

L.N. 518 of 2010

**BROADCASTING ACT
(CAP. 350)**

Digital Radio Broadcasting Regulations, 2010

IN exercise of the powers conferred by subarticle (2) of article 16B of the Broadcasting Act, the Prime Minister, following agreement with the Broadcasting Authority, has made the following regulations:-

Citation and
commencement.

1. (1) The title of these regulations is the Digital Radio Broadcasting Regulations, 2010.

(2) These regulations shall come into force on 1st December, 2010.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

“the Act” means the Broadcasting Act;

“the Authority” means the Broadcasting Authority;

“the licensee” means any person who is licensed by the Broadcasting Authority to provide a digital radio broadcasting service.

(2) Words and expressions used in these regulations which are also used in the Act shall have the same meaning as is assigned to them in the Act.

Licence for a digital
radio service.

3. (1) No person may provide a digital radio broadcasting service without a licence issued by the Authority.

Application form
for a digital radio
broadcasting licence.

(2) The application form for a digital radio broadcasting licence is set out in Schedule I.

Conditions under
which a digital radio
broadcasting licence
may be issued.

4. The provisions of the Act which set out the conditions under which a nationwide radio broadcasting service is licensed shall *mutatis mutandis* apply to a digital radio broadcasting service: provided that the Authority may from time to time supplement such conditions or adapt such conditions to the specific exigencies of digital radio broadcasting.

5. (1) The Authority shall levy those tariffs from a licensee as set out in Schedule II. Tariffs of prices, etc.

(2) When the same nationwide radio broadcasting service is simultaneously transmitted on an analogue and digital frequency without any editing being made to the digital retransmission so that both the analogue transmission and the digital retransmission are totally identical in so far as programme content is concerned, the Authority shall not charge the licensee any fee for the retransmitted station which is already licensed in terms of the Act.

(3) In the case contemplated in sub-regulation (2), the nationwide radio broadcasting service which would already be licensed as such under the Act will not need to fill in an application form to simulcast its transmissions but such broadcaster shall request beforehand approval in writing from the Authority to simulcast its transmissions.

6. Unless otherwise lawfully terminated or abridged in accordance with the Act or the licence, the period for which a digital radio broadcasting licence shall remain operative shall be up to a maximum of four years and such a digital radio broadcasting licence shall be renewable every four years. Maximum duration of licence period and renewal thereof.

7. A licensee shall provide the Authority with programme schedules in such format, at such intervals and containing such information as the Authority may establish. Submission of programme schedules.

8. The Authority may license a digital radio broadcasting service to offer such number of digital radio stations which originate locally allowed by law and foreign retransmitted digital radio stations. Licensing of digital radio programme content.

9. (1) Whenever a licensee during the validity of a broadcasting licence proposes to change the digital radio services channel line up as approved by the Authority in the licensee's licence, the licensee shall write to the Authority requesting a change in the channel line up. The licensee shall provide detailed reasons and information as to the proposed channel line-up for such a change. Channel line up.

(2) The Authority may either approve or reject the request.

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(3) When the Authority approves the request, it may impose such reasonable conditions as it may deem fit.

(4) When the Authority refuses to approve such request, the Authority shall give reasons for its decision.

Provision of free installation and service.

10. Where a digital radio broadcasting service is not provided in unencoded form, the licensee shall provide such number of free services to the Authority as it may establish in order to enable it to carry out its monitoring functions. Such free service shall mean the installation and provision of a licensee's programming services.

Digital Radio Station Sponsorship.

11. (1) Station sponsorship of a digital radio station shall be prohibited.

(2) For the purpose of this regulation "station sponsorship" means the naming of channels after sponsors.

Simulcasting of community radio stations.

12. (1) It shall be permissible to simulcast a community radio service on a digital radio platform or network for a period not exceeding two years.

(2) Any community radio station which has availed itself of the provisions of subregulation (1) shall not pay any additional licence fees other than those applicable for community radio stations.

(3) No community radio station shall interrupt the period of simulcasting.

(4) On the termination of the two year simulcast period, and provided that the community radio station chooses to migrate to the digital platform, it will cease to operate as a community radio station on the analogue platform.

(5) During the period of simulcasting, the terms and conditions of the licence issued by the Authority to a community radio station shall remain in force.

