <p>4. Frequencies would not be awarded to community radio stations that are currently broadcasting.</p> <p>Having analysed the preliminary draft law put forward by URSEC, AMARC-Uruguay decided:</p> <ol style="list-style-type: none"> <li>1. to publicly reject the draft text which it considered to be unacceptable, and to initiate a national and international campaign to publicize this issue;</li> <li>2. to withdraw from the official discussions on the grounds that its contributions had not been taken into consideration and that no real dialogue had taken place;</li> <li>3. to convene a broad round table consisting of various organizations so as to promote the preparation of an alternative proposal for the regulation of community radio broadcasting, based on its proposed legal guidelines.</li> </ol> <p>Consequently, in the course of the consultations URSEC made several small amendments to the draft text:</p> <ul style="list-style-type: none"> <li>• it included the drawing of lots as a means of allocation (so as to avoid the use of discretionary powers);</li> <li>• it would grant provisional licences to new broadcasting stations until such time as those interested in the</li> </ul>

<b>Norm</b>	<b>Main provisions</b>	<b>Application</b>
		<p>broadcasting area may be given the opportunity to apply;</p> <ul style="list-style-type: none"><li>• as an exception, an additional paragraph to Article 3 allows URSEC – taking into account the service provided – to exceed the power limit of a community radio station.</li></ul> <p>The penalties remain unchanged. The proposal was placed before the Executive in November 2002 and was still there by the beginning of 2003. Once it has been considered by the Executive it will go before one of the chambers of parliament. It may be amended.</p>

## CHAPTER II

This chapter presents consolidated analyses of the legislative situation with regard to community radio in the 13 countries covered in our study. These analyses highlight what we consider to be the most significant legal aspects, demonstrating how they have strengthened or weakened the legal position of community radio. In this presentation the countries are ordered by region.

### **Region: NORTH AMERICA**

#### **Canada**

In Canada community radio broadcasting is fully recognized, protected and even officially subsidized, all in all an ideal situation. In this North American country a legal distinction is also drawn between community, campus and ethnic broadcasting, which gives some idea of the specificity of its content.

Canadian legislation on community broadcasting is based on the Broadcasting Act 1991, the basis for all subsequent regulation of this service. The 1991 act, a revised version of its 1985 predecessor, established a framework for Canadian broadcasting policy making provision for the promotion of not-for-profit radio stations, for programmes reflecting Canada's cultural diversity and responding to the needs and interests of its native peoples, and for educational and community broadcasting. In fact the 1991 act regards the community sector – together with the public and private sectors – as an integral part of the Canadian broadcasting system. It also made a single autonomous body, the Canadian Radio-television and Telecommunications Commission CRTC, responsible for the regulation and supervision of the whole broadcasting system. Among other things, this body is responsible for issuing licences for the use of radio frequencies and for establishing different categories of licence.

Making use of its regulatory powers, the CRTC issued a series of public notices concerning community broadcasting. The first, in 1997, revised previous broadcasting policy by defining seven categories of radio station: public, commercial, native, community, campus, digital and ethnic. In addition, it established a procedure requiring those applying for community radio licences to make a Promise of Performance.

Two years later the CRTC organized public consultations on a policy proposal concerning community radio, with a view to reflecting Canada's linguistic diversity. Canadian and international community broadcasting associations took part in this consultation, and the results of this period of negotiations were reflected in the public notices laying down policy on ethnic (1999), campus (2000) and community (2000) radio broadcasting. In the first of these, the CRTC authorized ethnic radio and television stations serving various cultural or racial groups and laid down guidelines for their operation and programming. The policy on campus radio stations defined them as not-for-profit undertakings associated with higher education establishments whose programming and exploitation would rely almost exclusively on the work of volunteers from universities and the community. This text also laid down guidelines regarding the types of programme to be offered by this type of station, the types of licence to be issued and the procedures for applying for licences, and stated that a Promise of Performance would no longer be required.

Finally, the new community radio policy introduced greater flexibility for such stations by streamlining the various regulatory and administrative requirements. It also defined community radio stations as those owned by not-for-profit organizations and operated by members of the community at large who are responsible for the control, programming and operation of the station.

The text stated that the primary objective of this sector was to provide a local programming service that differs in style and substance from that provided by the public commercial stations, and that promotes access by the community to frequencies.

## **Region: LATIN AMERICA**

### **Argentina**

Community radio broadcasting has not so far been officially recognized in Argentina, let alone regulated. In fact, Broadcasting law 22.285, adopted in 1980, does not allow broadcasting licences to be issued to non-profit-making bodies or social institutions, but only to commercial enterprises. It is here that Argentine community radio stations' greatest problem lies, since the fact that they are denied access to the airwaves makes them automatically illegal.

In October 2002, after its approval by the Chamber of Deputies, the Senate granted its "general" approval to a draft law that provided for the addition of three new articles to the Argentine Penal Code, establishing sanctions on illegal broadcasting activities. This law provides for the imprisonment of those responsible for clandestine radio and television broadcasts. Sentences for the heads of broadcasting stations not authorized by the Federal Broadcasting Committee (COMFER) range from one month to one year's imprisonment, together with disqualification from broadcasting activities for twice as long as the prison sentence. The length of both prison sentences and disqualification are doubled if the clandestine broadcasts affect the broadcast of authorized stations.

At the beginning of 2003 the Senate had still not adopted its final decision. If the Senate approves the draft law "in detail" with amendments it will have to go back to the Chamber of Deputies, and if it is approved there it will have to be promulgated by the Executive before it becomes law and be implemented.

Many of the "illegal" transmitters are community radio stations, which, although they have not been issued licences by COMFER, have been issued provisional permits by the courts, which means, among other things, that they have to pay taxes. For the moment, the fact that there is still no legal framework in Argentina to underpin and regulate community radio services makes it impossible for them to be granted official licences.

It is obviously impossible to penalize these radio stations in the absence of any democratic means of obtaining a licence. The draft law approved by the Senate in 2002 thus conflicts with the American Convention on Human Rights (Pact of San José, Costa Rica) and also with UNESCO's policy in this area, which is that violations of laws concerning the press or broadcasting should be treated as infringements of the civil law rather than the criminal law and therefore not result in imprisonment.

Although representatives of various organizations concerned with the protection of the freedom of expression have been calling for years for a new broadcasting law and although the Argentine Government itself has stated its intention to draft such a law, no progress has yet been achieved in this respect. Broadcasting law 22.285, which is currently in force, dates from the last military dictatorship and has only been partially amended by a number of decrees that were intended to rectify its shortcomings. A succession of such decrees since 1984 have introduced regulations on such subjects as the establishment of registers of broadcasting stations, the introduction of technical frequency plans, the direct allocation of frequencies to the Catholic Church, the repeal of other decrees, and the order for the closure of unlicensed radio stations.



