

## **IV MONITORING OF ACTIVITIES OF REGULATORY BODIES, STATE AUTHORITIES AND COLLECTIVE ORGANIZATIONS FOR PROTECTION OF COPYRIGHT AND RELATED RIGHTS**

### **REGULATORY BODIES**

#### **1. REPUBLIC BROADCASTING AGENCY (RBA)**

a) The Republic Broadcasting Agency (RBA) published on its website a statement on September 29, 2009 regarding the decision of the mayor of Belgrade to declare September 30th a day of mourning for the tragic death of Frenchman Brice Taton. The said statement sent to all national broadcasters and broadcasters in the area of the City of Belgrade laid down the program-related obligations of the broadcasters on the day of mourning.

The notice contained instructions that were all in accordance with the provisions of Article 6, paragraph 1 of the Law on Observing the Day of Mourning on the Territory of the Republic of Serbia (Official Gazette of the Republic of Serbia no. 101/2005), which defines the obligations of broadcasters in such cases: they are required to broadcast the decision declaring the day of mourning, as well as the program of the ceremony; to inform the public about commemorations organized by the competent authorities on the day of mourning; to adapt their program schedule by airing instead of regular programs – particularly entertainment content – those suited for the day of mourning, without popular or folk music. Due to irregular practice of broadcasters with respect to their program schedules in cases of major accidents or other tragic events, the RBA has sought, with this notice, to influence the broadcasters' behavior in such situations, reminding them of their obligations.

b) According to a report in the daily "*Danas*" published on September 28, 2009, the radio station of the Serbian Orthodox Church in Subotica, *Radio Slavoslavlje*, officially started broadcasting its program in this city. "*Danas*" highlighted the interesting fact, that the said station had obtained its broadcasting license in a time-sharing arrangement with *Radio Marija* of the Catholic Church in the same city, which has been airing its program for the last 26 years as part of a global network. The licenses for both broadcasters (of specialized program) were issued in 2008 and are valid until 2016, and were obtained for broadcasting in the local area.

According to Article 48 of the Broadcasting Law, if the conditions from the Radio Frequencies Allotment Plan are met, no more than three broadcasters may be permitted to use the same radio frequency in the same target zone, on the basis of a prior positive opinion

of RATEL. In order to obtain the license, the broadcasters must submit a contract laying down the broadcasting time slots for each of them and each broadcaster shall be issued a separate license containing a separate reference to the joint use of the radio frequency, the broadcasters using it and the conditions for joint use.

The best known case of an approved joint use of frequency is the time-sharing of national broadcasters "HAPPY TV" (broadcaster of specialized program) and "TV Kosava" (broadcaster of complete program).

## **2. REPUBLIC AGENCY FOR TELECOMMUNICATIONS (RATEL)**

a) On September 4, 2009, the Management Board of RATEL passed in its session, eight decisions prohibiting, the operations of radio stations, namely the unauthorized use of a radio frequency by station owners for the lack of proper licenses for such stations, without delay and for an undetermined time. The following stations are affected: Radio Kondor, Bosnjace; Timocki radio Grljan, Grljan; Radio Sistem Plus, Veternik; Radio Sistem, Veternik; TV TNT, Bela Crkva; Radio Doina, Brza Palanka; TV Jesenjin, Novi Sad; TV Jefimija, Krusevac. The decisions are final and subject only to administrative proceedings before the competent court within 30 days from the day of decisions.

It is interesting to point out that the above list includes two television stations whose broadcasting licenses were revoked by the RBA Council prior to their expiry over unpaid broadcasting fees, unless the fees were paid within a specified period. These stations were TV Jesenjin from Novi Sad (the regional license expires on 01.06.2009) and TV Jefimija from Krusevac (the local license expires on 01.04.2009).

b) On September 22, 2009, the Management Board of RATEL passed in its session, several decisions on extending the time for beginning of operation of the following radio stations: Radio Novi Becej, Novi Becej; Radio station Softic, Tutin; Information Center Kosjeric, Kosjeric; Radio Gogy OD, Gornji Milanovac; JP Vrbas, Vrbas.

According to Article 71, paragraph 1 of the Telecommunications Law, a radio station must start operating no later than one year after the date of obtaining the license, unless provided for otherwise by a separate law. Paragraph 2 of that article also stipulates that a radio station may begin operation after a technical inspection by the Agency. Paragraph 4 of the same article stipulates that the user of a radio station that for objective reasons is not capable of putting the radio station into operation in the time period referred to in paragraph 1 of that article, may submit a written request, no later than 15 days before the expiry of the time for beginning of operation of the radio station, for an extension of this period, explaining the reasons for the delay. The Agency shall review the reasons for the extension of this time

period and pass a decision on the submitted request prior to the expiry of the deadline for the beginning of the operation of the radio station, pursuant to Article 71, paragraph 5 of the Law.