Repeal of the Digital Radio Broadcasting Regulations. S.L. 350.29.

13. The Digital Radio Broadcasting Regulations, 2007 are hereby repealed.

Transitory Provision.

14. Notwithstanding the repeal of the Digital Radio Broadcasting Regulations, 2007, all licences issued under those regulations which are still in force shall continue to remain valid and shall henceforth be regulated by these regulations.

SCHEDULE I

[Regulation 3(2)]

**APPLICATION FORM FOR
A DIGITAL RADIO BROADCASTING SERVICE****GENERAL INSTRUCTIONS**

- (a) Applications should be typed. Ten copies of this completed form are required. Only add separate sheets where it is indicated you may do so; otherwise responses must be kept within the space allocated. Appendices giving additional information, or any other material (e.g. cassettes, publicity documents), should not be enclosed unless specifically requested. Failure to comply with these requirements will render the application liable to disqualification. Following the presentation of this application form to the Broadcasting Authority any contact between the applicant and the Authority should only be at the instigation of the Authority.
- (b) This form, when completed, should be addressed to the Chairman of the Broadcasting Authority.

PART I – GENERAL INFORMATION**1a. NAME, ADDRESS AND TELEPHONE NUMBER(S) OF MAIN ORGANISER(S) OF THIS APPLICATION**

(for contact purposes: maximum two persons).

Name (1) (2)

Address

Telephone

(daytime)

mobile

fax

e-mail

1b. LEGAL STATUS OF APPLICANT

(see Section 10, subsections (4) to (6) of Part III of the Broadcasting Act).

2. CONTENT AND GENRES OF PROGRAMMING

This is your 'Promise of Performance'. It should state whether you will have local programming content (only up to one station), the proposed number of retransmitted radio services and their programme genres (e.g. music, sports, etc.) and whether there will be any pay radio services.

3. MEMBERS OF APPLICANT GROUP - overleaf give name, age, address, **nationality (if not Maltese)** and other activities (e.g. other directorships) of each. Briefly describe personal background and previous experience, especially that which is relevant to running this radio service.

3a. MANAGING DIRECTOR

Name:

Age:

Address:

Nationality:

Background/Experience:

Telephone:

Mobile:

Fax:

e-mail:

3b. DIRECTORS / MANAGEMENT COMMITTEE

For each individual, provide the following information (use additional sheets if necessary)

Name:

Age:

Address:

Nationality:

Background/Experience:

Telephone:

Mobile:

Fax:

e-mail:

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3c. DESCRIBE HOW, AND WHEN, THE APPLICANT GROUP WAS FORMED, AND HOW IT HAS DEVELOPED.

Mention any other organisations lending support to this application.

4. STAFFING

- 4 a. Draw up a reporting structure showing station management and organisation, including all intended staff posts, with salaries. (Use additional sheets if necessary).

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4 b. EXECUTIVES / SENIOR STAFF (including those mentioned at Section 3)
- give name, age, address and nationality (if not Maltese) of any individuals so far appointed or identified for station management or other senior staff posts. Briefly describe personal background and relevant previous experience, and state which post the individual would occupy. (Use additional sheets if necessary).

4c. Give total number of (i) full-time and (ii) part-time staff actually employed or to be employed in paid posts.

(i) Full-time

(ii) Part-time

Actually employed

To be employed

4d. If appropriate, indicate how voluntary (i.e. unpaid) staff would contribute to the running of the service, and how many volunteers might be involved during a typical week.

5. PROGRAMMING

5a. Make your promise of programming performance, stating, the main orientation of the programme service you intend to provide. If possible, quantify in approximate terms the proportions of airtime to be devoted to the main elements of output.

5b. Briefly describe how your proposed programming will differ from, and add to, the choice of radio output already available.

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5c. During which hours of the day do you intend to broadcast? (If different from day to day, please list each day of the week separately).

5d. If you intend to retransmit foreign programme content, please provide details concerning the foreign retransmitted stations (name and country of origin) and please provide the latest programme schedule available with a description of the relative programme content. State also for how many hours per day each retransmitted radio service will be aired.

6. DETAILS CONCERNING THE PLATFORM

6a. Please provide details concerning the platform. On which platform will your programme service be carried? On which digital frequencies will each radio service be broadcast?

Name of Radio Service

Frequency

The above list is to be considered to be your channel line up.

