

Republic of Serbia
Ministry of Culture and Information

Vlajkovicева 3
Belgrade

PROPOSALS AND SUGGESTIONS OF THE MEDIA COALITION REGARDING THE DRAFT LAW ON PUBLIC INFORMATION AND MEDIA

Media Coalition, consisting of ANEM, NUNS, UNS, NDNV and Local Press has been analyzed Draft Law on Public Information and Media (hereinafter: Draft Law).

Media Coalition wishes to participate actively in Public debate on the Draft Law. Here are our proposals, regarding the formulation of particular articles in this Draft Law.

1. GENERAL REMARKS

We believe that the Draft Law is good starting point. However, it contains number of ambiguities, contradictions and excessive number of rules (over-regulation), which, instead of fostering media pluralism and freedom of expression, have actually limited them.

Media Coalition wishes to point on crucial deficiencies of the Draft Law.

1) Certain principles of the Draft Law are only declarative with no specific elaboration in specific provisions.

2) Provisions of Project Financing of the media are unclear. Criteria on allocation of the funds should be objective, measurable, and non-discriminatory, in total compliance with the rules on state aid and free market, keeping in mind main objectives of the Strategy for the Development of the Public Information System in the Republic of Serbia until 2016 (hereinafter: Media Strategy). In particular, it is necessary that transitional provisions prescribe limitations for the media that are still publicly owned (entities that are financed by the public funds). Until complete transition to the project financing, publicly owned media should be restricted from the participation in project financing, in order to ensure equal starting position for all media according to the principles of free competition. In addition, criteria for election of the commission authorized for allocation of the funds should be uniform, without regard on the concrete authority that allocates the funds (national, regional or local level). Commission should be composed primarily of independent members, in order to avoid political influence in decision-making process regarding the allocation.

3) It is crucial that this Draft Law recognize direct aid to the media from other ministries that are not responsible for media and from the other organizations and public enterprises that are financed from the public funds. We think that lack of those protective provisions could lead to avoidance of the rules on project financing. We propose prohibition of the direct financing of the media and that provisions of project financing should be applicable also on this form of “state aid”, with total compliance with state aid rules.

4) We think that rules on Register of the media are too excessive and deviate from the objective of setting up a media registry. Scopes of data that are required from the owner of publisher of the media are far beyond the basic idea of transparency of media ownership. Principle of proportionality has been violated in those provisions, especially having in mind wide range of personal data that is available (data on the owner of publisher of the media- physical entity, editor in chief of the media and also persons related to them). That is also inconsistent with the rules on data protection, especially having in mind that those provisions don't prescribe monitoring of the authority responsible for data protection (Data Protection Commissioner).

5) Part of the Draft Law concerning correction and recall of the information and response to the information is too extensive and in most cases it is not clear what the difference between those legal institutes is. Furthermore, the fact that these institutes may be used alternatively and that it is not possible to use all three institutes for one information is not sufficiently emphasized. The latter may lead to journalists refraining from releasing such information, fearing adverse consequences. We believe this part of the Law should be trimmed and simplified on the basis of the existing practice.

6) It is our opinion that the Draft Law has failed to sufficiently recognize the significance of self-regulation in terms of adherence to the high standards of free journalism, or the audit that must be based on measurable and transparent rules. The fact that a media has willingly subjected itself to the authority of a self-regulatory body and in relation to respecting professional standards, or that it participates willingly in a circulation auditing system, should be the circumstances assessed and weighed separately when awarding a project.

7) It is necessary that Draft Law prescribe clear prohibition of direct financing of the media from the public funds starting from the 1st of January 2014 and to prescribe that from the beginning of 2014, only way of financing the media is according to the rules on project funding.

8) Provisions of the Draft Law don't recognize enough the issue of the position of journalists, especially regarding the social rights of the journalists, having in mind that practice has shown that the general labor law rules were not sufficient in order to protect their social rights.

9) Legal and technical revision needs to be performed in order to align the terms in the Law. Furthermore, the introduction of a separate article should be considered, which would explain certain terms used in the Law.