In the midst of all this uncertainty it is worth mentioning two examples – among many others – of Argentine community radio projects that have managed to continue to exist and assert their rights, although they have done so within the legal framework of private radio broadcasting. The first of these is *Radio La Colifata*, which is entirely operated by the inmates of the “José Borda” psychiatric hospital in Buenos Aires. The second is the *Huanacache* community radio network, established by the “Maestro Pablo Pizurno” rural school of the province of Mendoza, which received the 2001 Prize for Rural Communication, awarded by the Intergovernmental Council of the UNESCO International Programme for the Development of Communication.

Among the subjects that need to be addressed in the future is the preparation of a new broadcasting law that covers community radio broadcasting by not-for-profit bodies run by and for the community. Such a service would also have to be regulated, including the criteria for regulating the use of the frequency spectrum in accordance with the relevant priorities, the rights and obligations of the service providers, and also the penalties that would apply in the case of failure to conform to the regulations. This would represent a very important step forward along the path of freedom of expression and pluralism of ideas and opinions.

## **Colombia**

In Colombia in recent years there have been major legislative advances in the community radio-broadcasting sector. As a pioneer in the field of religious and ethnic educational radio broadcasting, this country was and continues to be a great promoter of the rights of community radio stations. At the end of the 1940s, a member of the salesian order founded *Radio Sutatenza* with a view to providing education by radio, combating illiteracy among rural communities and the poor, and offering basic education and information on healthcare and religion. Despite their de facto recognition, community broadcasting stations only recently received legal recognition in Decree 1446 of 1995.

However, the importance of community participation in the development and management of broadcasting services had already been recognized in Decree – law 1901 of 1990, which also provided the ways and means to ensure that the radio broadcasting service should have national coverage and reach those people living in rural areas, the different cultural ethnic groups and, in general, those living far away from the major urban centres, and should become a means of communication that would educate, inform and contribute, through its programmes, to recreation and to economic and social development, and preserve indigenous local values through the organized communities.

Subsequently, a number of decrees provided a legal framework for community radio broadcasting. First of all – as we have already seen – community radio stations were recognized as a third kind of service – distinct from commercial and public radio stations (Decree 1446 of 1995) – and, subsequently, regulated, as in Decree 1447 of 1995. The latter represented a major step forward, since it includes a whole chapter on community radio broadcasting, which it defines as an activity carried out under the auspices of the State but operated indirectly through organized communities.

In 1998 the Colombian Government put forward a proposal to regulate the access of ethnic groups to the mass media, with a view to promoting ethnic and cultural diversity. It was proposed that ethnic groups should be encouraged to establish their own media and be given easier access to radio frequencies. The following year a draft broadcasting law was introduced, providing for community radio broadcasting and laying down regulations for its implementation. At the moment, both draft texts are still under consideration.

## **El Salvador**

Despite past difficulties, Salvadorian community radio broadcasters have proved able to assert their constitutional rights and gain access to the airwaves, even bringing their cases before the judges of the Supreme Court of Justice. Conscious of the length of legal proceedings, the Salvadorian community radio stations decided – thanks to the financial support they received through international cooperation – to purchase the right to use a commercial frequency having national coverage. They then proceeded to split it up so as to increase the opportunities for setting up radio stations throughout the country.

In 1975 during the civil war, the first community radio station began broadcasting under the auspices of the Catholic Church, not only for purposes of broadcasting information, but also as a means of reporting kidnappings, disappearances and murders, all of which were commonplace during that period. In the following years other stations also began to operate, in both rural and urban areas, with similar objectives. They all operated in a legal limbo since they were not covered by any law.

The restoration of peace in 1992 saw the establishment of the Asociación de Radios y Programas Participativos del Salvador (ARPAS) which has become one of the main forces in civil society in the struggle for the democratization of access to radio frequencies. It initially pursued a strategy that aimed, through negotiation and dialogue with various governmental authorities, at obtaining the legalization of its members and the promotion of laws that would provide for the participation of civil society in the distribution of radio frequencies.

In 1995, in response to the order that community radio stations should close, ARPAS lodged an appeal on the grounds of unconstitutionality before the Supreme Court of Justice and obtained a ruling in favour of the owners of radio stations.

In 1996 a process began to privatize telecommunications, which had the effect of somewhat slowing down the negotiations on the regulation of community radio broadcasting, despite the intense efforts by organizations such as ARPAS. This association brought an action of unconstitutionality against the adoption of a draft telecommunications law. This law, which was finally passed in 1997, contained some articles that infringed the freedom of expression of community radio stations, including articles 81 and 82 which established a bidding system as the sole means of settling disputes arising from the process of allocating frequencies. Although the existence of community radio stations is a socially recognized fact, the struggle is continuing in El Salvador to obtain their legal recognition.

## **Uruguay**

In Uruguay broadcasting is currently governed by decree law 14.670 of 27 June 1997 and its implementing regulations, which lay down technical standards and contain very few references to the content of the information transmitted. They grant the Executive the power to award licenses to set up radio stations without recourse to a tendering or competitive bidding system, that is to say on a discretionary basis. It also retains the right to choose when and under what circumstances to call on interested parties to take up the vacant frequencies.

The government has attempted on two occasions to penalize unauthorized broadcasting activities. A first draft law submitted in 1997 by a parliamentary caucus (the “Herrerismo” group of the National Party) sought to penalize the operators of community radio stations with sanctions of up to ten years’ imprisonment, eighteen years’ disqualification and from two to four years’ complete forfeiture of their civil rights. In addition, a second draft law submitted to parliament in 1998 by the

Executive sought to extend the sanctions to those providing support to unauthorized radio stations in addition to penalizing their operators. This was the first occasion that penalties were to be applied to those supporting community radio stations.

On this basis, community radio broadcasters are denied legal access to frequencies and are under great pressure from the government and even from the representatives of other communication media who call on the government to increase the penalties on those responsible for illegal broadcasts and also public information detrimental to the community sector. Thus, in August 2002 news items were published accusing community radio stations of incitement to looting, as a result of which the authorities carried out searches and closed three community radio stations.

That same year the government initiated a public consultation on a draft law for the establishment of a low-powered radio broadcasting service and a university radio broadcasting service. Although various organizations expressed their satisfaction at the fact that the Uruguayan government decided to regulate community radio broadcasting, they took the view that the draft text did not represent a solution to the problem, but rather aggravated the situation of community radio broadcasting. At the end of 2002 the draft law had still not been examined by the Uruguayan parliament.

## **Region: SOUTH ASIA**

### **India**

A law dating from the British colonial period, the Indian Telegraph Act 1885, is still in force and, as a result of subsequent amendments, has been adapted so as to regulate the broadcasting sector as well. This act gives the central government the exclusive right to establish, maintain and operate communications.

