

IV MONITORING OF THE ACTIVITIES OF REGULATORY BODIES, STATE AUTHORITIES AND COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS

REGULATORY BODIES

1. REPUBLIC BROADCASTING AGENCY (RBA)

1.1. On November 21, 2011, the Republic Broadcasting Agency issued, in the daily newspaper "Borba", a public call for tenders for the making of a software for overseeing the compliance of the programs of radio and television broadcasters with the Law in the course of the electoral campaign, as well as for the monitoring of the representation of political parties in the broadcasters' programs outside of the electoral campaign. The requirements for submitting a tender are tenderers registered for software manufacturing and possessing the ISO 9001 certificate. The tender dossier that will be the basis for producing the software is yet to be released and the RBA will present it to the interested parties only after they submit the application.

In accordance with the provisions of the Broadcasting Law, the RBA is authorized to oversee the work of broadcasters. It may perform monitoring on its own or by hiring third parties. The call for tenders for monitoring software is showing the RBA's intention to boost the capacities for independent monitoring, particularly in relation to political propaganda during the pre-electoral campaign and reporting related to the elections. We remind that ensuring equal representation without discrimination to registered political parties, coalitions and candidates during the pre-electoral campaign is one of the basic programming standards provided for by the Broadcasting Law. Furthermore, under the Broadcasting Law, natural and legal persons are entitled to submit to the RBA complaints related to broadcasters' programs, if they believe that such programs are offending or threatening their personal or general interest. Practice has shown that the majority of complaints are submitted during the electoral campaign, when the participants in the electoral process complain, rightfully or not, against unequal treatment by certain media. The purchase of the proper software could facilitate the RBA's job to deal with a large number of complaints that may be expected after the call for elections, scheduled for next year.

1.2. The RBA has posted on its website the letter addressed to the Government as a response to the report of the Anti-Corruption Council about pressures and control of the media in Serbia. The RBA believes that the report contains an array of untruths and

insinuations against the RBA and the Council. The RBA's press release also contained detailed responses to the allegations concerning political influences on the work of the RBA Council, the non-transparent ownership structure of media, concentration of media ownership and protection of children and minors. The RBA emphasized that not a single decision it delivered, approving the change of ownership structure of any media, has been ever challenged in court, which confirms, the RBA claims, that these decisions were just. Concerning the protection of children and minors, the RBA invoked its General Binding Instructions on the Conduct of Broadcasters – the Broadcasters' Code of Conduct from 2007, part of which concerned the protection of children and youth, as well as two binding instructions from 2011 – the binding instructions on the conduct of broadcasters related to the broadcasting of reality shows and the binding instructions on the conduct of broadcasters related to programming content that may harm the physical, mental and moral development of juvenile persons. The letter refers to three occasions when TV Pink and TV Happy were warned for having broadcast content that could harm the physical, mental and moral development of children and youth, namely to TV Studio B for having, in two separate cases, made juvenile persons recognizable in the scope of information that could have violated that juvenile person's right or interest.

One of the key objections that could be heard after Anti-Corruption Council's report was released was that it was practically pushed under the rug and ignored by most media, instead of triggering a public debate. Some have used this fact as an additional argument that was supposed to confirm the veracity of the report, namely that those who control the media are so powerful that they were able to render completely invisible the report of an important government body. The letter to the Serbian Government containing the RBA's response to the report was also more or less neglected by the media, but the fact that the RBA posted it on its website is good news, since it will ultimately allow the professional circles to ponder the arguments and information released by the Anti-Corruption Council and the RBA Council and to make their own conclusions. Some kind of a debate has started – maybe not to the extent expected after the release of the Anti-Corruption Council Report – and that is good news. The other good news is that, although the RBA Council rejected the claims from the report, it concluded its letter to the Government by saying that it would review those claims and take the necessary measures if irregularities were uncovered.

2. REPUBLIC ELECTRONIC COMMUNICATIONS AGENCY (RATEL)

2.1. On November 8, 2011, the Radio Television of Serbia (RTS) and the Republic Electronic Communications Agency (RATEL) proposed to the Government to adopt a

conclusion that would write-off the debt of RTS caused by non-payment for the use of radio frequencies. The media and journalists' associations have requested from the Serbian Government to reject that proposal. The joint press release of ANEM, UNS, NUNS, NDNV and Local Press said that the Public Service Broadcasting is already relieved from paying the fee charged to commercial radio and television stations for broadcasting rights. Hence, the press release said, relieving the RTS from paying the fee for radio frequency usage would represent additional discrimination of commercial broadcasters and further undermine competition on the media market. Media and journalists' associations claim that writing-off the debt would violate the commitments from the recently adopted Media Strategy to encourage the development of the media market and create non-discriminatory conditions for healthy competition in the media industry, as well as to regulate the financing of public service broadcasting in keeping with the regulations about state aid control. By the time this Report was finalized, there were no reports as to whether the Government had made any decision about RTS' and RATEL's proposal.