2. SPECIFIC REMARKS

a) Article 8 reading:

Public service broadcasting institutions and other media operating in line with the principles governing public service broadcasters, shall be particularly obligated to report about phenomena, events and persons in a timely and unbiased manner; to enable the expression of all views and opinions present in the community; to promote, in a spirit of tolerance, a debate about all topics of interest for the public; to produce diverse program content, as well as to strive for the highest level of service quality.

Should be changed to read:

Public service broadcasting institutions, media that is established for the purpose of informing minorities in their national language, media that is established for the purpose of informing the population on the territory of the Autonomous Province of Kosovo and Metohija and media that are not organized as Public Services Broadcasters but operate in accordance with the principles of public service broadcasting, shall be particularly obligated to report about phenomena, events and persons in a timely and unbiased manner; to enable the expression of all views and opinions present in the community; to promote, in a spirit of tolerance, a debate about all topics of interest for the public; to produce diverse program content, as well as to strive for the highest level of service quality.

Explanation:

After public debates in Novi Sad, Novi Pazar, Nis and Belgrade, members of the Working Group for drafting the Law on Public Information and Media have been explained that the essence of these provisions are that media which operates according to the principles of public service broadcasting (regardless the way of financing) should provide content respecting the certain quality which is imminent to the public services. That is the reason why Media Coalition proposed slightly different formulation compared to the Separate Opinion to the Draft Law. We think that this Article must clearly state which media are *“other media that operate in accordance with the principles of public service broadcasting”*, having in mind clear position of the Media Strategy that state can't be owner of the media (directly or indirectly).

Formulation of this Article by Media Coalition precise that only media that is financed by public funds (as organizational forms) are Public Service (RTS and RTV) and two exceptions prescribed by Article 30 of the Draft Law (media that is established for the

purpose of informing minorities in their national language, media that is established for the purpose of informing the population on the territory of the Autonomous Province of Kosovo and Metohija). On the other hand, by this formulation, it is allowed that any media (if it wishes) could provide content which respects high standards imminent to the public services broadcasting.

b) Article 14 reading:

Republic, autonomous province or local self-government in particular ensure that the public interest is provided by:

1. Implementation and development of the highest legal, professional and technical standards in the public information area;
2. Improvement of the freedom of expression, independence and editorial autonomy and media pluralism;
3. Openness of institutional sources of the information and availability of the information of public importance;
4. Development of media market on non-discriminatory bases;
5. creating the conditions for the protection of the entire corpus of human rights in the field of public information, especially the rights of children, young people and people with disabilities, with concerns for human dignity and personal achievement in the field of public information;
6. Preventing excessive unifying of foundation and management rights in the field of public information and by providing transparency of the information about the media;
7. Combating piracy and protecting copyright and rights related to the copyright.

Should be changed to read:

Republic, autonomous province or local self-government in particular ensure that the public interest is provided by:

1. Implementation and development of the highest legal, professional and technical standards in the public information area;
2. Improvement of the freedom of expression, independence and editorial autonomy and media pluralism;
3. Openness of institutional sources of the information and availability of the information of public importance;
4. Development of media market on non-discriminatory bases;

5. creating the conditions for the protection of the entire corpus of human rights in the field of public information, especially the rights of children, young people, people with disabilities, **and other disadvantaged groups**, with concerns for human dignity and personal achievement in the field of public information;
6. Preventing excessive unifying of foundation and management rights in the field of public information and by providing transparency of the information about the media;
7. Combating piracy and protecting copyright and rights related to the copyright.