In 1990 both houses of the Indian Parliament passed the *Prasar Bharati* bill which provided for the establishment of the Broadcasting Corporation of India, an autonomous government body which would be responsible for supervising *All India Radio* (a state monopoly of radio broadcasting) and *Doordarshan* (a state monopoly of television broadcasting). However, as it had not been published in the *Official Gazette*, this bill did not become law, and had to wait seven years to be officially promulgated. Finally, in 1997, the act was implemented, leading to the establishment of the *Prasar Bharati* Council, which was given authority over both *All India Radio* and *Doordarshan*, with a view to organizing and running public broadcasting services and achieving a balanced development of both the radio and television services.

The battles over community radio broadcasting in India, began in the 1960s, with a series of reports, meetings and proposals aimed at achieving the legal recognition of community radio stations and the abolition of the state monopoly over the media. The milestones in the process were the Chanda Committee report in 1966 which initiated the debate on the end of the monopoly of *All India Radio* (AIR) and, subsequently, a historic ruling in 1995 by the Supreme Court of Justice calling upon the government, *inter alia*, to draw up regulations for the granting of licences to private radio broadcasters and for the establishment of an autonomous and independent authority responsible for supervising all the operational aspects of the broadcasting media. This ruling brought about the shift from a state broadcasting system to a highly commercial system.

In 1996 representatives from universities, AIR, non-governmental organizations and other sectors of society met in Bangalore and drew up the declaration “Towards public service broadcasting through community radio”. That same year, a parliamentary subcommittee interpreting the Supreme Court ruling, drew up a National Media Policy – which had no legal force – calling upon the

government to establish non-commercial radio stations run by educational institutions, communities, etc. Four years later, a group of media professionals, researchers, educators representing AIR and others drafted the outlines of a community radio broadcasting policy which they called the “Pastapur Initiative on Community Radio Broadcasting”, in which they urged the government to recognize the community broadcasting service as a third kind of service, distinct from public and commercial broadcasting, and to allocate frequencies for the creation, expansion and maintenance of the service. Furthermore, in view of the socio-economic disparities in India, the group recommended that priority be given to rural areas and less developed regions when issuing licences for setting up community radio stations.

After several decades of discussions it is possible to detect some degree of decentralization as a result of the establishment of local AIR stations and a recent rapid expansion of commercial FM stations which, although they belong to AIR, were left to private operators. Some of the local AIR stations are attempting to draw closer to the community and use styles specific to community radio broadcasting, but they have not succeeded in this attempt since their programmes are largely directed towards an urban audience and ignore the needs and interests of small communities.

As can be seen, despite the lack of response by the Indian government, various sectors of Indian society that support community radio broadcasting are continuing to call for an appropriate legal framework to be established and for the relevant rights to be recognized. The reform of broadcasting legislation is required, since the Indian Telegraph Act 1885 is no longer relevant and despite the subsequent amendments no longer reflects the changes that have occurred in the media in both India and the world at large.

## **Region: SOUTH-EAST ASIA**

### **Philippines**

Despite the fact that community radio stations are currently permitted in the Philippines, their legal situation continues to be delicate. They are not recognized as a sector of broadcasting distinct from public and private broadcasting and thus fall into the category of public broadcasters. However, although there is still some way to go, this country has established a *Tambuli* community network and has become an example to be followed. This is clearly the outcome of joint effort by international organizations and national groups which have been struggling for years to obtain respect for freedom of expression and the development of community radio broadcasting.

Efforts to construct a legal framework for broadcasting began in 1963 – before the dictatorship of Ferdinand Marcos – when the Act providing for the regulation of radio stations and radio communications, which gave a great deal of freedom of action to Philippine and United States broadcasters, was passed. This regrettably led in many cases to excesses such as the emergence of a sensationalist press. Years later, during the Marcos dictatorship (1972-1986), a decree regulating the ownership and operation of radio and television stations was issued to control their activities. In addition, the Association of Broadcasters of the Philippines – *Kapisanan ng mga Brodkaster ng Pilipinas* (KBP) – was established at that time, along with other supervisory institutions. With the support of the dictatorship, this association began to impose discipline through a policy of self-regulation. In 1987, with the restoration of democracy, its authority was supported and recognized, and it was thus able to continue its activities. To the present day, the radio and television codes drawn up by KBP have been imposed on its members through a system of warnings and sanctions.

With the arrival of democracy, the Philippine Constitution was revised and a provision was included on the inviolability of freedom of expression. In 1991 a memorandum established

licensing requirements for private commercial radio stations. One important point is that the memorandum enabled religious organizations, charities and community action groups to obtain licences to set up private radio stations. Subsequent norms set out regulations concerning conditions for the licensing of local government and community action group radio networks, the public telecommunication policy, and the granting to the University of the Philippines of a franchise to establish radio and television stations.

A good example of the place and firm establishment of community radio broadcasting in the Philippines is the *Tambuli* project. It was launched in 1992 with the support of various Philippine and international organizations and currently comprises 20 stations in remote communities, with each radio station serving about 10,000 people. The activities of the stations covered by the project are supervised by a Community Media Council composed of members of the participating communities. In addition, the project promotes self-regulation by the staff working in community stations through codes of conduct adapted to local needs and conditions. To achieve this objective, the *Tambuli* project has issued a number of guidelines to enable each community station to draw up its own code of conduct.

## **Region: SOUTHERN AFRICA**

### **South Africa**

South Africa has led the way in radio broadcasting legislation since it is the only African state to have a system of regulations governing the three categories of broadcasting: public, commercial and community.

For the latter, i.e. community radio broadcasting, in addition to having been recognized as a third category, a specific policy was developed in order to regulate it. Another important aspect is the existence of an Independent Broadcasting Authority (IBA) responsible for supervising and regulating the radio and television industry. The purpose of this institution is to avoid the growth of a monopoly or coalition between the state and commercial broadcasters, one of the most frequent problems in the developing countries.

The creation of the IBA in 1993 and the deregulation of the airwaves was accompanied by the establishment of the National Community Radio Forum, an institution which had already begun to militate in favour of the rights of community radio stations during the apartheid period. This is a good example of the community movement that had already existed in South Africa for decades despite the lack of a legal framework.

## **Region: WEST AFRICA**

### **Ghana**

It was only after the restoration of democracy in 1992 that the way was opened for the establishment of independent media in Ghana, and consequently for a new media landscape. Although community radio broadcasting is not recognized in law, it falls into the category of private radio broadcasting and is regulated by the provisions that apply in that field. In Ghana there is still some way to go as far as the legal recognition and the regulation of community radio stations are concerned, but the important point is that the process has already begun with the allocation of frequencies to community radio stations.

One of the first steps taken towards the democratization of the media in Ghana was the proclamation of a new constitution, which came into force in January 1993. It provided that there should be no impediments to the establishment of private media and in particular there should be no law requiring any person to obtain a licence as a prerequisite to the operation of any media.

That same year a conference was held on the promotion and privatization of radio and television broadcasting, in which various Ghanaian academics and government representatives participated. The participants agreed on the need for democratic regulation of broadcasting, which should be subject to control and protection. The University of Ghana received a radio frequency, becoming the second successful private radio bidder.

