

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. We have also elaborated on the activities of the RBA in the part of this Report concerning the implementation of the Broadcasting Law.

1.2. On August 7, the RBA Council issued a warning against RTV Pink, a broadcaster with national coverage, over the violations of the obligations from the Broadcasting Law and the General Binding Instruction on Broadcaster Conduct – Code of Conduct for Broadcasters. The reason for such a decision by the RBA was a series of press releases by the owner and the Editor in Chief of RTV Pink, aired between June 11 and June 26, in the prime-time news bulletins. In these press releases, Pink's owner attacked the Belgrade Mayor Dragan Djilas and the Editor in Chief of the daily "Blic" Veselin Simonovic, as we detailed in our previous reports. The attacks against Djilas and Simonovic were utterly improper and each response by the latter was followed by new attacks. Hence, after the press release of NUNS condemning the actions of TV Pink, calling them a misuse of the national frequency, the station issued a response, expressing "astonishment" over the perceived siding by NUNS with the "stinking daily newspaper Blic". The Pink even misused social networks to back up the alleged unprofessionalism of "Blic", quoting the statements of the members of a Facebook group reviling the newspaper.

The grounds for pronouncing the measure by the RBA exists in Article 68, paragraph 1, subparagraph 2) of the Broadcasting Law, prescribing that the broadcasters shall provide free, complete and timely information to the citizens. This general obligation is further elaborated on in sections 2.3 and 2.8 of the Broadcasters' Code of Conduct, concerning the general programming standards in news program and political program. These sections define that the broadcasters shall be entitled to their own editorial policy, while being obligated to respect a minimum of impartiality and separate factual reporting from views, opinions and comments. Furthermore, according to the Code, it shall be prohibited to manipulate with statements, press releases and similar content with the aim to alter their basic meaning; the broadcasters shall

respect the *audiatur et altera pars* rule, under which, when reporting about a debate or a row, the media shall give the opportunity to both parties to take an equal part in the polemics. In addition, the Code expressly prohibits personal attacks, as well as waging lengthy or repetitive campaigns in relation to particular persons, social groups or institutions without relevant new information justifying extended or repeated reporting about the same phenomenon, event, institution or person. In the concrete case, the RBA stopped short of providing for a violation of the Broadcasters' Code of Conduct in the part concerning the language that is used on the air, entailing the duty of broadcasters to suppress extreme talk and insults.

Article 17 of the Broadcasting Law says that the RBA shall be authorized to pronounce a warning and a caution against broadcasters, as well as temporary and terminal revoking of the license, as the strictest measure. Article 18 goes on detailing that the warning will be pronounced if a broadcaster is found to have:

- been in continuous non-compliance with the Law or a RBA act passed on the basis of the Law;
- violated for the first time one of the statutory obligations, with the violation seriously undermining the realization of the principle of regulating relations in the field of broadcasting;
- violated any of the criteria contained in the issued broadcasting license.

When pronouncing the warning, the RBA shall expressly state the obligation the broadcaster has violated and determine the measures to be taken by the broadcaster, in order to remedy the violation. The warning shall be published in public media, as well as in the program of the broadcaster it has been issued to. Article 63 of the Broadcasting Law goes on providing for the possibility of temporarily revoking the license for a period of 30 days from a broadcaster that was found to have been in continuous non-compliance with the Law or a RBA act passed on the basis of the Law and/or to have violated any of the criteria contained in the issued broadcasting license/failed to remedy the non-compliances the Council has established in the warning. If the non-compliances persist and his license has already been temporarily revoked at least three times, the broadcaster in question may see its license terminally revoked.

In the explanation of its decision, the RBA said that RTV Pink was found to have behaved similarly in 2009, when the Council issued a caution for non-compliance with the Broadcasters' Code of Conduct. Therefore, the RBA concluded that, since a caution was already pronounced against the broadcaster over a similar violation, the formal requirement from the Law for issuing

a caution was met. Interestingly enough, the RBA's decision took place in August only, although the controversial campaign happened in June. In view of the influence on the public opinion by national broadcasters, it is legitimate to ask if the RBA could have reacted earlier, while fully adhering to the statutory procedure. The warning issued against TV Pink is the twelfth case where the RBA has pronounced such a measure, but the first instance where it happened over such violation of the Code.

STATE AUTHORITIES

2. The Ministry of Foreign and Internal Trade and Telecommunications

2.1. The text of the Rulebook on Determining the Allocation Plan for the Frequencies/Locations/Distribution Zones for Terrestrial Digital TV Broadcasting Stations in the UHF Band for the Territory of the Republic of Serbia was published in the Official Gazette of the Republic of Serbia No. 73/13 from August 16, 2013. The Ministry of Foreign and Internal Trade and Telecommunications passed the Rulebook based on Article 84, paragraph 3 of the Law on Electronic Communications. The Plan includes the criteria for the distribution of radio frequencies by locations, namely distribution zones, as well as the distribution of radio frequencies and other technical criteria for their use.

The Rulebook does not regulate the procedure of the digital switchover or the deadlines; it merely acknowledges that the switchover for television will take place by stages, within the time limits laid down by a separate regulation defining digital broadcasting and access to multiplex in terrestrial digital broadcasting. In that way, the allocation plan actually refers to the Digital Switchover Plan, which is expected to be passed in the form of amendments and annexes to the Digitalization Strategy and the accordingly amended Rulebook on Switching from Analog to Digital Television Broadcasting and Access to Multiplex in Terrestrial Digital Broadcasting. The Plan also sets the frequency allocations for the channels 61-69, from the 790-862 MHz band, which is used for the realization of the digital dividend after the digital switchover. In addition, it also prescribes that the same may be used only until the switchover is complete. Meanwhile, technical and other parameters and criteria for the realization of the network have been prescribed. By adopting the Rulebook, the Ministry of Foreign and Internal Trade and Telecommunications has made another important step in the direction of the digitalization of television broadcasting.