## STATE AUTHORITIES

### 3. THE NATIONAL PARLIAMENT OF SERBIA

There were no sessions of the Parliament in the period observed.

a) On September 28, 2009 – the International Right to Know Day, established in 2002 – representatives of five state authorities were awarded for the contributions to the promotion of the right to free access to information of public importance. Among them was the Parliament of the Republic of Serbia. The recipients of the awards were selected by jury which consisted of representatives of the Independent Association of Journalists of Serbia, the Leskovac People's Parliament, the Open Society Foundation, Citizens' Association 'Sretenje' from Pozega and 'Transparency Serbia'. The awards were presented by the Commissioner for information of public importance, Rodoljub Sabic.

The Parliament was awarded this significant recognition in the category of the highest state authorities for its contribution to promotion of the right to free access to information of public importance, as well as for the transparency of its activities. The explanation of the award, posted on the Parliament's website, said that the jury had recognized the Parliament of the Republic of Serbia as a state authority that can serve as a positive example to others in its respect for the right to free access to information and the principle of transparency in its work.

b) The fifteenth session of the Culture and Information Committee of the Parliament was held on September 4, 2009. Interviews were held with the candidates that the domestic non-governmental organizations and citizens' associations – predominantly engaged in the protection of the freedom of speech, protection of the rights of ethnic minorities and protection of children rights – proposed for membership in the RBA Council. A representative of the Committee said that, in the procedure for the election of the RBA Council member from the ranks of domestic NGOs and citizens' associations, pursuant to Article 23, paragraph 2, point 5 of the Broadcasting Law, no agreement had been reached on the joint list with two candidates in the additional time period specified by the law. She reminded that the Amendments to the Broadcasting Law adopted last July stipulated that, if the authorized proposers cannot agree on the proposal in the prescribed period, the competent committee of the Parliament, on the basis of proposals submitted, would propose

a list with the names of two candidates for the election of one member of the RBA Council. She also pointed to the provision according to which the Committee may, before deciding upon the election of the Council members, organize a public discussion with all proposed candidates in order to assess their capabilities for performing the tasks from Agency's scope of work. The members of the Committee were then introduced to the following candidates: Velimir Milosevic (the Scout Association of Serbia and EKOPOLIS, Nis), Miljenko Dereta (Civic Initiatives), Dr. Rajko Djuric (Roma Holocaust Foundation "Remembrance, Reconciliation, Future", Belgrade), Boza Prelevic (Fund for Political Excellence, with another two organizations, Belgrade), Goran Pekovic (International Propagandists' Association) and Milovan Vitezovic (Belgrade Culture and Education Association).

By the time this report was being finalized, September 30, the website of the Parliament did not contain the information whether the Culture and Information Committee had passed the decision on which of the two candidates of the NGO sector – out of a total of six – it would propose to the Parliament for membership in the RBA Council. The first session of the second regular sitting of the Parliament in 2009 is scheduled for October 6, 2009.

#### **4. THE GOVERNMENT OF THE REPUBLIC OF SERBIA**

On its 139<sup>th</sup> session held on September 3, 2009, the Government of the Republic of Serbia adopted the Draft Law on Copyright and Related Rights, which was forwarded to the Parliament on September 21, 2009 and was on the list of laws in procedure, by the time this report was being concluded.

In accordance with Article 140 of the Rules of Procedure of the Parliament (consolidated text, Official Gazette of the Republic of Serbia 14/09), the Draft Law, prepared in accordance with these Rules, may be included in the agenda of the Parliament session in no less than 15 days and no more than 60 days from the submission of such Draft.

In exceptional cases, the 60-day period may be exceeded, but not by more than 30 days, and the speaker of the Parliament shall inform the members of Parliament about the reasons for missing the deadline.

The periods referred to in paragraph 1 of this Article shall be suspended while the Parliament is not in regular sitting.

#### **5. THE MINISTRY OF CULTURE**

a) On September 7, 2009, the Ministry of Culture website posted an announcement from the Ministry informing all interested parties that the results of the Competition for the Co-

Financing of Projects/Programs from the Area of Public Information, due to large turnout and more than 300 projects that have been applied, would be announced on September 20 instead of September 7, as it was originally determined by the competition.