Please provide a letter from the platform operator indicating that your service will be carried on such platform and the channel number to be allocated.

6b. Digital Radio Pay services

In addition to any other approval which might be required under any other law for the provision of digital radio pay services, should you intend to provide pay radio services, please indicate hereunder which of the above channels will be made available on a pay basis.

Name of Radio Service

Frequency

Please provide any further information with regard to pay radio services such as the various times which are envisaged, payment structures, etc.

7. EDITORIAL RESPONSIBILITY - EDITOR

7a. Who will be registered under the Press Act as the person responsible for editorial content of the radio service?

Name and surname:

Address:

Id. Card No.:

Tel:

Fax:

e-mail:

Changes to the above have to be notified to the Authority three working days prior to effecting any such changes.

It is to be noted that all charges issued by the Authority's Chief Executive for any breach of the Constitution, Broadcasting act and subsidiary legislation made thereunder, including Broadcasting Authority guidelines, policies and codes of practice shall be issued against the Editor. The Editor shall also ensure compliance for the above.

PART II LOCAL PROGRAMME CONTENT

If you intend to apply for a locally originating radio service, please fill in this part of the application form. If you intend to apply for more than one locally originating radio service, please fill Part II of each station. You are permitted to apply for only specialised stations and up to five such stations. If you do not intend to do so for the time being, please fill in the words "NON APPLICABLE" and move on to Part III of this form.

8. LOCAL PROGRAMMING CONTENT

8a. By which name will the station be known?

8b. Do you intend to have a news service. What arrangements will you make to obtain:

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National news?

International news?

- 8c. Provide an outline on these pages of a proposed typical week's programming, indicating the times of broadcasting and the length and type of items likely to be included. Indicate also whether any increase in hours is expected, and when.

8c. (contd.)

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8c. (contd.)

8d. What, if any, are your plans for preparing and broadcasting national information, social action and/or religious programming? Please include details of any proposals for off-air activity, e.g. the provision of training facilities.

8e. If programming in languages other than Maltese is proposed, state which, and give approximate proportions of total output to be broadcast in these languages.

9. THE AUDIENCE

- 9a. How large an audience do you expect to attract? Will your station appeal especially to particular groups within the population (if so, say which)? What evidence do you have of public demand for the type of programme service you propose? (If specific audience research has been carried out, use this and a maximum of one additional page to summarise main findings of relevance. Do not include full audience research reports with the application).

9b. By what means would the station plan to keep in touch with the views of its listeners, and their responses and reactions to its services?

9c. Are there any particular organisations or groups within the Maltese islands which you would expect to involve on a regular basis in the station's programming, or on an advisory basis?

PART III - FINANCE

10. FINANCIAL ARRANGEMENTS

10a. Applicants should submit a feasibility study analysis covering three (3) years as a minimum which should include:

- (i) Projected profit and loss statement - first year per quarter;
- (ii) Projected cash flow statement - first year per quarter;
- (iii) Projected balance sheet for the three years;
- (iv) Projected statement of source and application of funds;
- (v) Details of assumptions on which feasibility study is based;
- (vi) Details of financing arrangements;
- (vii) Details of grants and donations.

10b. Share capital

Classes of share capital:

Number

Par value

Issue Price
(if different)

Voting:

Non voting:

Other: *(Please specify)***10c. Loan Stock**

If loan stock is to be issued, state the amount and redemption/conversion terms.

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10d. Set out below the details of all voting shareholders (excluding any nominal membership shares), and holders at 5% or more of non-voting shares and loan stock. (A second page may be added if necessary).

Name of Investor	Address	Invest. Lm	% of total required
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10e. Describe briefly the method by which share/loan capital is to be raised. (Give details of any proposal to have share capital publicly quoted).

10f. Other loans

If appropriate, give details of lender, interest rate and repayment terms.

10g. Bank overdraft facilities

If facilities have been provisionally negotiated, attach a supporting letter from the relevant bank.

Letter dated

Enclosed/Not enclosed
(delete as applicable)

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10h. Details of capital expenditure.

11. CASH FLOW FORECAST

In which year of operation is it expected:

- (i) first to make a trading profit?
- (ii) to have eliminated all cumulative losses?

12. ADVERTISING AND OTHER REVENUE

12a. What arrangements do you propose for the sale of advertising?

