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**HOW TO ENSURE INDEPENDENCY AND FINANCIAL SUSTAINABILITY
OF COMMERCIAL MEDIA
IN AN OVERSATURATED SERBIAN MEDIA MARKET?**

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I

According to the research of the national advertising markets, performed by *Informa Telecoms & Media*¹, the world leader in the field of market research in the area of telecommunications and media, as stated by the 2008 Fact Book of the Association of Commercial Television in Europe² (ACT), the Serbian advertising market is the leader among the advertising markets concerning the fastest growth in the world, with the forecasted growth rate of as much as 308.8% at the three-year level for the period from 2006 to 2009.

According to the data of the AGB Nielsen Media Research,³ the mass media advertising market in Serbia grew from USD 30 million in 2001 to EUR 175 million in 2007, out of which EUR 102 million is the value of only the television advertising market.

However, even with the afore-stated, according to the financial statements available on the Internet site of the Business Registers Agency of the Republic of Serbia⁴, only two commercial televisions with the nation-wide coverage were profitable in 2007. The remaining four national commercial televisions, according to the data from the same source, operated with total losses of EUR 27.5 million.

We will try to point at the causes for such a state of affairs and propose some of the measures that could be of assistance to the enhancement of the position of commercial broadcasting system in Serbia.

II

At the beginning of 21st century, the broadcasting system in Europe cannot be imagined without both public and commercial services.

¹ <http://www.informatm.com/>

² <http://www.acte.be/>. The fact book 2008 available at:
http://www.acte.be/EPUB/easnet.dll/GetDoc?APPL=1&DAT_IM=024DE0

³ <http://www.agbnielsen.net/>

⁴ <http://www.apr.sr.gov.yu/>. For the search of commercial entities with provided insight into the basic data about them, including also the sources from the financial statements, see:
<http://www.apr.sr.gov.yu/RepsisPublicSite/Search/GeneralEnterpriseSearch.aspx>

In principle, the public broadcasting system is based on the principles of universality, diversity, independence and distinctiveness. The Serbian 2002 Law on Broadcasting (“The Official Herald of the Republic of Serbia,” no. 42/2002, 97/2004, 76/2005, 79/2005, 62/2006, 85/2006, 86/2006), defines the public broadcasting service as the production, purchase, processing and broadcasting of information, education, culture and art, children, entertainment, sport and other radio and television programmes which are of the general interest for the citizens, particularly with the view to exercise their human and civic rights, exchange of ideas and opinions, nurturing political, gender, inter-national and religious tolerance, as well as the preservation of the national identity. The programmes which are produced and broadcasted within the scope of the public broadcasting service, also in compliance with the provisions of the Law on Broadcasting, must be provided with diversity and there must be balance (mutual alignment or harmonisation) among the programmes that support democratic values of a contemporary society, in particular, the respect for human rights and cultural, national, ethnic and political pluralism of ideas and opinions.

As much as it is unquestionable that public service in the European practice represents the basis of the broadcasting system, the significance of the private sector, that is, of the commercial broadcasting system, is equally indisputable, and it provides an efficient competition in the broadcasting sphere, as well as the possibility to hear new and different voices. The commercial broadcasting system is certainly not relieved of its part of the responsibility with regards to the exercising of the general principles of regulating relations within the broadcasting system, particularly through its obligation to abide by certain standards with regards to the quality of the programme, both from the technical point of view and from the programme contents point of view, the obligation to ensure free, complete and timely provision of information, and the obligation to contribute to the raising of the general cultural and knowledge level of the citizens. The achievement of the interests of the state and the society in providing the full affirmation of the freedom of expression and the achievement of the media pluralism is unimaginable today either without the public service or without the commercial broadcasting system.

In light of the above said, there is a basic question as to how a poor commercial medium, a commercial medium on the line of profitability, can ensure free, complete and timely provision of information, how it can defend its own independence, the independence of its editorial staff and its journalists. The essence of responsible regulation and wise media policy is to find answers to these questions, and that was unfortunately lacking in Serbia.