In 1994 a seminar was held on radio pluralism, at which the main topic of discussion was the opposition to a proposed National Communications Authority Act, on the grounds that it violated the constitutional provision that there should be no law requiring any person to obtain a licence. At the beginning of the following year, a preparatory committee on independent broadcasting was formed to draw up regulations and guidelines for private radio broadcasting in Ghana. The result of its deliberations was the Bonso-Bruce Committee Report, which contained a number of recommendations relating to programme content and frequency allocation.

Finally, in 1996 an Act was passed establishing the National Communications Authority as the sole authority for regulating and organizing the media. This Act was an attempt to rationalize the administration of the telecommunication system in Ghana and to bring that administration into line with international legal and technical standards.

Accordingly, by July 1998, over 45 stations had been authorized and 29 had begun broadcasting. This latter figure includes private commercial, university and community radio stations and those affiliated to the Ghana Broadcasting Corporation. By the beginning of 2001 there were over 40 private stations broadcasting on FM.

The community radio stations, especially the rural or educational ones, have been adapting gradually to the media landscape in Ghana. A good example is Radio Ada, a rural radio station which has been broadcasting since 1998 to 600,000 people, supports development and disseminates the values of the Dangme people, broadcasting in five local languages of this ethnic group.

## **Region: WESTERN EUROPE**

### **Spain**

The history of community broadcasting in Spain began in the mid-1950s with the appearance of some 200 small parish radio stations which were unauthorized. In 1959 the Ministry of Information and the Episcopal Commission for Social Communication signed a memorandum of understanding for the purpose of introducing order in the radio spectrum. On the basis of this agreement the small broadcasters were closed but each diocese obtained a licence to set up a radio station. These radio stations, which operated independently, formed the Network of Popular Spanish Broadcasters (COPE).

The 1978 Spanish Constitution took account of the dual nature of broadcasting as a medium of communication and as a supporting technical activity. The same year also saw the launch of a National Technical Plan for Sound Broadcasting which aimed to adapt the Spanish situation to the distribution of frequencies achieved by the Geneva Convention and divided radio stations into two groups: public and private. It also established State participation of at least 25% in the share capital of the licensee companies. In 1980 the Radio and Television Statute was approved, establishing

radio and television as essential public services owned by the State. Thereafter, in 1987, the Law on the Organization of Telecommunications was passed which represented the first legal framework applicable to the telecommunication sector and the start of liberalization in Spain. The law specified the areas of operation of the three types of sound broadcasting services, with the operation of FM services remaining in the hands of the public authorities and local corporations, under direct management or under indirect management on the basis of a State licence by legal entities or individuals. This law was soon out of date and needed to be reformed.

The year 1992 saw the adoption of the Law on Transfer to the Autonomous Communities which transferred to the Communities responsibility for legislation and implementation in the area of the press, radio, television and other media. It also provided for FM sound broadcasting services to be operated indirectly under State licence by the local corporations. The law helped to increase the public radio services of municipal and Autonomous Community bodies, which, unfortunately, in spite of their local character, were unable to perform the function of community radio stations as they did not respond to any specific demand.

Royal Decree 1388 of 1997 approved an increase in the number of frequencies for indirect management of FM radio stations while the 1998 General Law on Telecommunications established a uniform legal framework, replacing the Law on the Organization of Telecommunications and regulating broadcasting as a service and a technical activity.

As we have seen, although there is no legislation specifically concerning community radio broadcasting, such services fall into the category of private commercial radio stations managed indirectly on the basis of a State licence. Furthermore, in terms of its coverage, community broadcasting can be placed in the category of stations operated on behalf of the Autonomous Communities, also on the basis of a State licence, by local corporations either using their own employees or officials, or an autonomous local body established for the purpose or a trading company whose share capital belongs entirely to the local authority.

## **Region: CENTRAL EUROPE**

### **Poland**

When democracy was restored to Poland in 1989, the need to amend and in many cases abolish laws from the Socialist era arose. The media were obviously not spared these changes, quite the contrary, the standards that regulated the socialist state monopoly on all the media were among the first to be amended or repealed. The liquidation of the socialist Television and Radio Affairs Committee was a case in point.

In this context, community radio broadcasting organizations have gained recognition through the radio stations of the Catholic Church since Poland has no standard that defines or legislates for community radio broadcasting proper.

As a means of legitimizing the situation that prevailed during the socialist period (the Catholic Church was allowed to broadcast mass on Sundays), the new government signed agreements with the Catholic Church to give it lawful access to radio transmission. The first agreement was signed in 1989 between the Secretariat of the Polish Episcopate and the Radio Committee, authorizing the Catholic Church to use airtime weekly on national stations – both radio and television – to broadcast its own programmes. In 1992, the Church was authorized, under a second agreement, to set up its own radio stations.

That same year, the Broadcasting Act was passed, regulating radio and television services. Under the Act the National Radio and Television Council was established, and, in the current democratic period, it is the body responsible for granting and revoking licences for the establishment of radio and television stations. Although the Act did not expressly recognize community radio stations, they were listed in the frequency spectrum as local private radios covering a small area or as stations belonging to the Church.

In 1994, frequencies were allocated for the first time during the democratic period. On that occasion, the National Council issued licences to 132 local stations, including 46 for stations belonging to the Catholic Church. In addition, three stations – *Radio Zet*, *Radio Myzyka, Fakty (RFM)* and *Radio Maryja* of the Curia of Toruń – obtained licences to broadcast programmes nationally.

Lastly, in July 2000 the Telecommunication Act came into force; it set out, among other points, principles for using and supervising the use of radio facilities and conditions for obtaining a permit from the Office of Telecommunication Regulation for the installation of private radio stations.

## **Region: OCEANIA**

### **Australia**

Unlike the situation in the other countries of the Pacific region, community radio broadcasting in Australia has existed as a third sector for over 30 years. Such non-governmental, non-commercial stations operate on a not-for-profit basis, inviting the participation of the community in decision-making and demonstrating independence in the matter of programme content.

Community radio broadcasting is now recognized in Australian broadcasting legislation and occupies an important place as an integral part of the media landscape. The course of events leading to this achievement began in the 1960s with the campaign on behalf of the community movement, but only in the early 1970s were Australian community radio stations recognized as the third sector of non-governmental, non-commercial broadcasting, which was then called “public/community” broadcasting by the Australian Broadcasting Control Board. However, the establishment of community radio stations continued to be illegal since no provision for such an innovation had yet been introduced into law. Consequently, in the late 1960s and early 1970s small radio stations were established that were unlicensed.

In 1974 the McLean Report recommending the establishment of FM radio services appeared. That same year saw the establishment, on the basis of a memorandum, of the Community Broadcasting Association of Australia (CBAA), a national organization which has represented community radio broadcasters up to the present day. In addition, the first experimental FM licences were approved, thereby enabling the first legal community radio stations to start broadcasting. In 1975 Adelaide Ethnic Broadcasters Incorporated was formed, the first, apart from the commercial stations, to broadcast ethnic programmes in Danish and Italian.