Click [here](#) for the entire announcement (available only in Serbian)

The Ministry of Culture called on July 30, 2009, a Competition for the Co-Financing of Projects/Program from the Area of Public Information, pursuant to Article 21 of the Law on Ministries and the Conclusion of the Government of Serbia dated June 25<sup>th</sup>, 2009, on assistance to media outlets in the time of crisis. The competition was open until August 21, 2009, and its results were supposed to be announced by September 7, 2009, on the website of the Ministry of Culture. The total amount of 80 million dinars is designated for co-financing of production of print and electronic media content. Eligible for participation were the founders of public media outlets and legal persons registered for production of television and radio program, provided they apply with one project whose realization will be carried out through the media. The amount of 60 million dinars was provided by the Government, and an additional 20 million came from the Ministry of Culture's budget. The maximum amount per project was two million dinars, whereas media outlets had to participate with 20% of that amount using their own funds. The funds must be utilized by the end of March 2010.

b) On September 21, 2009, the results of the Competition for the Co-Financing of Projects/Programs from the Area of Public Information were announced. The Minister of culture, Nebojsa Bradic, and his assistant for information, Natasa Lesendric-Vuckovic, held a press conference announcing the results of the competition. According to their statement, of 355 applications that have been submitted applying for 600 million dinars (72 print media applied, as well as 96 radio stations, 27 web portals, 73 television stations and 87 television productions), 125 projects have been approved worth almost 80 million dinars. Assistant minister, Natasa Lesendric-Vuckovic, indicated that the Ministry would, for 16 projects in the area of print media, earmark 9,8 million dinars; for 46 radio stations' projects the amount is 21.5 million; and for 13 web portal projects the amount is 11.2 million dinars. 6.5 million dinars will be allocated to 7 projects from the area of television production, while 43 projects of TV stations will receive 31 million. The approved projects mostly relate to news program (45%), education (28%), religious content (14%), children programs (9%) and cultural content (3%). According to the representatives of the Ministry of Culture, the Ministry will soon start implementing the decisions from the Competition.

The allocation of funds in accordance with competition results has marked the completion of one of the Government's urgent measures to assist media in the crisis. Certain media outlets have criticized the decision on allocation of funds, claiming that they were given to the

"obedient media" and that media outlets whose projects were approved include a lot of state media and some that are not known to the general public as serious media enterprises.



**The list of media that have been granted the funds at the Competition for the co-financing of projects/programs in the area of public information**



**Results of the Competition for the co-financing of projects/programs in the area of public information**

\* available only in Serbian

c) The website of the Ministry of Culture published on September 14, 2009 a statement in which "the Ministry strongly condemns the behavior of the distributor *Futura Plus* which, due to its massive debt to the largest Serbian publishers, caused them to decide to withdraw all its editions from Futura's sales network". The Ministry also said that, due to this problem, "a large part of these publishers' circulation will not be available to readers, which is directly threatening the citizens' right to information". At the same time, the Ministry called all the distributors on the press market to make arrangements and allocate their circulation so as to enable citizens to easily buy newspapers, until the problem between the publishers and *Futura plus* was resolved. The Ministry finally said it would do its best to help solve the problem between the members of the *Media Association* and the distributor *Futura Plus*.

The comment on this dispute, in which even the Ministry sided with one of the parties, is available in the Freedom of Expression section, under the point 1.2.

d) The Ministry of Culture called on September 1, 2009 the Competition for the Co-Financing of Projects/Programs of Electronic Media Seated in Kosovo and Metohija. The goals of the competition include: preservation of the Serbian national and cultural identity and language; realization of the citizens' right to public information; development of media pluralism; stimulation of media production in the area of culture, science and education.

Founders of electronic media seated in Kosovo and Metohija, are eligible to participate in the competition, as well as legal persons registered for production of television and radio program seated in Kosovo and Metohija. Proposed projects must be realized through a public media outlet. Each proposer may apply with one project only, if with this project it didn't already participate in the Ministry of Culture's competition. The maximum amount of funds required for the realization of the project is 1,000,000. 00 dinars and the Ministry will be covering up to 80% of the total value of the project. The allocated budget funds must be utilized by the end of March 2010. The budget of the Ministry of Culture for this competition

amounts to 8,000,000.00 dinars. The competition was opened on September 1, 2009 and closes on September 25, 2009. The results will be published on the Ministry's website no later than by October 15, 2009. The final decision on granting the funds will be made by the Ministry, on the basis of the proposal of the Competition Commission.

The Ministry, as the competent body for the area of information, has earmarked in its budget the funds for co-financing of projects in this area. On the basis of Article 21 of the Law on Ministries (Official Gazette of the Republic of Serbia no. 65/08) and the Law on the Budget of the Republic of Serbia for 2009 (Official Gazette of the Republic of Serbia no. 102/08 and 31/09), The Ministry called a competition based on which it would allot these funds, in accordance with competition results.