12b. Briefly show how you have estimated your annual revenue from the sale of advertising time (taking into account e.g. population coverage, percentage of airtime sold, tariff levels).

12c. Who within the radio station would be responsible for advertising. (Please confirm that he/she will be made familiar with the Code for Advertisements and Sponsorships as laid down in the Third Schedule of the Broadcasting Act).

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12d. If you plan to raise revenue from sources other than the sale of airtime for advertising (e.g. merchandising, commercial production, co-funding, etc.), please list these below:

Type/source of revenue	Expected annual income (Yr 1) Lm	% of total revenue required
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13. APPLICANT'S OTHER INTERESTS

13a. Details are required of the involvement by the applicant group in the activities set out below. For these purposes, the applicant group is defined as its directors (or their equivalent), any company or person with a potential holding of 5% or more of any class of voting share or loan capital, or any subscriber otherwise providing 5% or more of the total funding needs identified in paragraph 7b above. Details should be given under the following broad classifications, showing for each heading the extent of the interest owned, i.e. wholly owned, controlling interest (and size thereof), minority interest (and size thereof). If not applicable, write 'None'.

(i) Advertising agencies.

(ii) The manufacture of records or the publication of musical works.

(iii) The promotion of the broadcasting of sound recordings or of the broadcasting of performance of music works.

(iv) The obtaining of employment for theatrical performers or for persons to take part as performers in programmes by way of television or radio.

(v) Newspapers, including shareholdings or holdings in a group having substantial control over one or more newspapers.

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13b. Provide details of any connection between the applicant group (as defined above) and the following:

(i) Sound broadcasting, television, and allied activities (e.g. wire distribution of sound or television, satellite and cable television).

(ii) Places of entertainment or other entertainment activities.

(iii) Other connections of a nature relevant or related to broadcasting.

(iv) Connections with bodies of a wholly or mainly religious nature.

(v) Connections with bodies of a wholly or mainly political nature.

14. STUDIOS (Until an offer of licence is made the Authority does not wish to be told which engineering company or consultancy, if any, has been or will be providing advice or services to the applicant).

14a. What is the proposed location (give the actual address, if known) of your studio(s)?
What is the property currently used for?

14b. What form of acoustical treatment and isolation do you envisage for your studio(s)?

14c. On a separate sheet, insert a rough scale plan of your studio(s), technical areas and other principal rooms, giving all dimensions.

14d. On a separate sheet, list and price all studio equipment you either have or intend to purchase, giving proforma specifications.

14e. Please add any technical points regarding studios, in addition to those given in sections 12a to 12d.

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14f What arrangements do you propose for linking your studio(s) with the transmitter?

15. READINESS DATE

How long after the award of licence would you be ready to start broadcasting?
What are the main factors that will determine your readiness date?

I certify that, to the best of my knowledge, the details given in this application for a licence to provide digital radio broadcasting services are correct, and that I have read the Broadcasting Act and understand the terms under which licences to broadcast are issued. I understand that, if awarded the licence, tape recordings of all output, apart from commercial tapes, records or discs (with timings), will need to be made and retained for ninety days prior to being recycled and that if phone-ins are part of the station's programming a delay mechanism will need to be installed and instructions given for its use where necessary.

Signature:

Name (in block capitals):

Position within applicant group:

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SCHEDULE II

[Regulation 5]

1. Fees to be paid on submission of an application for a digital radio service:

a) for one locally originating digital radio service €1,164

b) for any number of retransmitted digital radio services. €1,164

2. Without any prejudice to regulation 12(2), no licence fees shall be paid to the Broadcasting Authority on the grant of a licence fee for the first two years from the date of the award of the licence provided that such fees shall be levied from 1st January 2013 onwards.

3. Licence fees for a locally originating digital radio service to be paid on an annual basis from 1st January 2013 onwards are: € 7,000

4. Fees to be paid on the renewal of an application for a digital radio service. €5,000

5. Licence fees to be paid on an annual basis from 1st January 2013 for re-transmitted digital radio services originating from outside the Maltese Islands:

- | | |
|--------------------------------|---------|
| i) up to 10 stations | €2,350 |
| ii) between 11 and 50 stations | €4,500 |
| iii) more than 50 stations | €7,000. |

