

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

REGULATORY BODIES

1. THE REPUBLIC BROADCASTING AGENCY (RBA)

- a) The activities of the Republic Broadcasting Agency (RBA) in the observed period were marked by the revoking of licenses of a number of broadcasters due to unpaid broadcasting fees. The decisions have not been published on the RBA website, nor have the broadcasters in question deleted from the Licenses Registry available on the website. However, from the statements of RBA Council members given to the media in early May, it could have been concluded that the licenses of a dozen local and regional television and radio stations were revoked, including Belgrade-based television stations Enter, SOS kanal and TV Plus.
- b) The National Assembly of the Republic of Serbia passed the decision on the May 29th, 2009, to appoint Zivojin Rakocevic from Gracanica as member of the Republic Broadcasting Agency from the Autonomous Province of Kosovo and Metohija. Including Mr. Rakocevic, the RBA Council has 7 of the required 9 members now.
- c) Relative to its authority to propose members of Public Services' Program Committees, the RBA Council proposed 24 candidates on June 3rd, 2009, out of 32 that have applied on the competition for membership in program committees of Radio Television of Serbia and Radio Television of Vojvodina. The program committees are tasked with representing the interests of viewers and listeners in the Public Broadcasters Services.
- d) On the same session, the RBA Council has passed the decision to submit to the Ministry of Culture a proposal of changes to the Rulebook on Standards for Determining the Fee for Broadcasting Radio and/or Television Program, reducing the base for calculating the fee by 5%. In accordance with the Broadcasting Law, the amount of the broadcasting fee shall be determined by the Agency, with the consent of the Government of the Republic of Serbia.

Dissatisfied with the results of combating broadcasting piracy – it is estimated that there are around 130 pirate broadcasters in Serbia – the RBA Council sent on June 19th to the Ministry for Telecommunications and Information Society a request for changes and supplements to the Telecommunications Law by introducing provisions that would enable temporary seizure of broadcasting equipment from pirate broadcasters. A request was also submitted to the Justice Ministry for amending the Criminal Code, so as to incriminate unlicensed possession of a radio station.

2. REPUBLIC TELECOMMUNICATIONS AGENCY (RATEL)

- a) In late April, RATEL informed the public with the details of its activities report for the period 2005-2008. The report indicates that the telecommunications market in Serbia is worth 10 billion EUR, with a 4-6% BDP share. Regarding data relevant for broadcasters, according to RATEL, the penetration of cable distribution of radio and television programs has reached 11%, namely cable operators had 856.000 subscribers in 2008, which is an increase of more than 300.000 in only two years.
- b) In May, RATEL started with the registration of satellite DTH operators, pursuant to the new Bylaw that came into force in April.
- c) In public addresses of the Chairman of the Steering Committee and the Executive Director of RATEL that agency has demonstrated the readiness to reduce the fees for the use of radio frequencies charged to broadcasters, but that good will is yet to be put into practice to date.
- d) In mid-July, RATEL's Radio Communications Control Sector began sending reports to radio stations, proposing to ban the work of radio relay links for signal delivery from studios to transmitters in the 370-396 MHz range. The said range for signal delivery from studios to transmitters is used by a large number of radio stations in Serbia. In keeping with the Radio Frequency Range Function Plan, it stems that this range may be used for the said purposes (functions), if it is not causing harmful disturbances for other users operating in accordance with the Plan. ANEM requested from RATEL that the matter of switching to other signal delivery types or switching to other planned bands – due to related costs in a situation of economic crisis – be dealt systemically and in reasonable time frames.

ANEM activities regarding the closure of illegal broadcasters [see here](#)

OPINION

The main impression is that RBA and RATEL have so far failed to create a favorable environment for undisturbed+ operation of electronic media. In the observed period, the regulatory agencies were not efficient in shutting down illegal broadcasters, contributing thus to making the position of legal broadcasters even more difficult. These legal broadcasters may not fully exercise their broadcasting right and generate the expected marketing revenues. In addition, the announced reduction of RBA fees is not an adequate solution to this matter, because the purpose of the said fees is to ensure the financial independence of the regulatory agency and cover regulatory costs. Even after the announced reduction, these fees far exceed that level. Contrary to what it has announced earlier, RATEL has to date failed to reduce fees collected from broadcasters. However, it is expected that it will soon do so at the recommendation of the Government.

GOVERNMENT AUTHORITIES

3. THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

The National Assembly of the Republic of Serbia has, in the observed period, passed several laws relevant for the media. In late April, the Law on Changes and Supplements to the Personal Income Tax Law was adopted, drastically worsening the position of part-time associates of the media, by increasing taxes on authors' fees. Under pressure of media and journalist associations – ANEM among them – as early as in early June, the Government adjusted these changes to the new Law on Changes and Supplements to the Personal Income Tax Law. Nevertheless, the taxes on authors' fees remained slightly higher than prior to the introduction of changes to the Law in April.