III

There are numerous ways in which the media policy and regulations could have been used to influence the creation of a more favourable environment for a financial self-sustainability of the commercial electronic media. The first solution that presented itself meant granting a smaller number of licences for the broadcasting of programmes. The European trend in regulating the broadcasting system, television in particular, where in a number of countries, albeit to tell the truth this is not formally prescribed anywhere, there are but three broadcasters at the national level, one public and two private ones, could have been easily recognised. Prior to the adoption of the Strategy for the Development of the Broadcasting System in the Republic of Serbia until 2013 (“The Official Herald of the Republic of Serbia,” no. 115/2005), it was precisely the Association of Independent Electronic Media (ANEM) which in its platform for the enactment of this Strategy insisted on the following:

“responsible broadcasting policy ... would need to limit itself when granting licences for the national and regional coverage to ... granting only that number of licences which to a sufficient degree guarantees financial self-sustainability, not aimed at enabling enormous profits of broadcasters, but with a view to enable true independence from the centres of economic power and serious investments in a good quality ... programme.”

The Republic Broadcasting Agency had other thoughts and the following has been written down in the Strategy⁵:

⁵ Complete text of the Strategy is available on Internet, on the Republic Broadcasting Agency site, at the following address: <http://www.rra.org.yu/srpski/strategija.pdf>

“The Republic Broadcasting Agency thinks that as of this moment there can be five commercial TV programmes in Serbia at the most for the nation-wide broadcasting, up to forty regional televisions and up to 160 local TV broadcasters.”

“... The Republic Broadcasting Agency thinks that the proposed (in technical terms: maximum) number of broadcasters at all levels is in line with the free market principles, with the position that healthy competition can only bring about quality of the domestic broadcasters’ programmes, as well as with the level of interest of the viewers.”

As it turned out the regulator in fact was not sufficiently aware of its obligations and of the purpose of regulation in general. What happened is that, competition in media, particularly in the broadcasting system, contributed to a narrowed-down selection of information (broadcasting only those information that ensure high ratings) and that the broadcasting system, if we look at it as an industry, is a highly-regulated industry precisely in order to respond to the requirements of the media pluralism which the free market, by itself, will not provide.

Thus in 2006, in line with the Strategy, the licences for the broadcasting of television programmes were granted at the public tender for the granting of licences for the broadcasting of programmes with nation-wide coverage to a total of five commercial television networks⁶. Since, in line with the very Law on Broadcasting, the public broadcasting service broadcasts television programme with the nation-wide coverage on two more networks (and is partially financed by advertising as well), the national commercial broadcasters have been put into a situation where they are fighting in the market, together with the province and a large number of regional and local broadcasters, for a commercial cake which was in 2006, according to the already quoted data of the AGB Nielsen Media Research, estimated at EUR 70 million, and in 2007, at EUR 102 million. The position of the regional and local broadcasters is even

⁶ The excerpt from the register of granted licences is also available on Internet, on the Republic Broadcasting Agency site, at the following address: <http://www.rra.org.yu/srpski/registar-nacionalni.htm>. The Republic Broadcasting Agency has granted six licences for five television nation-wide commercial network, since Happy TV and Kosava broadcast on the same network, Happy TV from 06:30 to 18:30, and Kosava from 18:30 to 06:30.

worse if we know that the share of the two republic public service networks (RTS1 and RTS2) and six national commercial broadcasters (Avala, B92, Happy, Kosava, Pink and Fox) together, in the total number of television viewers in 2007, is more than 76%.

As a comparison, in the neighbouring Croatia there are only two commercial national networks and two public service networks, and a significantly smaller number of regional and local broadcasters, while the value of the total advertising market amounted to more than 400 million already in 2004. In the same year, 2004, the total advertising market in Slovenia had the value of more than EUR 300 million. The total advertising market in Serbia in the same year was estimated at 80 million.

