

IV MONITORING OF WORK OF REGULATORY BODIES, STATE BODIES AND COLLECTIVE ORGANISATIONS FOR PROTECTION OF COPYRIGHTS AND RELATED RIGHTS

REGULATORY BODIES

1. REPUBLIC BROADCASTING AGENCY (RBA)

Certain activities of the Republic Broadcasting Agency are treated in the part of this report relating to monitoring of implementation of Law on broadcasting.

In accordance with Article 39, paragraph 4 of Law on broadcasting, on 7 July 2009 RBA filed a request to the Republic Agency for Telecommunications (RATEL) to issue licenses for broadcasting stations (transmitters) to a number of regional and local broadcasters. For these stations, RBA had passed decisions on issuance of licenses to broadcast on 29 December 2008 (upon the invitation published on 20 May 2008) but it is only now that they have become final by rejection of the objections lodged. The following stations are concerned: Radio EM from Knjaževac, got a regional license for the coverage of the municipalities Knjaževac and Zaječar; Radio Drina from Loznica, got a regional license for the coverage of the municipalities Loznica, Mali Zvornik and Ljubovija; TV K::CN from Niš, got a local license for the coverage of this city; TV VIMINACIUM, got a local license for the coverage of the municipality of Kostolac; Ka TV and TV Trstenik, got local licenses for the coverage of Kraljevo; TV Jerina and TV SD got local licenses for the coverage of municipality of Smederevo; Radio Saldo, got local licenses for the coverage of municipality of Gadžin Han and Radio Nova Jasenica, got local licenses for the coverage of municipality of Smederevska Palanka.

The Rulebook on additions and amendments to Rulebook on measures for establishment of the amount of fee for broadcasting radio and/or TV program, published in the Official Gazette No. 50/2009, came into force on 18 July, so that the RBA office has already started filing new decisions to broadcasters, stipulating the amount of fee in accordance with the amended Rulebook.

We would like to point to the fact that it has not been a regular practice of RBA to publish general acts in the Official Gazette as, even though this obligation is also stipulated in Law on public agencies ("Official Gazette of RS", No. 18/2005, 81/2005). Thus, the original Rulebook, which was adopted on 24 October 2004, is now available only on the Internet presentation of RBA, while its amendments only were published in the Official Gazette. It is our opinion that, for the purpose of legal certainty, it would be

much more appropriate if the final draft of the Rulebook were published in the Official Gazette instead of mere amendments.

2. REPUBLIC TELECOMMUNICATIONS AGENCY (RATEL)

At the session held on 21 July 2009, the Managing board of RATEL passed a number of decisions to terminate operations of radio stations, without any delay, for an indefinite period of time. These decisions are final and may not be subject to administrative proceedings before competent courts. Five decisions were passed due to illegitimate use of links within the range 370-396 MHz, out of which four decisions relate to radio stations that have licenses to broadcast (for Radio Ritam and Radio Pancevo from Pancevo, and radio MFM and Radio NAXI from Belgrade). Through the Purpose plan, this range is determined for the purposes of special services (the military, emergency services). In direct contact, RATEL informed the broadcasters who used the 370-396 MHz range for transmission of modulations from the studio to the transmitter about the legitimate solutions, some of which were suggested in the Instructions for obtaining licenses, available at the Internet presentation of RATEL: http://www.ratel.rs/editor_files/File/dozvole/uputstva/Uputstvo_za_dobijanje_dozvole_rev5_050509.pdf (only in Serbian)

As many as 20 more decisions were passed against stations broadcasting program without a license. The case of Belgrade „HIT TELEKOM” company is especially indicative. This company was pronounced the measure of prohibition of operation for as many as five illegal transmitters, located in different locations, which were used to cover almost the whole territory of Serbia.

On 8 July 2009, upon the request of RBA, RATEL published a notification on deadlines for issuance of permits for broadcasting stations (transmitters) to the stations whose licenses to broadcast from 29 December 2008 become final after rejecting the objections lodged (see paragraph 2 in item 1 of this chapter of the report – RBA). These stations are obliged to file to RATEL appropriate technical documents, according to the provisions of the corresponding Rulebook, not later than on 7 August 2009. RATEL will have issued the permits by 21 September 2009.