In late May, the Law on Confirmation of the European Cross-Border Television Convention was adopted. At the same time, the Law on Amendments to the Broadcasting Law was adopted. Changes to the Broadcasting Law that only

regard to the procedure of election the members of RBA Council were fiercely criticized by ANEM and other media and journalist associations. Those changes has authorized the Parliamentary Culture and Information Committee, in case of a greater number of NGO candidate lists, as well as a greater number of candidate lists of public broadcasting media, journalists, film and drama artists and composers, or candidate lists with more than two candidates, to perform the pre-selection of candidates. At that, the Culture and Information Committee is not bound by any criteria for pre-selection, thus opening the way for an ignorant attitude towards authentic candidates from the civil society sector and the media profession.

Of particular concern is the fact that these changes have been put forward without any consultation with professional media associations and NGOs. Namely, these NGOs and media associations, at the session of the Culture and Information Committee of the Parliament of Serbia, held on March 18th, voiced their opposition to the conclusions of the Committee about the need to amend the articles of the law governing the election of RBA Council members, since the elections for Council members were already underway. The adopted amendments to the Law have devoid the role of authorized proposers in the procedure of candidacy for membership in the Council of any meaning and have also abolished the responsibility of the Parliament and the parliamentary committee for unlawfully stopping the election of candidates for members of the RBA Council, which elections were already underway prior to the adopted amendment to the Law.

Adopting amendments of Personal Income Tax Law and Broadcasting Law, the parliamentary majority has shown not only the lack of a minimum understanding for the position of the media, but have also realized their intention to set up the mechanisms of absolute control of the election of members of the sector regulator for broadcasting. [See here](#) and ANEM statement [here](#)

4. THE MINISTRY FOR TELECOMMUNICATIONS AND INFORMATION SOCIETY

The Ministry for Telecommunications and Information Society launched on May 22nd, 2009 a public debate about the Draft Strategy and Action Plan for the transition from analog to digital broadcasting of radio and television program in

the Republic of Serbia. The public debate lasted until the 12th of June, including round tables in Belgrade, Novi Sad and Nis.

Find more details about the draft strategy and the proposals put forward during the public debate in the part of this report concerning digitalization.

5. THE MINISTRY OF CULTURE

The Ministry of Culture sent on May 8th to the line ministries a proposal of urgent measures for helping the media in crisis. In the course of the month of April, the Ministry has set up working groups for professional associations and the media industry, with subgroups for print and electronic media, which groups also included representatives of the media industry, who have drafted a proposal of the said measures. The measures that were finally adopted on June 25th include:

- Providing 60 million dinars for co-financing projects in the area of information from the current budget reserve;
- Announced help for media by coordinated advertising of Government activities, according to clearly established criteria, which have not, however, been disclosed;
- The recommendation to RBA and RATEL to reduce fees for broadcasters, as well as the positive opinion of the Ministry of Culture about the new Bylaw on the Amount of RBA Fees, involving a fee reduction of 5% for national and up to 50% for certain local broadcasters;
- Support to RBA and RATEL in urgently cracking down on pirate broadcasters;
- Recommendation to organizations for the collective realization of copyright and related rights to mutually reconcile the tariffs through a process of consultation with users;
- Announced affordable loans for the media from the 250 million package of the European Investment Bank, provided for support to small and medium enterprises, as well as subsidized loans through the Development Fund.

The drafting of a proposal of changes and supplements to the Advertising Law has also been announced, which would relax advertising related regulations. [See here](#) and ANEM statement [here](#)

OPINION

Media professionals have branded the measures insufficient and belated, as well as insufficiently specific, for they mainly include recommendations and fail to regulate the time limits and the manner of their implementation.

COLLECTIVE SOCIETIES

6. OFPS

OFPS, a collective society for the protection of related rights of phonogram producers, adopted on May 8th, 2009 certain incentives for broadcasters, namely:

- The possibility to pay the difference between fees paid in advance and the amount of the final settlement for 2008, in six installments, provided that the debt for 2008 be paid within 30 days;
- A reduction of fees as per the final settlements for 2009 in the amount of 20%, provided that the debt for 2009 be paid, as well as earlier debt;

At the suggestion of ANEM, the OFPS performed on June 18th, 2009 and additional adjustment of the approved incentives, by extending the deadline for paying-off the 2008 debt until September 15th, 2009 and approving a certain number of benefits for ANEM members. Additionally, OFPS has publicly supported the determining of the tariff in agreement with the users, as stipulated by the Draft new Law on Copyright and Related Rights and has shown the readiness to negotiate about the tariff with the broadcasters even before the new Law is adopted.

7. SOKOJ

SOKOJ is a collective society for the protection of musical works, charging the broadcasters fees for using these copyright works by broadcasting. In the observed period, in spite of the principal support to the Draft new Law on Authors' and Related Rights envisaging the determining of the tariff in negotiations with user associations, SOKOJ did not reduce the fees as requested

by the broadcasters. At ANEM's call, that organization voiced its readiness for organizing a meeting in next period.

ANEM activities regarding reduction of tariffs of OFPS and SOKOJ are available [here](#)