Explanation:

By suggested formulation of the point 5 of Article 5 of the Draft Law, it is stated commitment to the creation of the conditions for the protection of the entire corpus of human rights by underlining that it is related also to all disadvantaged groups.

c) In Separated Opinion regarding the Draft Law and in Public Debate, Media Coalition has repeatedly emphasized the need that provisions of Project Financing are very unclear. It is also stated that criteria for the state aid should be objective, measurable, and non-discriminatory, in total compliance with the general rules on state aid and respecting the free market, having in mind provisions of the Media Strategy. In addition, criteria for election of the commission authorized for allocation should be uniform, without regard on the concrete authority that allocates the state aid (on national, regional or local level). Members of these commissions should be independent in order to avoid political influence in decision-making process. Particular suggestions of Media Coalition have purpose to give clear, unambiguous guidelines how complete process of allocation of the state aid in media should look alike in order to fulfill goals that Media Coalition represents.

d) Article 17 reading:

(1) Public call for the allocation of the funds from Article 16, paragraphs 1 and 2 is announced by the ministry responsible for public information, likewise authority responsible for public information on the level of autonomous province and local self-government, at least once a year.

(2) Public call for the allocation of the funds from Article 16, paragraphs 1 and 2 for the media on the territory of the Kosovo and Metohija is announced by the ministry responsible for public information, likewise authority responsible for public information.

(3) Public call is announced on Web page of the public authorities from paragraph 1 of this article, likewise on weekly newspapers which are distributed on the territory within the jurisdiction of a public authority from paragraph 1 this article.

Should be changed to read:

(1) Public call for the allocation of the funds from Article 16, paragraphs 1 and 2 is announced by the ministry responsible for public information, likewise authority responsible for public information on the level of autonomous province and local self-government, at least once a year.

(2) Public call for the allocation of the funds from Article 16, paragraphs 1 and 2 for the media on the territory of the Kosovo and Metohija is announced by the ministry responsible for public information, likewise authority responsible for public information.

(3) Public call is announced on Web page of the public authorities from paragraph 1 of this article, likewise on weekly newspapers which are distributed on the territory within the jurisdiction of a public authority from paragraph 1 this article.

(3a) Public Call from paragraph 3 of this article shall include:

- 1. subject and objectives of Public Call;**
- 2. conditions for participation in Public Call;**
- 3. evidences which should be submitted together with application;**
- 4. general and special criteria for project selection;**
- 5. maximum amount of allocated funds;**
- 6. deadline for submitting the application;**
- 7. data of a person designated to give information about Public Call;**
- 8. other data significant for process of Public Call.**

(3b) Form of the Application to the Public Call is prescribed by the ministry responsible for public information, likewise authority responsible for public information on the level of autonomous province and local self-government, according to the article 26 of this Law, and includes at least:

- 1. data on entity that submits application on Public Call;**
- 2. description of activities in achievement of public interest in the field of public information;**
- 3. description of the project with financial and narrative part;**
- 4. other data significant for the project.**

Explanation:

Suggested formulation has goal to achieve transparency, predictability and uniformity of the Public call, regardless level of public authority that allocate funds. It is necessary to

prescribe the most important elements of the public call in the Law and by that decrease possibility of arbitrariness of the process. Same explanation is applicable to the form of application.

e) Article 20, paragraph 4 reading:

(4) A participant in the open competition referred to in Article 16, Paragraph 2, which has in the respective calendar year already used funds intended for project co-financing in the field of public information, may participate in the open competition referred to in Article 16, Paragraph 1 of this Law only one more time in that year, namely with a proposal for the co-financing of the same project in an amount not exceeding 20% of the project cost.

Should be amended so as to read:

(4) A participant in the open competition referred to in Article 16, Paragraph 2, which has in the respective calendar year already used funds intended for project co-financing in the field of public information, may participate in the open competition referred to in Article 16, Paragraph 1 of this Law only one more time in that year, namely with a proposal for the co-financing of the same project in an amount not exceeding 20% of the project cost and **up to the maximum amount determined by the open competition.**

Explanation:

It is necessary to prescribe two limitations in paragraph 4 of this article (in a way stated in Paragraph 3 of same article), and those are:

- 1) percentage limit regarding the value of the project (20 %), and
- 2) limitation up to a maximum amount determined by Public Call.