In 1992 the Broadcasting Services Act was passed as a response to the need to provide a legal framework that would encourage diversity in Australian broadcasting services. This act included community broadcasting as one of the categories of the broadcasting service and defined its main features. In addition, it delegated to the Australian Broadcasting Authority (ABA) responsibility for supervising the broadcasting industry, while at the same time stipulating that all broadcasting services should regulate their own activities through the formulation of codes of practice.

In pursuit of this latter provision the CBAA drew up in 1994 a broadcasting code of practice establishing rules of conduct to be followed by Australian community radio broadcasters. Finally in



1997 an act provided for the establishment of the Australian Communication Authority (ACA) responsible for regulating telecommunications and radio communications, including promoting self-regulation and managing the radio frequency spectrum.

By 1977 there were 130 licensed community broadcasting stations throughout Australia, not counting the 130 groups “on trial” which were waiting to receive licences. In addition to these 130 stations, there are some 80 Aboriginal stations in remote areas.

## **Region: MIDDLE EAST**

### **Lebanon**

Shortly after the end of the civil war, in 1994, Lebanon enacted a Broadcasting Act that was not only its first on the subject but also terminated the State’s radio and television monopoly. The Act is an exception in the Arab world in that it allows private radio stations – although there have been attempts to keep the numbers low – which was a very important step in regard to the freedom of expression.

The implementation of the Act gave rise to very great political controversy and many demonstrations involving civilians from the various sectors of the society who disagreed with some of its points. Criticisms were levelled especially at the Cabinet, the only body authorized to grant licences for the installation of radio and television stations. The demonstrators accordingly called for an independent body to be appointed for such purposes and for government oversight of licensed stations to ensure that they broadcast a variety of opinions and provided airtime for the expression of opposing points of view.

The concept of community radio as a non-profit undertaking, organized and managed by the community, has just begun to spread and is still not very clear. Attempts made so far to change the law have focused more on legalizing private commercial services and on ending the State’s broadcasting monopoly. Now that those goals have been achieved, it is hoped that Lebanese legislation will now begin to address community radio broadcasting.

In Lebanon, non-State radio organizations support armed political factions, economic interests or both. Most stations are not community-oriented. It must not be forgotten that small radios played a very important role and established strong relations with the community when they represented an alternative for young people, especially during the civil-war years. Many of those stations are still operating and are trying to become community radios. However, it is not certain that they will survive because Lebanese legislation currently aims to hold the number of stations in check, under the provision that restricts the amount of advertising that they are allowed to broadcast.

### CHAPTER III

We shall now present seven points where we centre our comparative analysis, to be accompanied by UNESCO proposals intended to bring about improvements in existing problems. We have chosen these points – although many more can be established – because they constantly come up in our study and, as we see it, represent the essential issues relating to community broadcasting.

#### 1. Norms on community radio broadcasting

In our analysis we have been able to observe that in most of the countries covered, over and above their good intentions, there are no specific standards regarding community sound broadcasting. In nine of the 13 countries there is no legal recognition of this service, although in most of them it is tolerated. Only in South Africa, Canada, Australia and Colombia are community radio stations legally regarded as part and parcel of the broadcasting system.

In South Africa, community radio stations, apart from being classified as third-category broadcasting services under the South African Independent Broadcasting Authority Act 1993, are the subject of a specific 1997 policy designed to give them an adequate legal framework. For its part, the Canadian Broadcasting Act 1991 declares the community radio service to be one of the components of the Canadian broadcasting system, together with the public and private components. In order to regulate the service better a specific Public Notice was being prepared in 2000 for community radio stations.

In Australia, community radio stations are also recognized as one of the categories of broadcasting service in accordance with the Broadcasting Services Act 1992, a norm that includes an entire section devoted to community broadcasting. As to Colombia, first Decree-Law 1901 of 1990 recognizes the importance of community participation in broadcasting activities and then, in 1995, Decree 1445 recognizes community radio stations as a third broadcasting service, in addition to the commercial and public services. Finally Decree 1447 of 1995 regulates this service.

In the rest of the countries reviewed, community radio stations operate within the legal framework of private stations for want of their own standards. It should not be forgotten, however, that in several countries many efforts have been and are continuing to be made to secure the legal recognition of community broadcasting. A case in point is that of India, where, on the basis of the report of the Chanda Committee in 1966, the bid began first to do away with the State's monopoly and then to give legal recognition to community radio in 1996 through the Bangalore Declaration and in 2000 with the Pastapur Initiative on Community Radio Broadcasting. Those attempts, however, remained a dead letter and did not induce the Indian Government to promote any appropriate legal framework for community radio.

A significant fact is that in nine of the 13 countries reviewed the community radio stations operate **under the legal system of private broadcasting** for want of their own form of regulation. The negative aspect of this is that in general the private sector is regulated by standards favouring competitiveness and the dominance of the strongest in economic terms. In this context, community radio stations, whose very essence lies in non-profit activities, are relegated by the free operation of supply and demand. Countries where community radio stations operate as private radio services are Ghana, the Philippines, India, Argentina, El Salvador, Uruguay, Spain, Poland and Lebanon. The situation varies from country to country, however, as can be seen in the following cases:

- acceptance of the social role of community radio but without legal recognition, which makes it necessary to operate within the legal framework of private radio stations, as in El Salvador, the Philippines, India, Poland and Ghana;

- operation under direct State management through concession to the private sector, as in the case of Spain; and
- reluctance to accept community broadcasting coupled with laws that tend to sanction it and do not even let it operate under the commercial radio system as in Argentina and Uruguay.

In some cases it is very difficult to claim that norms exist for community sound broadcasting when in many countries there is not even a law regulating broadcasting in general. This is the case of India, where this service is still governed by the Indian Telegraph Act, 1885, which, although it has been modified, does not reflect the changes undergone by Indian and international broadcasting. Another example is provided by Ghana, where there is no broadcasting legislation either; just a few measures to rationalize administration of the telecommunication systems – the 1996 Act to establish the National Communications Authority – or the 1995 guidelines for frequency applications. A further case is that of El Salvador, where the 1997 Telecommunication Law covers the broadcasting service since the country lacks any specific rules for broadcasting.

From UNESCO the national legislative bodies are urged to apply all the legal machinery in order to provide community radio stations with their due legal recognition as the third sector of sound broadcasting, as distinct from the public and private sectors. Once this first step has been taken, the next stage is the preparation of a clear regulation that is specific to the sector, particularly with respect to its funding, to prevent community radio stations from becoming commercial or commercial stations from making themselves out to be community services.

Radio-electric frequencies are the property of humankind and should be used to advance the public interest, which cannot be served when there is a government monopoly on this resource or when liberalization of broadcasting is confined to commercial use of airwaves. It is therefore becoming urgent to enact standards conducive to access to the frequencies of all those engaged in non-profit activities and for the general welfare.