One should also bear in mind that, according to the information given in the 2006 Radio Television Serbia (RTS) financial statements (the statements for 2007 have still not been published on the Internet presentation of the public service), out of around EUR 70 million, which was the value of the television advertising market in 2006 according to AGB Nielsen Media Research, the RTS had the total annual revenue of 24 million through its commercial programme, leaving thus to all other national, province, regional and local broadcasters just a little over EUR 45 million to provide for their full freedom, professionalism and independence as guarantees of the development of democracy, to resist the pressures and the existing attempts of influencing their work, to promote freedom of expression and the pluralism of opinions, and to stimulate creativity. Having this in mind, it is a true miracle that the situation in the Serbian broadcasting media is not even worse than it already is. According to unofficial information, while expecting the publication of the official report on the RTS operations in 2007, the RTS earned around EUR 37 million through its commercial programme, by which it additionally increased its relative share in the commercial cake. If this sole piece of information proves to be accurate, this will certainly be good news for the RTS, but also an indicator that even the significant growth of the market is not sufficient to resolve the problems of commercial broadcasters by itself.

IV

The possibilities for influencing the creation of a more favourable environment for the financial self-sustainability of the commercial electronic media through regulation are not exhausted only through the decision-making on the number of issued licences. On the contrary, the influence could have been exercised in numerous other ways, including the policy related to the level of fees for broadcasting programmes.

Namely, Article 66 of the Law on Broadcasting stipulates that a broadcaster pays a fee for the obtained right to broadcast programmes. The fee for the broadcasting of programmes is paid to the account of the Republic Broadcasting Agency (it logically comes out of this that the purpose of this fee is to cover the costs of regulation and providing of financial independence of the regulator). According to the Law, the criteria for establishing the level of fee is the number of inhabitants in the area in which the programme is broadcasted and the programme concept of the broadcasters, that is, the origin and the type of programmes which are broadcasted. The other stated criterion was prescribed by the law-maker in order to provide the regulator with an efficient mechanism for stimulating broadcasting of science and education, culture and art, children programmes, broadcasters' own information programmes and their own production in general.

It should also be noted that the fee for the broadcasting of programmes is not the only fee which the broadcaster pays in line with the provisions of the Law on Broadcasting. Beside it, the broadcaster also pays the fee for using radio frequency (transmitter licence fee), whose amount is established in compliance with the telecommunications regulations and which is paid for the benefit of the account of the regulatory body in charge of the field of telecommunications.

The fee for the broadcasting of programmes for the commercial television with the nation-wide coverage in Serbia is RSD 60,733,808.00 (cca 780.000 EUR) at the annual level, while the fee for the utilisation of radio frequencies, also for the commercial television with the nation-wide coverage, is RSD 9,698,043.00 (cca 125.000 EUR).

The rulebook on the criteria for establishing the amount of fee for the broadcasting of radio and/or television programmes, through which the Republic Broadcasting Agency has developed the mechanisms for the enforcement of the criteria for establishing the fee set up by the law, was the subject of fierce criticism at the time of its enactment, at the beginning of 2006. It is interesting to note that this rulebook, whose “cleared-up text” can be found on the Internet presentation of the Republic Broadcasting Agency⁷, has never been published in the Official Herald and that the decisions which the Republic Broadcasting Agency takes when setting up the amount of the fee for concrete coverage zones, which are duly published in the Official Herald, never refer directly to the Rulebook, but directly to the Law.

The critics of the Rulebook have, on the one side, pointed out that the intention of the lawmaker when prescribing the broadcasting fee was to cover the costs of regulation, that is, to provide financial independence of the agency and that in those terms the fee has been set too high and, on the other side, they have complained that when enacting the Rulebook, the Republic Broadcasting Agency did not adhere to what it undertook itself in the Strategy for the Development of the Broadcasting System, in which it is written that:

“...when establishing the fee for the broadcasting of programmes, the assessed possibilities of the commercialisation of programmes and advertisement market will be borne in mind, as well as the experience from the surrounding countries, that is, the comparison will be made between the advertisement market in Serbia and the neighbouring countries.”

It is not known that the announced assessment, comparison and their analyses have ever been done, and if they have, the results have never been shared with the broadcasters. Also, there has never been an announcement concerning the desired goals of the regulation which the Republic Broadcasting Agency wanted to achieve through the proposed amount of the fee.