It is possible to imagine that the value of the project could be with great value and that even 20 % could exceed the total amount of the Public Call. This is important especially having in mind ratio legis of this provision – limitation of the reusability of funds for project financing.

f) Article 21 reading:

Applications on Public Call from the Article 16 Paragraph 1 of this Law are evaluated in extent to which the proposed project activities are eligible to exercise the public interest in the field of public information in accordance with Article 13 of this Law, whether the proposed project activities are capable to improve the system of public information under Article 14 of this Law, and whether participant in Public Call respects professional and ethical media standards.

Should be changed to read:

Applications on Public Call from the Article 16 Paragraph 1 of this Law are evaluated:

1) in extent to which the proposed project activities are eligible to exercise the public interest in the field of public information in accordance with Article 13 of this Law;

2) in extent to which the proposed project activities are eligible to contribute to the pluralism of media content and pluralism of ideas and values of democratic society in national, regional and local level;

3) whether the proposed project activities are capable to improve the system of public information under Article 14 of this Law;

4) in extent to which the participant in Public Call is committed to professional and ethical standards, which is documented by accepting the competences of self-regulating bodies ruling on complaints against breaches of such standards; by taking part in standardized systems for the independent verification of circulation, namely by acting in accordance with the decisions of the independent electronic media regulatory body.

5) whether the proposed project activities are capable to achieve specific objectives of the Public Call;

6) whether the project budget is adequately specified and justified in relation to the project activities;

7) whether the proposed project is sustainable in the context of the goals of the project.

Explanation:

We think that criteria for making decision for allocation of funds should be specified by Law, in order to avoid uneven implementation depending on the level of authority that allocates those funds. In this context we emphasize that the criteria of "professional and ethical media standards" is necessary to be defined more closely in the Law so to contain three essential elements, namely:

1) accepting responsibility self-regulatory body – for printing media;

2) adoption of a system of independent verification of circulation (audit) – for printing media, and

3) compliance with the decisions of the Republic Broadcasting Agency - for electronic media.

Other mentioned criteria have purpose of the guidelines, which could be helpful to any commission that decides on allocation of the funds. On the other hand, this clarification is also important for the applicant, because it will know in advance how to conceive a project, having in mind that Law has prescribed basic elements.

g) Article 23 reading:

(1) Public authority which has been announced the Public Call from the Article 16 Paragraph 1 of this Law, adopts Decision on Allocation the funds, on the basis of reasonable proposition of the Commission.

(2) Decision from the Paragraph 1 of this Article is adopted in the form of Decision (*Rešenje*) for every Public Call.

(3) Decision on Allocation is announced on Web Page of the public authority from Paragraph 1 of this article and it is delivered in electronic form to every participant in the Public Call.

(4) Decision (*Rešenje*) from Paragraph 2 of this Article is the basis for the conclusion of contract with a person to whom co-financing of the project activities has been granted.

Should be changed to read:

(1) Public authority which has been announced the Public Call from the Article 16 Paragraph 1 of this Law, adopts Decision on Allocation the funds, on the basis of **binding reasonable proposition of the Commission**.

(2) Decision from the Paragraph 1 of this Article is adopted in the form of Decision (*Rešenje*) for every Public Call.

(2a) Decision (*Rešenje*) from Paragraph 2 of this Article is final and administrative litigation may be initiated against it.

(3) Decision on Allocation is announced on Web Page of the public authority from Paragraph 1 of this article and it is delivered in electronic form to every participant in the Public Call.

(4) Decision (*Rešenje*) from Paragraph 2 of this Article is the basis for the conclusion of contract with a person to whom co-financing of the project activities has been granted.

Explanation:

Suggested formulation of Article 23, points on several elements:

1) that Commission proposition is binding for the Public Authority which has been announced Public Call, and that it has no discretion to brings into question Commission proposal. By this formulation Commission has crucial role in decision-making process;

2) that Decision is final, and there are no two levels of administrative proceedings. This solution has this justification, having in mind that Law on Local-Self Government prescribes that Municipal Administration (Head of the Municipal Administration) decides in first instance in administrative proceedings, and in second instance –

Municipal Council. Regarding the decision of the Ministry, Law on Administrative Proceedings prescribes that two levels of administrative proceedings is exceptional and only if it is prescribed by particular Law.