At the session held on 21 July 2009, the Managing board of RATEL passed the decision to temporarily reduce the amounts of fees for radio frequencies by 5%, in accordance with recommendations from the Government’s conclusion to adopt Measures to assist media in conditions of economic crisis. This reduction relates to the fees for 2009. The decision shall enter into force upon approval of the Government of the Republic of Serbia

and its publishing in the Official Gazette, which did not happen while this report was being composed.

http://www.ratel.rs/editor_files/File/Regulativa/Odluke/UO_090721/UO_1/Odluka%20o%20spovodjenju%20preporuka%20sadrzanih%20u%20merama%20za%20pomoc%20medijima.pdf (only in Serbian)

STATE BODIES

3. NATIONAL PARLIAMENT OF THE REPUBLIC OF SERBIA

In July, the Republic Parliament had three sessions, apart from the one which started in June and finished on 8 July. The 11 session, started on 16 July, was the most important one for media. Draft law on additions and amendments to Law on public information and Draft law on national minority councils, which were discussed into more detail in the previous chapter, were included in the agenda of the session after an emergency procedure for adoption of new laws.

On 27 July, Committee for culture and information of the National Parliament deliberated the Information on the procedure of appointment of two members of the Council of the Republic Broadcasting Agency. In the capacity of authorized proponents, associations of broadcast media and journalists passed to the Committee a harmonized draft with the names of the two candidates for members of the RBA Council. Independent Journalists' Association of Serbia (NUNS) and The Independent Journalists' Association of Vojvodina (NDNV) proposed Gordana Susa, journalist, whereas the Journalists' Association of Serbia (UNS) proposed Milan Becejic, journalist. Both candidates were supported by ANEM and APRES (with BARS and RTV PRESS), while Milan Becejic was also supported by SRPSKA TV MREŽA. The Committee members decided to file their proposal to the National Parliament to decide which candidate will be appointed as the RBA Council member.

The Committee also found that local NGOs nominated five candidates, and decided to allow an additional 15-day period to the proponents to harmonize their proposals, in order to finally adopt a list with who candidates only. This decision of the Committee for culture and information was in line with the latest amendments of Law on broadcasting from June this year. Committee for culture and information will have the authority to reduce the list to two candidates only, to allow to the National Parliament to select between the two, in case the non-governmental organizations fail to harmonize their

proposals within the envisaged period of time and in case they fail to produce a joint list featuring the names of two candidates.

At the same session, members of Committee for culture and information also discussed the Information on the procedure of appointment of members of the Program committee of the Broadcasting institution of Serbia. Proportionally to the number of MPs in the National Parliament, lists with names of candidates for the five members of the Program council were supplied by the LDP, SPS and Minority Parliamentary groups. The Committee repeated the invitation to pass the lists of candidates to the Parliamentary groups which have not done so yet. In accordance with Law on broadcasting, the Program committee is an advisory body of the public service, and the body representing interests of listeners and viewers. The Committee has 19 members appointed by the National Parliament, seven of whom among MPs, and 12 among members of professional associations, scientific institutions, religious communities, citizen associations, NGOs, etc, upon proposal of RBA. RBA met this obligation in June 2009.

The Report from 14 Session of the Committee for culture and information may be downloaded [here](#) (only in Serbian)

4. MINISTRY FOR TELECOMMUNICATIONS AND INFORMATION SOCIETY

In July, the Ministry deliberated the RBA Council request from 19 June this year, relating to additions and amendments to Law on telecommunications which would be executed through introduction of measures which would allow for temporary confiscation of broadcasting equipment from pirate broadcasters. Consultations with Ministry of the interior were also held, among other topics, on the possibility to confiscate broadcasting equipment from pirate broadcasters in line with valid regulations. There was no information on the results of the consultations before this report was composed.

It is worthwhile mentioning that Ministry for telecommunications and information society received the request of the RBA Council relating to additions and amendments to Law on telecommunications when the working group established by the Ministry had already completed their work on drafting Law on electronic communications, which is to replace the existing Law on Telecommunications. Public debate on the Draft law on electronic communications is expected to take place in autumn.

5. MINISTRY OF CULTURE

In the period observed, Ministry of culture was mostly engaged in justifying its draft amendments to Law on public information, adopted by the Government on 9 July 2009, which was much criticized in public as restrictive and not harmonized with European standards.

On 30 July 2009, the Ministry published the Invitation to submit programs/projects in the area of public information to be co-financed. Co-financing is aimed at production of program contents important for the purpose of achieving public interest. The main goals of the Invitation, as stated, are: achievement of citizens' right to public information, development of media pluralism, and stimulation of media creativity in the area of culture, science and education.

