

## II MONITORING OF THE IMPLEMENTATION OF EXISTING REGULATIONS

### 1. *Public Information Law*

1.1. The implementation of the Law on Public Information has been elaborated on in the section about freedom of expression.

### 2. *Broadcasting Law*

2.1. On April 15, the Council of the Republic Broadcasting Agency (RBA) announced that *TV Pink* would cease broadcasting the show "Preљubnici" (Adulterers) and that it would air the program "Trenutak istine" (Moment of Truth) at 11.30 p.m. The RBA issued the press release after a joint meeting of the members of the Council and representatives of *TV Pink*. The meeting was organized in the scope of the procedure of introducing measures against *TV Pink*, initiated earlier by the Council. We remind that both programs had been under special surveillance by the RBA for quite some time. The RBA Council tackled the issue of the "Adulterers" back in April in 2012, when *TV Pink* was ordered to clearly label this program (prior to broadcasting and at the program's end) as a featured one, in order not to mislead the public that it was a documentary program. The Council had ordered the station to clearly mark the program as unsuitable for viewers below 16 years of age, while in cases when it was inappropriate for viewers younger than 18, the program was supposed to be aired after midnight. After that, the Council dealt with the same program in February, after an episode following a dramatized investigation of a private detective agency allegedly uncovering a case of incest. The RBA found that the content of the episode could have been harmful for the physical, mental or moral development of children and youth. At the same time, misdemeanor proceedings were requested, while the station was ordered to refrain from airing "Adulterers" and similar programs after midnight. As for the "Moment of Truth", the Council dealt with this issue in 2009. We remind that, back then, the host of the show asked a participant if she had experienced an orgasm while her father raped her. After vehement reactions from the public, the Council reacted by issuing a reprimand to *TV Pink*.

Under the Broadcasting Law, the RBA shall, among other things, supervise the activities of broadcasters and control/ensure the consistent application of the Broadcasting Law. Article 19 of the latter expressly stipulates that the RBA shall take care about the protection of minors and respect for personal dignity in radio and television programs and shall pass a general binding

order about it. Furthermore, Article 68 provides for the obligation of broadcasters not to air programs that emphasize or support violence or other types of criminal behavior. The RBA is authorized to introduce measures against broadcasters, namely reprimands, warnings, or to temporarily or permanently revoke its broadcasting license. In the concrete case, judging from the press release, it is evident that the RBA did not resort to any of the aforementioned measures, opting instead for entering into a “plea bargain” with the broadcaster, which agreed to remove one show from the program and to air the other in late evening hours only. While, on one hand, the RBA indeed invested a lot of effort to supervise the broadcasting of content that might harm the physical, moral or mental integrity of minors, we nonetheless must question the reasons as to why the Agency has continually been dealing with the same programs. Why is the same program that was on its agenda in April 2012, again in the program scheme in April 2013? Why is the RBA, after an unheard-of scandal in the case of the “Moment of Truth”, negotiating again with TV Pink about the time slot for airing that show? At that, during this whole time, of all the measures it is entitled to take, the RBA opted for the mildest one – a reprimand – and filed several requests for initiating misdemeanor proceedings. This is all the more important at a time when Serbia is expected to carry on with amendments to its media laws. It is namely necessary to establish if the problem lies in the present legislation, which is perhaps unable to effectively protect minors and human dignity in TV and radio programs, due to a lack of adequate mechanisms at the disposal of the regulator or perhaps with the RBA itself?

2.2. In the already quoted press release on April 15, the RBA Council stressed that the expert services of the Agency were performing stricter oversight of the reality shows “Big Brother” and “Farma” (The Farm) and that any complaints against any of these shows would be immediately furnished to the broadcasters. Furthermore, the RBA Council decided to hold a meeting with the Press Council over the fact that some parts of the program, which were not aired due to stricter regulation, were promoted in the press, particularly on online portals of print media, featuring utterly problematic video clips. The said meeting was held on April 25, 2013, when it was agreed that all complaints sent by the citizens to the RBA related to the content of print media be forwarded to the Press Council. It was also agreed that the Ministry of Culture and Media would be requested to react, in line with its competences, in situations where the content and distribution of the public media was as such that it might harm the ethical, intellectual, emotional or social development of minors. It was also agreed to request a joint meeting with the Association of Media, which regroups the publishers of major print media in Serbia.

The cooperation of regulatory and self-regulatory bodies is definitely a step in the right direction. The good news is also that the RBA has recognized the Press Council as a cooperation

partner. We remind that the amendments to the Statute of the Press Council have enabled that body to act also in relation to content posted on online media that have accepted the competence of the Council. However, regardless of the good cooperation between regulatory and self-regulatory bodies, one should not disregard the fact that the possibility to apply the current regulations in the electronic media sector to traditional press media and their online editions is utterly problematic. In Europe, a similar debate took place after the adoption of the controversial Hungarian Media Law. That Law provided for a single regulator for all media (electronic, online and print) and was vehemently criticized, among other things, for attempts of broadening the scope of electronic media, or audio-visual media services, to traditional print media and their online editions, under the guise of convergence and convergent regulators in some other countries. After the adoption of the aforementioned Law, expert analyses have concluded that the online editions of print media do not fall under the set of rules regulating radio and television, pointing to the fact that the introduction of convergent regulators in some European countries (UK, Italy and Finland) never went as far as to empower them with the competence and the scope as in the case of the Hungarian regulators.