

## IV MONITORING OF THE WORK 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. At a session of the RBA Council on August 15, 2012, the Republic Broadcasting Agency passed a decision to call a new open competition for the issuance of licenses for the broadcasting of radio and/or television program for regional and local areas. The competition pertains to two regional licenses for television (one for the region of Zajecar, Negotin and Zagubica and the other for the region of Sabac, Bogatic and Sremska Mitrovica), as well as to two regional radio licenses (one in Belgrade and the other for the region of Bor, Zajecar, Negotin and Boljevac). The open competition was also called for eleven local television licenses and nineteen radio licenses.

What's particularly striking is the fact that thirteen broadcasting licenses were revoked in the last five months due to unpaid fees, while another two were revoked, namely expired, due to the disappearance of the company to which it was issued and the renouncement of the company from further broadcasting, respectively. Shortly after the expiration of the period covered by this Report, the RBA initiated (also for unpaid fees) another 35 proceedings for the revocation of licenses. This fact is evidence of the absence of conditions for the financial sustainability of broadcasters in Serbia, especially in the current situation, where (as concluded in the Media Strategy) more licenses have been already issued than the market can withstand. This points to a serious shortcoming of the Broadcasting Law, which has failed to make the calling of open competitions conditional on the performance of adequate economic analysis to confirm the existence of conditions for the sustainability of licensed broadcasters and therefore the rationale for the issuance of new licenses. Namely, according to the Broadcasting Law, an open competition must be called when, on the basis of the Radio Frequencies Allocation Plan, there is a possibility to issue new broadcasting licenses. In the Rulebook on the Issuance of Broadcasting Licenses, the RBA insists on the obligation of the applicant (for obtaining the license) to provide a guarantee with its financial potential "that it will be able to realize the proposed programming and editorial concept". The latter, however, is obviously not enough, since the term of the license is eight years and irrespective of the financial potential of the applicant, his ability to realize the

proposed programming and editorial concept is undoubtedly also affected by the market conditions, which have been unfavorable for years now.

## **2. Republic agency for electronic communications (Ratel)**

The activities of the Republic Agency for Electronic Communications (Ratel), pertaining to measuring the loudness of commercials on television and any divergence thereof from the sound level of general programming, have been elaborated on in the section of this Report concerning the monitoring of the implementation of the Broadcasting Law.

## **STATE AUTHORITIES**

### **3. The Ministry of Culture and Media**

3.1. The Government of Serbia has appointed Dragan Kolarevic to the post of Culture and Media Minister, in the Information and Media Sector. During the 90s, Kolarevic worked as a reporter for the RTS; since the democratic changes in 2000, he continued to work in the RTS Documentary Program Department. In one of his first statements after his appointment, Kolarevic said that, since he had worked in the documentary program, he was very well acquainted with the developments in the media sector. He stressed he would push for greater freedoms and better financial position of journalists. "I am currently reading the Draft Law on public service broadcasting, which will ensure independence in the financing and editorial policy. That will be our starting point", the new Deputy Minister told the daily "Press".

More attention than the appointment itself was drawn by the text which Kolarevic posted only a few days before in the web magazine "Novi standard". Entitled "It's Time for the First Serbian Cultural Uprising", Dragan Kolarevic claims that Serbia has been under cultural occupation since 1915 and the withdrawal of the Serbian army in World War One, which, in his opinion, persists to this day. Asked "who are the motors and executors of the fatal anti-Serbian policy in Serbia?" and "Are these people the ones who have wholeheartedly supported Tadic and Jovanovic on the recent elections and all elections in the recent past?", Kolarevic lashed out by itemizing a list of singers, actors, directors, writers and other figures from cultural life that supported the Democratic Party and Liberal Democratic Party of Serbia on the latest elections. Kolarevic's text

was met by widespread condemnation in the public, especially the part where he singled out “unsuitable” individuals due to their political affiliation. Immediately after the expiration of the period covered by this Report, the State Secretary in the Ministry of Culture Miroslav Tasic said that he had read the controversial text, but stressed that Kolarevic, just like anyone else, was entitled to making his personal views public. Meanwhile, the Culture Minister Bratislav Petkovic responded to the requests that Kolarevic be removed from office by saying that the latter would stay in the Ministry and that his dismissal would not be considered.

## **COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS**

### **4. *Organization of Phonogram Producers of Serbia – OFPS***

In late August, the Organization of Phonogram Producers of Serbia announced its engagement in intensive negotiations (together with the Organization for the Collective Realization of Performers’ Rights – PI) with the representatives of certain associations representing the users from the field of public communication and public broadcasting, as well as with the representatives of payers of the special fee (among others the Employers Union of Serbia, Association of IT activities of the Serbian Chamber of Commerce, ANEM, RTS, RTV). The goal of these negotiations is to overcome the misunderstandings and reaching an agreement on the tariffs. OFPS also said that it had, together with the Employers Union of Serbia and the collective organizations SOKOJ and PI, tabled an initiative with the Finance and Economy Ministry for amending the VAT Law by reducing the VAT rate from the existing 18% to 8% in cases of transfer and assignment of copyright and related rights by collective realization of copyright and/or related rights and by enabling collective organizations to pay VAT after their collect claims. The latter would, according to the OFPS press release, improve the position of both the users and the holders of rights.

We remind that the Law on Copyright and Related Rights, which has been in force since early 2010, prescribes a new mechanism for determining the tariffs of the fees for the use of copyright works and works/materials protected by related rights. Specifically, under that mechanism, the tariff is determined by mutual agreement between the collective organizations and the representative users’ associations. Failing such an agreement, the managing board of the organization may adopt a tariff. The latter must be approved by the Copyright and Related

Rights Commission to come into effect. As an exception, the Copyright and Related Rights Commission may independently set the tariff. However, although the aforementioned Law has been in force for more than two years, the OFPS, at least relative to broadcasters, still implements the tariff adopted under the previous Law. The reason for this is the fact that the OFPS has failed to reach an agreement with the broadcasters about the tariff or to obtain the approval of the Copyright and Related Rights Commission for the tariff the OFPS has proposed. In such a situation, it is increasingly likely that the Commission will ultimately determine the tariff on its own. OFPS' press release shows that this organization is more than willing (in order to avoid such a situation) to try and negotiate once again and even give new concessions to the representative users' associations and ultimately reach an agreement about tariff.