2.2. The public consultations about the Draft Plan on the Amendments to the Plan on allocation of frequencies/sites for terrestrial analog FM and TV broadcasting stations for the territory of Serbia ended on November 11. These amendments concern analog radio frequencies and, most importantly, they supplement the Allocation Plan with a new Annex 4. That Annex provides for the first concrete frequencies/sites for digital television broadcasting. More specifically, these are frequencies for 13 transmitters and two repeater stations in Belgrade, which are to start trial broadcasting of the digital TV signal. These transmitter sites are Avala, Crveni Cot, Krusevac-Goc, Loznica-Gucevo, Nis-Gorica, Novi Pazar-Sutenovacko Brdo, Ovcara, Priboj-Bic, Raska-Gradac, Subotica-Crveno Selo, Uzice-Zabucje, Valjevo-Pecina and Vrsac-Vrsacki breg. The sites of the repeater stations in Belgrade are Kosutnjak and Stojcino Brdo.

STATE AUTHORITIES

3. THE MINISTRY OF CULTURE, MEDIA AND INFORMATION SOCIETY

On November 1, 2011, the Ministry of Culture, Media and Information Society called five open competitions for the co-financing of projects from the area of public information. These competitions concern:

- The co-financing of projects/programs in the area of information on the native language of ethnic Serbs living in countries of the region, namely in Hungary, Croatia, Romania, Macedonia, Albania, Montenegro, Bosnia-Herzegovina and Slovenia;
- The co-financing of programming content of public media intended for informing persons with disabilities;
- The co-financing of the production of programming content of broadcast public media in Kosovo and Metohija, relevant for the public interest;
- The co-financing of the production and/or distribution of the programming content of public media in the Republic of Serbia, relevant for the public interest;
- The co-financing of the production and/or distribution of the programming content of public media in the Republic of Serbia on the languages of ethnic minorities.

The applications shall be accepted for the co-financing of no more than up to 80% of the value of the project, while the maximum amount per project shall be 1.000.000,00 dinars, except for the co-financing of programming content of public media intended for informing persons with disabilities, where the maximum amount per project will be 600.000,00. The maximum amount per project for the co-financing of the production of programming content of broadcast public media in Kosovo and Metohija, relevant for the public interest, shall be 800.000,00 dinars. There will also be a special restriction for applicants that have already received funds from the republic, provincial or local budget for some other purpose, in the same calendar year. Such applicants may apply for the co-financing up to 40% of the value of the project.

The general criteria for evaluating the projects shall be identical for all open competitions. They concern the relevance of the project for the realization of the right to public information, contribution to the diversity of media content and pluralism of ideas and values, valid argumentation of the project, adequate specification of the budget, consolidated and explained from the standpoint of planned project activities, as well as sustainability of the project. Special conditions are adapted to the concrete open competitions. The total amount of funds the Ministry has allocated for each competition or for all competitions in total has not been disclosed. We remind that in the previous two years, a total of 81.5 and 96 million dinars were allocated, respectively. The composition of the commission that will assess the applications is also unknown. The call was opened until December 1.

4. STATE AID CONTROL COMMISSION

In the period covered by this Report, the State Aid Control Commission (SACC) posted on its website the Commission's Decision allowing state aid allocated on the basis of an open competition for encouraging the production of television content from the field of culture and information in the Serbian language and languages of ethnic minorities in the Autonomous Province of Vojvodina. In the concrete case, regarding the aid in the total amount of seven million dinars, the Commission found that all the conditions were met as provided by the Decree on the Rules for the Allocation of State Aid in the Area of Culture. What is especially important, however, is the fact that the Commission initiated the procedure and passed the decision in the procedure of subsequent control. Under the Law on State Aid Control, subsequent control is the one initiated by the Commission on the basis of its own information or information obtained from other sources, where there is reasonable doubt that in a particular case state aid was allocated/is being used/was used contrary to legal provisions. In the subsequent control procedure, the Commission may, under certain conditions, order the grantor of state aid to immediately suspend further allocation of the non-consumed amount of state aid, namely to take measures for the allocated amount of state aid to be repaid, along with the default interest prescribed by the Law. The Law on State Aid Control stipulates that the request for initiating subsequent control may be filed to the Commission by any person having a legal interest for that. The fact that subsequent control procedures are not only provided for by law, but enforced in practice by the Commission, have been recognized by media and journalists' associations and organizations as a mechanism for ensuring the implementation of the Media Strategy in the parts concerning financial aid of the state to media and state aid control, in order to avoid state aid to be misused for undermining competition on the media market and trading in financial support from the state for furthering the political interests of the current government.