## **2. Ethnic, campus and religious broadcasting**

As shown in our study, the community radio sector in some countries includes ethnic, academic and religious broadcasting, while in others they are regarded as separate sectors. In this respect, UNESCO tends to consider that community broadcasting should not be confused with other types of alternative broadcasting like those mentioned.

In common with community broadcasting, broadcasting **of an ethnic character** is also contending for legal recognition. This goal has been attained in few countries, two being Canada and Colombia. Canada drew up a policy in 1999 to regulate ethnic broadcasting as distinct from policies for academic and community radio. Colombia, for its part, recognizes ethnic broadcasting as a separate sector of the broadcasting service by virtue of Law 74 of 1996 on broadcasting for ethnic and cultural diversity. In addition, the point of this norm is to promote the sector through measures of exemption from the payment of operating dues, tariffs for use of the spectrum and the payment of annual charges.

But, as already mentioned, in some of the countries covered ethnic broadcasting is included as part of community broadcasting. One of them is Australia, whose Broadcasting Services Act 1992 seeks to develop broadcasting services so that they help to reflect Australian identity, character and cultural diversity. It is noteworthy that since 1975 the Adelaide Ethnic Broadcasters Incorporated (EBI) has been operating as a true precursor in the matter.

Like ethnic broadcasting, **academic broadcasting** is frequently assimilated within the community radio sector. In Canada alone this sector comes in for legal recognition and its own regulatory policy. In Canada too, academic broadcasting is regarded as one of the seven types of radio station for which legal provision is made, being defined as non-profit enterprises associated with third-cycle education. The standard goes much further, distinguishing two classes of academic stations: those that are community-focused and those that are educational.

In the rest of the countries studied, although in some of them specific standards were drawn up seeking to confer a certain legal framework through the granting of special franchises to some academic stations, as in the case of the Philippines, they do in fact operate under the system of community radio stations, where the latter are recognized, or in most cases under the private radio system.

Finally, our study showed that, as in the case of the previous two types, **religious/educational radio stations** also tend to be included in the community radio category. Colombia is a noteworthy case since it is a pioneer country in the matter, being where Radio Sutatenza, the first educational and religious radio station, was founded in the late 1940s. Nowadays its best-known networks are Radio María Colombia and Minuto de Dios, which have stations throughout the country, many of them with an ethnic slant.

Among the countries examined, we find that religious broadcasting has an important role, particularly in Poland and Spain. In both countries, the Catholic Church signed agreements with the respective governments for access to radio frequencies. As a result, Catholic radio networks were established throughout both countries, Radio Maryja in the case of Poland and, in Spain, the Network of Popular Spanish Broadcasters (Cadena de Ondas Populares de España – COPE).

In Argentina, for its part, a 1991 decree orders the direct allocation of radio stations to the bishoprics of the Catholic Church, while the Radio Code of *Kapisanan ng mga Brodkaster ng Pilipinas* of the Philippines provides that the radio stations associated with that organization must allow the community to put religious programmes on the air. In Ghana, on the other hand, religious organizations are not permitted to apply for radio frequencies, although their representatives can participate in programmes as guests or purchase air-time.

UNESCO is continuing along with various social organizations in a bid for legal recognition of ethnic, academic and religious broadcasting as separate sectors of community broadcasting and of broadcasting in general. Nor is it overlooked that these three sectors contribute, each in its own way, to enhancing cultural rights with special reference to the linguistic and cultural rights of minorities, indigenous peoples, emigrants and refugees, and promotion of their access to the media.

Recognition for ethnic broadcasting is becoming a necessity, particularly in countries of considerable cultural, linguistic and racial diversity. As stated in section 3 of the 1994 Santiago Declaration, adopted under UNESCO's auspices, "Respect for pluralism, cultural, language and gender diversity should be a fundamental factor in our democratic societies and should be reflected through all the media". Consequently, pluralism and equality where media access is concerned should not be theoretical principles that stay on the drawing board, as it were, but down-to-earth practice in present-day societies. Steps should be taken to ensure that indigenous peoples, largely sidelined as they are in the information society, have access to frequencies with a view to propagating their culture, information, ideas and so forth.

Recognition for academic broadcasting should also promote equitable access to the airwaves for all sectors concerned with third-cycle education, in public and private institutions alike. With regard to religious broadcasting, however, the question is more sensitive since care is needed to provide

equitable access without discrimination as to faiths, the requirement being regulation that fosters participation, debate, tolerance and pluralism.

### **3. Independent regulatory body**

According to the data emerging from our study, the broadcasting service in most of the countries looked at is regulated by an independent government body. Depending on the country, such a body enjoys a greater or lesser degree of independence of the central government. In general, its principal tasks are the regulation and control of broadcasting, including community broadcasting when such services are recognized by the State authorities.

Countries with an independent government body regulating the broadcasting service include South Africa, Canada, Australia, India and the Philippines. South Africa set up its Independent Broadcasting Authority in 1993 under Law 153. It has seven experts in the field and its tasks include the formulation of radio broadcasting policies, the plan for the use of the frequency spectrum and the issue of licences. In Canada, these functions are performed by the Canadian Radio-Television and Telecommunications Commission, which was legally established in 1985. In Australia this mission is accomplished by the Australian Broadcasting Authority which was set up under the 1992 Broadcasting Services Act and which is also required to promote self-regulation by broadcasters. The Government of India, with a view to ending the State monopoly of the media, established the Broadcasting Corporation of India *Prasar Bharati*.

The Philippines constitutes a special case inasmuch as the *Kapisanan ng mga Brodkaster ng Pilipinas* (Association of Broadcasters of the Philippines), a body set up in 1973, maintains discipline among Philippine broadcasters on the basis of the principle of self-regulation.

Of the countries where the body regulating radio broadcasting is closely attached to the government, mention may be made of Argentina and Lebanon. In Argentina radio broadcasting is controlled and regulated by the Federal Broadcasting Committee or, directly, by the Executive. Similarly, in Lebanon, we see that the Government is the only body empowered to issue radio and television licences, not being subject to the control of any independent organ. Nevertheless the law provides, on the French model, for a National Audio-Visual Council which examines applications for licences, advises the government concerning such applications and ensures that the law is enforced.

UNESCO is launching an appeal for the establishment of national, regional and international norms and measures designed to encourage, in the field of community radio:

- the creation of independent regulatory bodies to ensure transparency and better control and regulation of telecommunications,
- the prevention of media concentration, the control of community media services by commercial companies, etc.

### **4. Self-regulation, professional codes of ethics**

Among the data gathered we found some initiatives concerning the self-regulation of community broadcasters with a view to achieving high professional standards by drawing up codes of practice or conduct. This demonstrates the changes in the sector and the respect for community radio broadcasters by the community they serve and for their activities in general. It is naturally accompanied by greater participation of the community they serve in advisory bodies and in the process of decision-making with regard to ethical guidelines for the staff of community radio stations.