This solution achieves two objectives: uniformity in the decision-making process, regardless the level of public authority and decreasing the possibility of political influence second instance administrative proceedings

h) Article 24 reading:

(1) Narrative and financial report on achieved project activities have to be delivered to the Public authority which has been adopted Decision on the Allocation of funds according to the contractual obligations.

(2) Together with the Report from Paragraph 1 of this Article evidence of achievement of the project has to be delivered.

Should be changed to read:

(1) Narrative and financial report on achieved project activities have to be delivered to the Public authority which has been adopted Decision on the Allocation of funds according to the contractual obligations.

(2) Together with the Report from Paragraph 1 of this Article evidence of achievement of the project has to be delivered.

(2a) Public authority which has been announced the Public Call prescribes Form of the Report from the Paragraph 1 of this Article, according to the Article 26 of this Law.

Explanation:

Prescribing the elements of the Form by bylaw, participant knows in advance how to make a report on achievement of the project activities.

i) Article 26 which states:

Public authority on the level of Republic, authority of the Autonomous Province, likewise local-self-government authority which has announced Public Call for the allocation of the funds from Article 16, paragraphs 1 of this Law, specifies in greater details conditions and procedure for provision and distribution of the funds from the Article 16 Paragraph 1 of this Law, and forms for application to the Public Call.

Should be changed to read:

Public authority on the level of the Republic, authority of the Autonomous Province, likewise local-self-government authority which has announced Public Call for the allocation of the funds from Article 16, paragraphs 1 of this Law, specifies in greater details: **procedure for election of commissions, form and content of the application**

for the Public Call and of financial and narrative report, way of providing transparency of procedure for election of the commission, in decision making process regarding the annunciation of the Public Call and Decision on allocation of funds.

Explanation:

We think that it is necessary that rules on realization of the Public Call should be uniform regardless the level of authority which allocate the funds. This is the way to avoid uneven implementation of the rules. Above all, it is crucial to preserve equal procedure in public call. This is important, especially having in mind that any level of authority could interpret differently conditions and criteria. This solution has objective to clarify all the elements that this bylaw should have, in advance.

j) After Article 26, new Article 26a should be added, and to be read:

(1) Any form of direct financing of media from any public authority, organization, public enterprise or other organizations financed by public funds is forbidden.

(2) Provisions of article 15-26 of this Law are applicable for indirect allocation of funds to media by authorities and organizations from Paragraph 1 of this Article with total compliance with state aid rules and free competition.

Explanation:

These provisions are necessary in order to prevent avoidance of the rules on project financing by the ministries which are not responsible for media or by other organizations which are financed by public funds.

k) Article 31, reading:

(1) The publisher shall be entitled to determine and implement the program concept of media.

(2) The entitlement referred to in Paragraph 1 of this Article is in legal circulation.

Should be amended so as to read:

The publisher of the media may transfer the right of disposition onto the media.

Explanation:

The essence of this proposal was to clearly state that the right to a media outlet may be transferred. The members of the Working Group explained that a media outlet was not a legal person and did not possess anything but the editorial and program concept, which was why such wording was needed. Even after the explanation of the replaced wording (instead of the term “media organization” the term “media publisher” will be used), this provision, in its present form, will remain unclear for those that will be applying it.

l) In Article 52, new paragraph should be added after Paragraph 1 to read:

(1a) The regulatory body competent for audio and audiovisual media services, in accordance with the law governing audio and audiovisual media services, may also revoke the competences for the provision of audio and audiovisual services in a case of concentration, where the obligation of reporting the concentration to the republic authority competent for the protection of competition, in a procedure foreseen by the law governing protection of competition, did not exist, namely where the republic authority competent for the protection of competition, in a procedure foreseen by the law governing protection of competition, passed a conclusion rejecting the complaint about the concentration.