⁷ See at: <http://www.rra.org.yu/srpski/RRA-Pravilniknaknade-pt.pdf>

In their defence of the established fees, the members of the Agency's Council claimed that the provision of the Law on Broadcasting in compliance with which the positive difference between the revenues and expenditures of the Republic Broadcasting Agency is paid to the account of the budget of the Republic of Serbia, means in fact that the amount of the fee is not necessarily linked with the cost of the regulation and also that with the high amount of the fee for the broadcasting of programmes it is charged for the utilisation of the radio-frequency spectrum as a limited natural wealth. None of the two above-stated arguments was particularly solid. The first one because the provision referred to by the members of the Agency's Council does not in fact relate to the level of the fee, but solely resolves the issue of a possible difference between the revenues and the expenditures of the agency, and the difference in case it is positive – goes over into the budget, while in case it is negative – is covered from the budget, and the second one because the utilisation of radio frequencies in line with the Law on Broadcasting is not charged in the form of a fee for the broadcasting of programmes, but in the form of the fee for the transmitter licence. In any case and regardless of the undoubtedly stronger argumentation for establishing lower amounts of the fees for the broadcasting of programmes, these fees remained higher than anywhere else in the region.

As far as we know, the second criterion for establishing the amount of the fees, concretely the programme concept of the broadcaster, that is, the origin and the type of the broadcasted programme, prescribed in order to stimulate broadcasting of the programmes which the lawmaker evaluated to be of special importance (science and education, culture and art, children programme, broadcasters' own information programmes and their own production in general), has never been applied in practice. In the Strategy for the Development of the Broadcasting System, the Republic Broadcasting Agency took the stand that the stated criterion could be applied only after the issuance of the licence and the beginning of the broadcasting of a certain broadcaster's programme. According to the Republic Broadcasting Agency, namely, only on the basis of:

“...monitoring of the programmes as an act of the general supervision over the work of the broadcaster, [it could be] decided whether there are legal and substantial grounds for the correction of the fees, i.e., whether there is a real

programme justification for allowing a discount to a broadcaster with the same coverage zone for the initially set price.”

The Republic Broadcasting Agency has not had any response and neither has it acknowledged the remark that such acting would in fact represent a violation of the Law on Broadcasting which links the possibility of changing the fee amount during the validity of the issued licence for the broadcasting of programme solely to the changes in the programme which is broadcasted. The decision on the change of the fee amount in line with the broadcaster’s programme concept criterion could not even be taken legally for those broadcasters who respect the programme concept and the programme scheme with which they participated in the public call for the granting of licences, since there have been no changes in the programme they broadcast.

In practice, in case of a national commercial broadcaster who submitted a request for a reduction of the fee, it turned out that the monitoring of the programmes which the Republic Broadcasting Agency performs within the scope of the general supervision is not a sufficient basis for granting the discount. The Agency asked from the broadcaster copies of complete broadcasted programme for the period of a whole month in order to make a check-up of the share in the broadcasted programme of those programme contents that could be of significance for a possible reduction of the fee. On top of everything, there was also a problem of converting the format in which the broadcaster kept the copies of the broadcasted programme (in line with the obligation which had been stipulated by the Law on Public Information that copies of the entire one-day broadcasted television programme are to be kept for at least 30 days) into the format in which the expert service of the Republic Broadcasting Agency, taking into account the equipment the Agency disposes with, could have the insight. Faced with such a request, the concrete broadcaster postponed his request for the reduction of the fee for some better times.

The plan for the distribution of frequencies/locations for the terrestrial analogue FM and TV broadcasting stations for the territory of the Republic of Serbia (“The Official Herald of the Republic of Serbia,” no. 6/2006)⁸, which served as the basis for announcing a public call for granting licences for the broadcasting with the nation-wide coverage, was enacted by the then Ministry for Capital Investments on 20th January, 2006. This Plan had for its basis the existing broadcasting facilities with their internationally coordinated frequencies and channels, and these facilities, by the rule, particularly having in mind the high altitude positions which are of key importance for the nation-wide coverage, are used and managed by the RTS.