The right to apply rested with founders of media outlets, as well as legal entities registered for production of television and radio programs. A proposed project was to be implemented through a media outlet. Applicants were to apply with one project only, and could not submit the same projects as were already used to apply to another invitation published by Ministry of culture.

The maximum amount of funds requested for project implementation amounts to 2 million dinars per project. Ministry of culture covers up to 80% of the total value of the project, and the funds granted must be used before the end of March 2010.

The total amount of earmarked funds is 80 million dinars. The amount of 20 million dinars from the budget of the Ministry is allocated for the purpose of this competition, whereas the remaining amount of 60 million dinars is allocated in accordance with the Serbian Government Conclusion on measures to assist media in the conditions of an economic crisis. The competition will be opened until 21 August 2009, and the results will be published not later than on 7 September 2009.

COLLECTIVE ORGANIZATIONS

6. OFPS, collective organization for protection of related rights of phonogram producers

Upon the ANEM request dated 17 June 2009, OFPS, collective organization for protection of related rights of phonogram producers, modified its incentive measures aimed at broadcasters adopted in May this year, by:

- a) Prolonging the deadline for cover liabilities from 2008 till 15 September 2009 instead till the end of June, which allows for the possibility to cover the difference between the amounts paid in advance and the final amount accounted for 2008 in six installments.
- b) Confirming the reduction of fees according to the final accounts for 2009 by 20%, provided debts from 2009 and previous debts have been settled regularly.

OFPS published its Decision on granting additional incentive measures on its Internet presentation on 7 July 2009, which also made these measures available to media which are not members of ANEM.

7. SOKOJ, collective organization for protection of copyrights of authors of music

Since 1 July 2009, minimum amounts of fees to be paid by broadcasters for broadcasting music have been increased by 12.5%. This increase occurred because the value of a point for calculating the amount of fee in accordance with the SOKOJ Tariff list was increased from 8 to 9 dinars. The tariff was modified in March this year, the change was published in the Official Gazette no 29/2009 from 28 April this year, and started being implemented as of 1 July this year. By sticking to the already planned increase of fees, SOKOJ practically turned a blind eye to the recommendations from the Serbian Government Conclusions on measures to assist media in the conditions of an economic crisis from 25 June 2009 and increased the minimum amount of fees by an additional 12.5%. The change of the tariff will affect the poorest radio and TV stations which are entitled to payment of minimum fees.

IMPLEMENTATION OF EMERGENCY GOVERNMENT MEASURES TO ASSIST MEDIA IN CONDITION OF CRISIS

The issue of implementation of the emergency Government measures to assist media in condition of crisis, adopted on 25 June 2009, is of utmost importance for media. Monitoring indicates that among the adopted ones only the following measures were implemented:

- Reduction of fees to RBA, through adoption and approval of the Rulebook on the amounts of fees, which came into force on 18 July 2009, and

- Procurement of 60 million dinars to co-finance projects in the area of information (implementation of this measure, together with the additional 20 million, began with the Invitation of the Ministry of culture to submit programs/projects in the area of public information to be co-financed, published on 30 July 2009).

Before the end of July, the Government had not provided its approval to the decision of the Managing board of RATEL from 21 July 2009 on temporary reduction of fees for using radio frequencies. Before this report was concluded, the other measures passed by the Government had been neither determined into detail nor implemented, or at least there is no reliable information to that extent. Tariffs for fees to be paid to collective organizations have not yet been harmonized through the process of consultation with users. There is no information on allocation of funds earmarked for advertising campaigns on various community-aimed activities of the Government and its ministries, nor is implementation of this measure visible in media. In the period observed, assistance extended by the Government and competent ministries to regulatory agencies in terms of closing down of stations broadcasting radio and TV program without licenses did not yield sufficient results or was even not implemented. There are no data on whether and how many media organizations have been granted soft loans.

Besides, in the period of observation, the new, modified SOKOJ tariffs, making the amounts of minimum fees paid by broadcasters for broadcasting music by 12.5% higher, started being implemented. Thus, SOKOJ did not act upon the recommendation from the Government Conclusion regards to emergency measures to assist media in condition of crisis.

As the measures passed by the Government are of emergency nature, their implementation should have been provided for without any delay. Unfortunately, the Government, as well as the competent bodies, did not express sufficient willingness to further determine and provide for implementation of the adopted measures, the impact of which will deteriorate with further postponement of their implementation.