Explanation:

The essence of the proposal is to maintain the RBA's authority to revoke a license in the case of an obvious concentration, where the Competition Protection Commission does not want to initiate proceedings because the companies that are acquired and sold have an annual turnover of less than 20 million Euros. In Serbia, 99% of the media have an annual turnover of less than 20 million Euros (especially small radio stations) and if everything is left solely to the Commission to decide, one person could end up buying all radio stations in Serbia, since that even jointly they are unable to reach the 20 million threshold.

m) Article 53, reading:

(1) The media must have a responsible editor.

(2) The editor-in-chief has the capacity of responsible editor of that media.

(3) The responsible editor for a particular issue, column or program unit shall be accountable for the content he/she edits.

(4) A person enjoying immunity may not be a responsible editor.

(5) Residence on the territory of the Republic of Serbia shall be a prerequisite for appointment to the position of responsible editor.

Paragraph 3 of this Article should be deleted.

Explanation:

The Media Coalition has requested the deletion of that paragraph because of the common practice of appointing certain persons for responsible editors solely for the purpose of meeting formal requirements. Hence, the responsibility has to be shifted onto the editor-in-chief only, who will at the same time be the responsible editor. This is particularly the case at the local level.

n) Article 91, reading

(1) The person whose right or interest has been violated by an untrue, incomplete or inaccurately conveyed information, may request the information from the party it has originated from (hereinafter: the source of information) to revoke such information as untrue, incomplete or inaccurately reported and from the responsible editor to publish such retraction.

(2) The source of information may request from the responsible editor to publish the revocation of his/her untrue, incomplete or inaccurately conveyed information.

(3) The source of information shall be the person specified as such.

(4) If the source of information is not specified and may not be identified, the request referred to in paragraph 1 of this Article shall be lodged against the responsible editor.

(5) The injured party may request that the source of information, namely the responsible editor, to declare the released information as untrue, incomplete or inaccurately reported, to rectify or amend it, to publicly state he/she does not possess proof for the stated claims, to state that he/she has subsequently found out about the information's inaccuracy, incompleteness or inaccurate conveyance, to state that he/she does not stand by their claim anymore, that he/she distances him/herself from the content of the information or make other statements necessary to violate the injured right.

(6) Litigation proceedings for releasing the revocation will debate the untruthfulness, incompleteness or inaccuracy of the conveyance of the information and whether the information in question has violated the right or interest of the plaintiff.

Paragraph 3 of this Article should be deleted.

Explanation:

We believe this institute to be redundant. Particularly questionable is this wording of the article, because it enables anyone to be entitled to request a revocation of information (especially having in mind that there is an option to respond to the information). This institute totally ignores the basic legal principle, as well as the provisions of the journalists' code of ethics that the journalist, namely a responsible editor, shall check the veracity of information with due journalistic care and if he/she learns that the information is untrue or incomplete, he/she shall acknowledge it in reporting about an event or person (realizing the function of the retraction). It seems that such a concept will cause major problems in practice and significantly affect the course of investigative research and reporting.

o) Article 63 reading:

A person involved in the distribution of media may not refuse to distribute a particular media without a justified commercial reason or set conditions for distribution which are

contrary to market principles, according to the law that regulates protection of competition.

Should be amended in a way that it was formulated in current Law to read:

(1) A person involved in the distribution of media outlets may not refuse to distribute a particular media outlet without a justified commercial reason or set conditions for distribution which are contrary to market principles, according to the law that regulates protection of competition.

(2) Publisher of the media which distribution has been suspended in whole or in substantial part by the breach of the prohibition from Paragraph 1 of this Article shall have the right to claim for damages it has sustained at competent court.

(3) In the case that procedure referred in Paragraph 2 of this article shown that has been a violation of the prohibition referred in paragraph 1 of this Article, the court shall weigh compensation for damage to a minimum measured value of advertising space sold for all the numbers of the media which are not distributed because of violation of prohibition referred in Paragraph 1 of this Article. In absence of evidence of such values for all or some of the numbers of the media value will be measured as the value for each such number equal to the value of advertising space sold in the first issue of the media that is not distributed.