The former 1991 Law on Radio and Television (“The Official Herald of the Republic of Serbia,” no. 48/91, 49/91, 53/95, 55/95, 67/93, 48/94, 11/01), by which the RTS was established in the form of a public enterprises, stipulated that the funds disposed with by the RTS are state owned. The 2002 Law on Broadcasting, which anticipated the transformation of the RTS into two carriers of the public service, the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina, expressly stipulated that the new broadcasting institutions are founded with the assets comprising of the immobile and other working assets of the Public Enterprise Radio and Television of Serbia, whereby the new broadcasting institutions will use the immobile assets and the emitting infrastructure facilities (buildings, antenna systems, radio-relay systems, etc.) in compliance with the agreement concluded with the Republic Directorate for Property of the Republic of Serbia. The contents of the agreement entered into by the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina, and the Republic Directorate for Property have never been made public. The practice in the field, however, shows that the Republic Directorate for Property failed to limit the scope of utilisation of the immobile assets and the emitting infrastructure facilities by the carriers of the public broadcasting service to the needs related to the broadcasting through the number of networks set by the law through which the carriers of the public service broadcast. The public service governs the entire capacities of the said infrastructural facilities, by using them for its own

⁸ The plan is available on Internet, in the presentation of the Republic Telecommunications Agency, on the following address: http://www.ratel.org.rs/editor_files/File/PLAN%20RASPODELE.pdf

needs and by leasing the to the commercial broadcasters in a way related to which, other than fact that it represents an adverse vertical concentration, there is a serious doubt that it also represents the abuse of the dominating position in terms of the provisions of the Law on the Protection of Competition (“The Official Herald of the Republic of Serbia,” no. 79/05). The public service determines the prices of the lease through its internal pricelists without any public consultations, without any checkable market analyses and generally without any concern for the market conditions. As a result, the prices of the lease of the public service facilities are far higher than the prices of any other provider of similar services. Also, they are frequently completely out of proportion with the number of inhabitants in the service zones and the degree of development of the concrete areas, and as such they absolutely hinder minimal economic sustainability of the broadcasting of programmes, which commercial broadcasters necessarily must take into account. The possibility of choosing alternative locations and alternative providers of services for placing broadcasting equipment is extremely narrowed down, since the conditions of the issued licences for transmitters stipulate broadcasting from the locations very precisely defined by geographic coordinates and these locations for the nation-wide coverage are by the rule public service facilities.

The above-stated problem has been recognised already in the Strategy for the Development of the Broadcasting System, which expressly states the following:

“The situation in which one broadcaster (RTS) holds the key broadcasting facilities and their corresponding infrastructure does not guarantee an equal position of all electronic media. ... Because of this, it is necessary to separate the broadcasting system and the signal transmission system from the organisation of the current RTS (the future public service), as well as from the organisation of the commercial broadcasters who now own such facilities. ... These issues can be solved by setting up a public enterprise that will guarantee to all the broadcasters who receive the licence equal access to the broadcasting facilities.”

Unfortunately, although everybody, including in particular the Republic Broadcasting Agency, agree that it is absolutely unacceptable and contrary to the principles of

regulating relations in this area as defined by the Law on Broadcasting that the public service which is partially financed from the sale of advertising space, which makes it a direct competition to the commercial broadcasters, at the same time like a monopolist holds the key signal distribution channels of its competitors, to date nothing has been done in this regard, while the national commercial broadcasters remain at the mercy of unreasonably high lease costs for the space on the RTS's broadcasting facilities.