Such initiatives include the Code of Practice (Radio) of the Community Broadcasting Association of Australia dating from 1994, for which provision was made in the 1992 Broadcasting Services Act. This code includes the conduct guidelines for Australian community broadcasters. It is divided into eight parts: responsibilities of broadcasting, guidelines for all programming, news and current affairs programming, Australian music content, sponsorship, volunteers, conflict resolution, handling complaints from the public and, lastly, provisions for the review of codes.

In the Philippines, the Tambuli community radio project laid the basis for the formulation of codes of professional conduct for the staff working in community radio stations. The code is seen as a professional tool of self-regulation, essential for the efficiency, integrity and the positive image of the staff. One fundamental requirement which any code must satisfy is its adaption to particular local needs or conditions. The guidelines proposed include sections relating to programme production and ethics, the conduct and work of the operations and studio team, and conduct of broadcasters in their everyday life within the community. Also in the Philippines, the *Kapisanan ng mga Brodkaster ng Pilipinas* (Association of Broadcasters of the Philippines) which brings together private Philippine broadcasters has produced its own radio code on the basis of a policy of individual liberty and social responsibility.

UNESCO actively supports the self-regulation initiatives of the community broadcasting sector and of broadcasting in general. In this regard the Organization agrees with the view that the community in question is best placed to know its own needs and interests in relation to communication and is therefore better able to develop norms for the self-regulation of the community radio service in pursuit of its goals.

Such self-regulation should be accompanied by training and support for staff, especially journalists and production workers, working in community radio stations, especially in rural or underprivileged urban areas. The training should enhance the pluralism, importance and benefits of the community media in general.

## **5. Procedure for the allocation of licences**

As regards the procedure for the allocation of licences, in most of the countries in this study the State invites tenders and awards the licences to applicants on the basis of their ability to meet the requirements. Only in El Salvador does the law make provision for auctions as the sole means of settling disputes resulting from the licensing procedures, whereas in Argentina problems relating to the allocation of frequencies are solved, in the last instance, by drawing lots. Auctions may be considered as infringing freedom of expression in that an applicant with greater financial resources can more easily obtain access to the frequency spectrum. When lots are drawn, the matter depends on the luck of the applicant but it is not a very serious method for resolving disputes.

In Spain radio services are operated in one of two ways: under direct management by the State or its public bodies, or else under indirect management on the basis of a State licence. Private broadcasters come into the second category. It should not be forgotten that the Government has transferred to the Autonomous Communities responsibility for legislation and operation of the press, radio, television and other media.

In Ghana the Constitution provides that there should be no obstacle to the establishment of private media and, specifically, no law should require that a licence be obtained as a prerequisite for the establishment and operation of a communication medium. This provision has given rise to various controversies but it was eventually decided, in the 1996 Act to establish the National Communications Authority, that the term licence was used to refer to frequency allocation, which

would be guaranteed in the absence of valid reasons based on technical considerations, public security or other reasonable grounds for refusal.

In this connection, UNESCO rejects any policy seeking to limit or restrict the access of different sections of society, on a basis of equal opportunity, to the radio spectrum. Given that the spectrum is limited, although it is the heritage of all humankind, and that the task of administering this resource falls to the States, UNESCO urges States to foster equitable access by all sections of society and to avoid procedures such as auctions and the sale of radio frequencies which marginalize community broadcasters.

## **6. Community radio projects**

From their earliest days, community radio stations have participated in a variety of projects aimed at catering to the needs of the community they serve: for example, the Radio Sutatenza and Radio de Los Mineros projects, which were carried out at the end of the 1940s in Colombia and Bolivia respectively.

It was Radio Sutatenza that made the first systematic effort to educate by radio, an effort which subsequently led to the establishment of the Latin American Association for Education by Radio (ALER). The main purpose of Radio de Los Mineros was to contribute to the unity of the mining community in its struggle for better working conditions. Both stations are models in regard to community radio projects.

In the late 1950s the first diocesan broadcasters in the Network of Popular Spanish Broadcasters (Cadena de Ondas Populares de España – COPE) appeared in Spain as a result of a memorandum of understanding between the Catholic Church and the Spanish Government.

A more recent example that might be mentioned is the Tambuli community radio project, founded in 1992 by various international and Philippine organizations for the purpose of establishing communication centres in remote communities in the Philippines. In this project the community is given its say, building its own radio station and organizing discussion groups responsible for determining the lines of programming policy as well as the staff team made up of people from different parts of the community. One of its programmes – Baranggayan sa Himpapawid – encourages people to engage in neighbourhood radio productions.

The beginning of the 1990s also saw the appearance, in Argentina, of Radio Colifata, a community radio project run by the inmates of the “José Borda” neuropsychiatric hospital. This initiative combines three dimensions: community-oriented, communicational and therapeutic, enabling the inmates to be integrated in the community and eliminating prejudices in society concerning people with mental problems.

One final example of the innumerable community radio broadcasts currently in operation is Radio Ada, a rural station in Ghana which began transmissions in 1998 for the purpose of supporting the development of the Dangme people. The station broadcasts in five varieties of local languages spoken by this ethnic group and reaches a population of some 600,000 people.

From the outset, UNESCO has been committed to the development of community media, particularly in the developing countries, where they are genuine promoters of socio-economic progress. The radio is a medium which combines the benefits of low cost with wide range and access. In a community context it offers limitless opportunities for attaining development objectives. As the projects mentioned demonstrate, radio has a great potential for generating social change in a democratic setting. And promoting the development of this potential through appropriate legal,

financial and administrative measures is UNESCO's target in this area. To this end, the Organization will continue to work with governmental bodies and other international organizations, professional associations and sectors of society in general from different parts of the world.

## **7. The problem of illegality and penalties for illegal radio stations**

Although in most of the countries considered, the sanctions provided by the law relate mainly to failures to comply with standards, in two of the countries in our study – Argentina and Uruguay – there have been attempts to go further in the direction of penalizing the activities of unauthorized radio stations, a category which includes many community radio stations, unable to obtain licences because of the absence of appropriate legislation.

In this context the Argentine Senate approved “in general terms” in September 2002 – before it had been approved by the Chamber of Deputies – a bill which punished illegal broadcasting activities by imprisonment of up to one year and by disqualification. Although amendments are envisaged and the bill should eventually be re-examined by both houses, in its present state (early 2003) it no longer treats illegal radio broadcasting as a mere offence and categorizes it as a crime.

Similarly in Uruguay, there are three bills which also seek to penalize unlicensed radio stations. The first was introduced in 1997 and sought to make operators of community radio stations liable to prison sentences of up to 10 years. In 1998 a new bill sanctioned persons operating illegal radio stations and those aiding and abetting them with prison terms of up to three years. Four years later a bill to regulate the low-power sound broadcasting service was presented for public discussion. The same bill envisages two years' imprisonment for unauthorized broadcasters. Although the first two bills have fallen by the wayside, the third is still being considered by the Uruguayan Parliament.