(4) Procedure referred in Paragraph 2 of this Article is urgent.

(5) In procedure referred in paragraph 2 this Article, on the basis the proposal of the publisher of the media, the competent court shall take interim measure which would oblige the person who engaged in the distribution of that media to continue to perform the underlying distribution of that media before final conclusion of the proceedings.

(6) Competent court shall decide on the Proposal referred in paragraph 5 of this Article, within eight days from the date of submission of the proposal, and shall deliver that decision immediately to the publisher of the media, to the editor of the media and the person who engaged in the distribution of media.

Explanation:

We think that is necessary that procedure for damages should be urgent in the case when person engaged in distribution of the media suspend the distribution of such media without a justified commercial reason, not only in the situation when procedure for temporary banning the media has initiated but didn't result with court decision on temporary banning the particular media. There is no justified reason for this restriction because of the same ratio legis of both procedures for damages (for unjustified temporary banning and suspension of distribution without justified commercial reason). That is why we suggest that formulation should be the same as in the current Law.

q) Article 79 prescribes that:

Information from the criminal proceedings in progress may be reported if they presented at trial or were obtained or may be obtained by the public authority under the law regulating access to public information.

We think that this article limits the right of journalists to gather information outside the trial, and hence threatened on investigative journalism. Also, this provision is contrary to the general rule which provides that information on matters of public interest is published freely, regardless of the way they were obtained. We believe that this provision is necessary to be reformulated to be in balance between the protection of persons in criminal proceedings and the reasonable interests of the public to get information on the outcome of such proceedings.

r) Article 130, reading:

If the published information or record or has breached the personal dignity, authenticity and private life, the aggrieved party may demand in his/her charges against the publisher of the media part of the profit accrued by publication, commensurate to the degree his/her personal record or private data contributed to the profit, regardless other means of legal protection available to that person in accordance with the provisions of this law.

Should be deleted.

Explanation:

We believe that this institute has not justified the purpose of existence, as the practice has shown that it is very complicated to calculate the profit that media generated by publishing information that had violated the personal dignity, authenticity and privacy. It should especially be noted that this institute is primarily focused on public figures which must take a greater degree of criticism, in accordance with European practice. We believe that in this cases protection provided by institutes of response on information and correction of information are sufficient. In particular, as in practice it can happen that the institute achieved the opposite of the intended purpose – some kind of self-censorship.

s) Article 145, should be amended in the way to extend the scope of responsibility for misdemeanor for whole Article 4.

Explanation:

Freedom of expression which is stated in Article 4 of this Draft Law should be protected at least by prescribing responsibility for misdemeanor. Article 4 states that:

1) public information is free and there is no any censorship;

2) direct or indirect discrimination of media, editors, journalists or other persons in the field of public information, according to their political views or beliefs, or other personal characteristics.

3) free flow of information via media shouldn't be endangered, especially by pressuring, threat, likewise blackmail of the editor, journalist or source of information.

All these prohibitions are just declarations without appropriate sanctions.

t) Article 154, Paragraph 5, reading:

(5) Articles 15-26 of this Law shall be enforced as of January 1, 2014, based on the principle of full market equality of media organizations and general legislative rules on state aid and protection of competition, as well as provisions of concluded and transposed international agreements.

Should be amended so as to read:

(5) The financing of media publishers referred to in Paragraph 1 of this Article from public revenues after January 1, 2014 shall be prohibited, unless in line with the provisions of articles 15-26 of this Law.

Explanation:

We believe that the wording of the Working Group is vague and that the terms "principles of full market equality" and "general legislative rules on state aid and protection of competition" may be subject to divergent interpretation. Therefore, it should be clearly stated that, as of January 1, 2014, there will be no more financing from the budget but strictly project financing under articles 15-26 of this Law.

Belgrade, March 22nd 2013