VI

The unfavourable market conditions lead to a situation in which each second of the allowed time for the broadcasting of advertising messages is extremely important for the broadcasters, that is, in which it is necessary to utilise commercially each such second to the fullest extent. The rigid Law on Advertising ("The Official Herald of the Republic of Serbia," no. 79/2005) which, among other things, also regulates television advertising, additionally burdens the position of the broadcasters. The Law, namely, sees advertising as any information provision via advertising means which recommends the advertiser, its activity, product, service or gives some other recommendation with the aim that it should be accepted or used by the person to whom it was directed. An advertising message is every message used to recommend the advertiser, its activity, product or service. The length of duration of the advertising on television is limited by the Law to 12 minutes within any one full hour, while the stated 12 minutes also calculate in the announcements of programme, which are treated as "advertising for self-promotional reasons," and even the so-called advertising in the public interest, that is, the advertising messages of non-profit organisations for voluntary and humanitarian actions and other actions aimed at pointing at and raising awareness about social problems or intended for solving or pointing at them, as well as calls for such actions. The afore-said is particularly contrary to the European regulations, more concretely with Directive 89/552/EEC (Television without Frontiers Directive)⁹, amended and supplemented by Directive 2007/65/EC of 11th December, 2007 (Audiovisual Media Services Directive)¹⁰, in compliance with which the definition of television advertising encompasses solely

⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31989L0552:EN:HTML>

¹⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:332:0027:01:EN:HTML>

advertising related to trade, business dealings, craftsmanship or profession aimed at promoting acquisition of goods and services, including mobile assets, rights and obligations, against a payment, thus excluding from the realm of television advertising the advertising in the public interest.

The group for the reform of the media sector consisting of the representatives of the Independent Association of Journalists of Serbia (NUNS), ANEM and the Association of Independent Local Printed Media “Lokal Press,” supported by a number of non-governmental organisations interested in having the advertising in the public interest not calculated into the maximum 12 minutes within any full hour of broadcasted programmes, has submitted to the competent Ministry of Trade a proposal of an amendment to the Law on Advertising which refers precisely to this issue.

VII

The interests of ensuring full implementation of the function of media in a democratic society, the promotion of the freedom of expression, realisation of media pluralism, interests of free, complete and timely informing of citizens of the things of public interest, imply the necessity, which a responsible media policy would have to recognise, of a serious work aimed at providing favourable conditions for a financial sustainability of commercial broadcasters in Serbia.

Some chances have been irrevocably missed, but some other solutions are possible even today, while some others impose themselves.

First, the decrease in the amount of the fees for the broadcasting of programmes down to the level of covering the costs of regulation and their establishing in a way that would entail an effective enforcement of both criteria stipulated by the law for the establishing of the fee levels is possible already now. The financial plan of the Republic Broadcasting Agency for 2008 (“The Official Herald of the Republic of Serbia,” no. 33/2008) shows that the planned expenditures of the Agency in this year, including also the contingency reserves, is twice as small as the planned revenues from issuing the licences, that is, from charging the fees. This practically means that

the fees for the broadcasting of programmes could already today be halved, without bringing the covering of the regulation costs, that is, the duly financing of the agency, into question.

Furthermore, the long postponed separation of the broadcasting system from the public service would not only ensure its accessibility to the broadcasters under non-discriminatory conditions, but would also open up the space for a realistic cost-based price policy, through establishing the status of the operators with a significant market share and the introduction of a special tariff regime, in line with the conditions and criteria that have already been foreseen by the telecommunications regulations. That there is space for the reduction of the fee for the utilisation of broadcasting facilities would be shown by any comparative analysis of the RTS facility lease prices compared to the prices charged by other providers of similar services in Serbia.

A responsible media policy would also advocate for more transparent operations of the organisations for collective exercising of copy and similar rights, implementation of the principles of holding public consultations prior to setting up tariffs and their mutual harmonisation. The current Law on Copy and Related Rights (“The Official Gazette of Serbia and Montenegro,” number 61/2004) leaves too large a freedom to collective organisations in setting up tariffs, insisting only that the amounts foreseen by the tariffs must be in proportion with the significance which the utilisation of subject of protection from the repertoire of the organisations has for the income of the users. Unfortunately, the proportion between the tariffs and the significance which the utilisation of subject of protection has for the income of the users is not controlled by anybody, thus the broadcasters, including here the public service as well, frequently and justifiably see their setting up as an issue which is completely left to the will and often to the capriciousness of the collective organisations management.

