

Act relating to the editorial independence and liability of editor-controlled journalistic media (The Media Liability Act)

LOV-2020-05-29-59

Entry into force: 1 July 2020

Chapter 1 Introductory provisions

Section 1. Purpose

The purpose of this Act is to facilitate open and informed public debate by ensuring editorial independence and by establishing clear lines of liability for content that is published in editor-controlled journalistic media.

Section 2. Scope

The Act applies to media engaged in regular journalistic production and publication of news, current affairs, public debate or other content of general interest.

The Act does not apply to media whose main purpose is marketing.

Section 3. Definitions

The terms below should in this Act be understood as follows:

- a) editor: a natural person who determines some or all of the contents in the medium.
- b) publisher: a natural or juristic person that in their capacity as owner has the financial and administrative responsibility for publication of the medium.
- c) editorial content: a statement published under the editor's management and control. Marketing is not considered editorial content.
- d) user-generated content: a statement published by a media user outside the editor's management and control.

Chapter 2 Duties related to publication

Section 4. Duty to appoint an editor

The publisher of a medium comprised by this Act has a duty to appoint an editor for the medium.

Section 5. Duty to provide information

The editor must make sure the medium states who is the editor.

The editor must make sure the medium users have access to a name, address, electronic mail address and other information that allows them direct contact with the medium.

Section 6. Duties related to user-generated content

The editor must maintain a clear distinction between user-generated content and editorial content in the medium and state what content is user-generated.

If the medium has rules for user-generated content, the editor must provide information about the rules and how they are enforced.

The editor must facilitate the reporting of illegal user-generated content. If user-generated content is removed or access to the content is barred because it is considered illegal, the editor must, to the extent possible, notify the author of the content and inform him/her of opportunities to appeal.

Chapter 3 Editorial independence

Section 7. Editorial independence

The editor must, within the framework of the medium's fundamental principles and purpose, manage the editorial work and make decisions on editorial issues.

The publisher, owner or other company management cannot instruct or overrule the editor on editorial issues, nor can they demand to see print, text or pictures, or demand to hear or see programme material before it is made available to the public.

No derogations may be made from the provisions in the first and second subsection by means of an agreement or other legal basis to the disadvantage of the editor.

Chapter 4 Legal liability for the content

Section 8. Main rule regarding criminal liability and liability for compensation

Anyone who makes a statement or contributes to the publication of a statement, is criminally liable and liable to pay compensation with regard to the content, pursuant to the general rules of the law.

Section 9. The editor's particular criminal liability for editorial content and marketing

The editor is criminally liable for publication of editorial content and marketing if the editor would have incurred criminal liability pursuant to any other provision of the law, had he or she known about the content.

If the editor establishes that he or she cannot be blamed for any lack of control of the content or the management of the editorial office, the editor cannot be held liable pursuant to the first subsection.

The penalty pursuant to the first subsection is a fine or imprisonment for up to six months. No penalty imposed can be stricter than pursuant to the legal provision that would have applied if the editor had known the content.

Complicity will not lead to a penalty.

Section 10. The editor's particular liability to pay compensation for editorial content and marketing

The editor is liable to pay compensation for publication of editorial content and marketing pursuant to Sections 3-6 and 3-6 a of the Act relating to compensation in certain circumstances, as if he or she had known the content.

This does not apply, however, if the editor establishes that he or she cannot be blamed for any lack of control of the content or the management of the editorial office.

Section 11. The owner's or publisher's liability for compensation

If a person who has acted in the service of an owner or publisher of the medium is liable for compensation pursuant to Sections 3-6 and 3-6 a of the Act relating to compensation in certain circumstances, the owner or publisher is also liable for compensation. The same applies to damages for non-economic loss, unless the court for particular reasons exempts them. The owner or publisher may also be ordered to pay such further damages for non-economic loss as the court finds reasonable.

Section 12. No criminal liability or liability to pay compensation for the media's technical contributors

A person who, on behalf of a medium, has contributed to the distribution of a statement only by way of technical preparation, production or distribution of the medium, cannot be penalised for it.

Equally, contributors as mentioned in the first subsection cannot be held liable for compensation pursuant to Sections 3-6 and 3-6 a of the Act relating to compensation in certain circumstances.

Section 13. Criminal liability and liability for compensation for user-generated content

The editor, or any person acting on behalf of the editor, may only be penalised for illegal user-generated content in the medium if he or she has acted with intent. To be held liable for compensation, he or she must have acted with gross negligence.

The editor, or any person acting on behalf of the editor, cannot be held liable pursuant to the first subsection if he or she without undue delay, once the conditions for liability were present, implements the necessary measures to remove or bar access to the illegal statement.

Chapter 5 Entry into force and amendments in other acts

Section 14. Entry into force

This Act enters into force from the date¹ stipulated by the King. The King may stipulate that individual provisions will enter into force on different dates.

From the date this Act enters into force, Act of 13 June 2008 no. 41 relating to editorial freedom in the media is repealed.

¹ Enters into force 1 July 2020 pursuant to [Res. of 29 May 2020 no. 1107](#).

Section 15. Amendments in other acts

From the date this Act enters into force, the following amendments are made in other acts: – – –