One point that we have confirmed in our study is that, even if the laws providing access to frequencies are not always just, this argument should not be used to operate illegally with no regard for a code of ethics. In this regard there are two important issues to bear in mind: first, the right to exercise one's freedom of expression by setting up a radio station and, secondly, the limited number of frequencies. The key is to find a happy medium, respecting the material conditions of the spectrum without infringing freedom of expression.

It should not be forgotten that all freedoms are associated with certain responsibilities as well as guarantees. That is where the State comes into play as the channel for and regulator of the concerns of the various forces in society which are involved and the specific technical conditions which affect the situation (e.g. the limited number of frequencies). All such action based on dialogue and discussion should lead to the framing of norms which meet the needs and interests of the communities for which they are intended.

**IN THIS REGARD UNESCO'S POSITION IS VERY CLEAR AND CONVINCING: FULL COMPLIANCE WITH BROADCASTING REGULATIONS. ILLEGAL BROADCASTING CANNOT BE TOLERATED UNDER ANY CIRCUMSTANCES. IF THE LEGAL FRAMEWORK OR THE SYSTEM FOR ALLOCATING FREQUENCIES IS UNJUST OR DOES NOT FUNCTION SATISFACTORILY, THE POSSIBILITIES FOR REFORMING IT SHOULD BE EXAMINED. “ILLEGALITY” CANNOT BE TOLERATED.**

To this may be added the point that community radio stations do not claim a special or protected status. On the contrary, they demand for all areas of broadcasting and not just for themselves the right to exist within a legal framework which prevents piracy by democratizing the airwaves.



Finally, it should be noted that UNESCO maintains the view that any infringement of press and broadcasting laws should be judged by laws which do not go beyond the bounds of the Civil Code and not by provisions of the Penal Code, thus avoiding punishments such as imprisonment. The point is to have clear norms for frequency allocation mechanisms that guarantee a plurality of voices and opinions. Such allocations should be made publicly with the participation of civil society as a whole. In this way it will be possible to avoid the unjustified closure and punishment of community radio station.

## CONCLUSIONS

Freedom of expression, and its corollary – freedom of the media, is indisputably one of the human rights essential to the existence of any democratic society. It is indispensable for the formation of public opinion and also a prerequisite for the full development of the various sectors of society. In this context, radio plays a key role in the crystallization of freedom of expression – especially in the developing countries – as the most economical and universal means of communication meeting local communication needs in the context of globalization. Community radio enables ordinary people to plan, manage and produce their own radio programmes, reducing outside dependence to a minimum, except for technical advice, training and funds for the purchase of equipment.

As mentioned in the introduction to this study, since the appearance of FM radio and the expansion of the democratic system worldwide, among other technical, political and economic factors, there has been an enormous increase in the number of short-range broadcasters enabling sectors of society that were previously marginalized to participate to a greater extent through community initiatives which, at the same time, have often saturated the radio frequency spectrum. In this regard, legislation has become the principal means of regulating these new media players, ensuring that they coexist harmoniously and that they respect the rights of third parties.

As we have seen throughout our study, the legislation regulating community sound broadcasting in the countries concerned presents a vast and varied panorama. This is perhaps the result of the uneven development of the sector, subject as it is to dissimilar legal frameworks which, in some cases, infringe freedom of expression. It is significant that the standards applied to community radio stations vary in accordance with the history, culture and socio-economic situation of each country and region. The different contexts explain the different paths taken.

Thus, the standards adopted in North America and in Oceania seek to defend cultural identities and local rights, especially in relation to ethnic, minority and academic radio stations. In Canada and Australia community sound broadcasting has its own set of regulations since it is considered an integral part of the radio sector, playing a particular role in the media scene of both countries. Nonetheless, this does not absolve it from tackling new challenges linked to globalization, privatization and the new technologies. And this requirement should also be reflected in the standards which, if they are to really meet the needs of the sector, must be adapted to technical, cultural and political changes.

In Africa, the legislation focuses chiefly on the need to respect linguistic pluralism and to consolidate rural education. All of this occurs to a greater or lesser extent depending on the country concerned, but there is a general trend towards the gradual liberalization of the media and the growth of the phenomenon of community radio. From the early 1990s independent media have emerged in the continent as a result of the combination of the internal democratic movement and international pressure on governments. Nevertheless, in spite of the liberalization of the airwaves in most African countries, which has been accompanied by the establishment of independent commercial and community radio stations, there remain legal and political shortcomings in relation to sound broadcasting. South Africa constitutes an exception in this respect since it is the only African country to have introduced regulations covering the three areas of public, commercial and community radio broadcasting.

In Latin America the defenders of community radio stations are struggling to achieve basic legal recognition for the sector through – in many cases – confrontations with private commercial broadcasters that have been an established part of the radio broadcasting system for decades. Until they achieve this status, however, they avail themselves of the private commercial broadcasting

regulations. The objectives of the community radio stations are divided into two main categories: religious/educational objectives, promoted by religious bodies and rural and urban communities; and political/union objectives, as in the case of the radio stations set up by the guerilla groups in El Salvador during the civil war or by the Bolivian miners at the end of the 1940s.

In Europe the standards are concerned with the need to preserve media pluralism and the democratization of the frequency spectrum. This is generally done under the control of public bodies responsible for ensuring that broadcasting policies are made as independent of government, political parties and other influences as possible and so maintained. In the two countries studied, Spain and Poland, the standards are intended to provide religious radio stations with a legal framework on the basis of agreements between the Catholic Church and the government.

In Asia the legality of the community radio stations remains latent in spite of the de facto recognition of the sector. In general, the proposals of the supporters of community broadcasting are directed towards the achievement of this much desired legal recognition together with a legal framework which encourages the participation of the remote and most marginalized communities in society. In this continent, the pressure groups which promote community radio projects in other regions of the world (e.g. miners, combatants, missionaries, democratic movements, etc.) have been less present and, in order to fill this vacuum, UNESCO and other outside sponsors have taken the initiative of promoting the first sound radio community broadcasting projects.

In the Middle East, a movement for the defence and respect of freedom of expression, pluralism and the end of the State monopoly on broadcasting media appeared only a decade ago in a few Arab countries. In most Arab countries community radio stations independent of State control are practically non-existent. In fact, many systems of regulation give States exclusive rights for the operation of all forms of broadcasting media. The Lebanese legislation, which permits the existence of private radio stations, is one of the few such in the Arab world. It must nevertheless be recognized that the region has a lot of ground to make up to achieve standards that would provide an adequate legal framework for non-profit radio stations.

As may be appreciated, the challenge facing community radio is constant, even in countries where major demands have been met. The progress achieved should serve as an example to community radio movements fighting for their rights in various parts of the world. At UNESCO we are urging legislative bodies to ensure respect and legal recognition for the community radio sector, by providing it with a legal framework that meets its needs and enables it to develop its full potential entirely within the law. The legislation should not only recognize the right to communicate of community broadcasters but also uphold that right so that it does not become mere wishful thinking.