The proposed measures by themselves, however, would hardly be sufficient. The situation in the commercial broadcasting system also requires more radical support measures, whereas it is important that they are weighed out well in order not to jeopardise the stable financing of the public service. The more radical measures would concern the scope within which the public service is financed from commercial sources, in a way that the financing of the public service from commercial sources is

still not completely terminated. This is because financing exclusively from the subscription is anyway an exception in the world practice and, to the best of our knowledge, among the better known public services it is only the English BBC and the Japanese NHK that are financed exclusively from the subscription.

About the relying of the public services on commercial sources of financing there have been serious discussions and debates, not only in Serbia, but also in the world. One of the conclusions reached during such discussions is that relying on commercial sources of financing can be acceptable provided it does not impact the commitments of the public service. If a certain limit would be crossed, if the need for commercial financing would become such serious preoccupation of some public service that it changes the nature of its programme, of course there is a reason to be worried. In our opinion, the reason to be worried exists in yet another case, that we were also witnesses of and that has been described here, and that is if the relying of the public service to commercial sources of financing starts to jeopardise the survival of the commercial broadcasting system, the survival of which is also in public interest.

Even with the stated EUR 24 million of revenues from advertising earned by the RTS during 2006, that is, the expected EUR 37 million in 2007, which, we repeat, is still to be officially confirmed, the RTS in its predominant part is nonetheless financed from the subscriptions.

What we are concretely proposing is the abolishment of the right recognised by the Law on Advertising to the carriers of the public service to also broadcast advertisements, like the commercial broadcasters, during programmes by interrupting them. We are of the opinion that broadcasting advertisements during programmes by interrupting them on the public service channels violates the recognisability of the public service compared to the commercial broadcasters, that it seriously harms the position of the commercial sector while not contributing to a significantly more stable financing of the RTS. The amendments to the Law on Advertising that would limit the right of the RTS to broadcast advertisements to advertisement blocks in-between programmes and a natural break during a programme, and that would exclude the right of the public service to the so-call “cuts” in programmes in order to broadcast advertisement, could also be compensated to a good degree by the RTS through the

subsequent increase in the price of commercial seconds in the breaks in-between the programmes. Nevertheless, the right opportunity for increasing the revenues of the RTS lies precisely on the other side, in increasing the collectability of the subscription. Namely, according to the Report on Subscription, prepared by the working group established by the RTS Management Board¹¹, the percentage of collected subscription, in June 2008, on the territory of the Electricity Distribution Company (EDB) Belgrade was 77.2%, while on the territory of the EDB Vojvodina it was 70.2%. If we compare the stated percentages with the collection percentages throughout the history of the RTS, we shall see that in certain period during the 1990's, the RTS collected the subscription with the percentage of over 90%, and if we compared them to the positive examples from the surrounding countries, the HRT in the neighbouring Croatia according to the quotes from the same report collects with 95-97% of success, it is obvious that there is a large margin for the growth in the collection of the subscription.

The commercial televisions, on the other hand, would gain a comparative advantage with regards to the public service through the exclusivity of the specific advertising offer – advertising during programmes by interrupting them and in this area, freed from the competition of the RTS, they could additionally capitalise on their marketing potential and improve the previously described unenviable position. Taking into account the limits stipulated by the Law on Advertising which relate to the duration of advertising per full hour of broadcasted programme, it is to be expected that through the above-described measure this part of the marketing cake will not remain only in the domain of the national commercial broadcasters, but will also spill over to the regional and local broadcasters, as well as the radio.

In addition, the quoted Report on Subscription of the RTS Management Board's working group contains a number of concrete proposals for increasing the percentage of the collected subscription and it would be useful, after their analysis in light of their constitutional and legal grounds, and different consequences they could cause, to approach simultaneously the changes that would improve the operating environment of the commercial broadcasters and the changes that would improve the collection of

¹¹ <http://www.rts.rs/admin/download/files/cms/attach?id=80>

the subscription, that is, that would improve the increase in the percentage of its collection. The unified implementation of both groups of measures could also ensure that the support for them, in a package, is provided on both sides – both from the commercial broadcasters and, what is particularly important, from the public service whose potential sense of being threatened by the likely reduction in commercial financing could be absorbed.

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