**Competition for the co-financing of projects/programs of broadcast media from Kosovo and Metohija**



**1. 9. 2009. 25. 9. 2009**

\* available only in Serbian

e) According to the information of the Monitoring Team, another meeting was held in the observed period on September 29, 2009, between the representatives of the Ministry of Culture and of media associations, on the occasion of establishment of the working group for preparation of the Media Sector Strategy. Among other things, it was requested and agreed at the meeting that members of the working group be appointed by the Government. By the time when this report was concluded, the Government failed to appoint members of this working group.

## COLLECTIVE ORGANIZATIONS

### **6. OFPS, collective organization for the protection of phonogram producers' related rights**

- a) A notice was posted on the OFPS website on September 23, 2009 about the signing of bilateral agreements on mutual cooperation with international organizations, namely:
- **On September 23, 2009**, an agreement on mutual cooperation was signed between the collective organization for protection of rights of performers, phonogram producers and videogram producers, Ukrainian Music Alliance from Ukraine, and the OFPS (Serbian phonogram producers' organization).

- **On September 18, 2009**, an agreement on mutual cooperation was signed between the Dutch collective organization for the protection of rights of performers and phonogram producers, SENA, and the OFPS.

According to Article 171 of the Law on Copyright and Related Rights, organizations for collective exercising of copyright and related rights are required, within five years from having acquired the first permit for performing their activity, to enter into contracts with relevant foreign organizations. By these contracts these organizations ensure collective exercising of copyright and related rights of domestic holders of rights abroad, as well as of foreign holders of these rights in Serbia.

b) The OFPS' Managing Board passed at the session held on September 2, 2009 a decision to amend the tariff of the fees charged by OFPS to the users. This decision was published in the Official Gazette of the Republic of Serbia no. 77/09 dated September 18, 2009 and entered into force a day later. The amendments to the tariff pertain to:

- Institutions of the public service broadcasters – television and radio stations.

According to the amendments, the tariff for *these TV stations*, which was laid down by applying a percentage of the revenue/expenditure, may not be lower than the minimum fee amounting to 0.08 dinars per capita monthly, according to data about the technical zone of coverage. The tariff for *radio stations* may not be lower than the minimum fee amounting to 0.007 dinars per capita monthly, according to data about the technical zone of coverage.

The above decision introduced the mandatory minimum fee for institutions of the public service broadcasters (TV and radio stations), which already exists for commercial broadcasters. The amount of this fee, for above radio stations, is the same amount determined for commercial radio stations. For TV stations, the fee is in the same amount as for the category I of commercial TV broadcasters with a share of music in the program of up to 50%.

However, for those who pay more than the minimum amount, the difference in tariff still remains significant, to the detriment of commercial broadcasters.

- The tariff for cable rebroadcasting was also amended: the monthly fees for rebroadcasting per household were increased, but at the same time the cable broadcasters were offered the possibility (previously non-existent) of a discount if they sign three-year contracts with OFPS (20%, 15% and 10% for the first, second and third year of the contract).

## **7. SOKOJ, collective organization for protection of musical authors' copyrights**



The website of this organization published the news dated September 24, 2009 that the National Seminar on the collective exercising of copyright and related rights was held in Belgrade on September 15-16<sup>th</sup>, organized by the Intellectual Property Office of the Republic of Serbia and the World Intellectual Property Organization (WIPO). The participants included SOKOJ director, Aleksandar Kovacevic, who had a presentation on the topic "The Relation between Organizations for the Collective Exercising of Rights and Broadcasting Organizations in Serbia".

No information on the content of the director's presentation was available on either SOKOJ's website or the website of the Intellectual Property Office. According to information available to the Monitoring Team, SOKOJ is yet to hold meetings with representatives of broadcasters about the negotiations on reducing the tariffs and aligning the tariffs for commercial broadcasters and public companies, although such measures have been recommended by the Government in its set of urgent measures to assist media during crisis.

## **IMPLEMENTATION OF EMERGENCY GOVERNMENT MEASURES TO ASSIST MEDIA DURING CRISIS**

The Government's measures to assist the media during crisis were adopted back on June 25, 2009, as urgent measures, with the Ministry of Culture in charge of their monitoring. However, three months after their adoption, these measures are yet to be realized, with the exception of two measures, namely the reduction of RBA fees and allocation of additional resources for co-financing of projects in the area of information.

In the observed period, only the realization of this second measure was completed. With the adoption of the decision on the allocation of funds for the co-financing of projects in the area of information, which were allocated to 125 projects, almost all of the 80 million dinars of budget funds earmarked for this purpose were allotted. In order for this measure to be fully implemented, these funds need to be genuinely transferred to the applicants whose projects were supported, as the Ministry has announced would happen.

One of the Government's urgent measures – the reduction of RATEL's fees for broadcasters – could have been realized a long time ago, but has not been. Namely, RATEL passed on July 21, 2009 the necessary Decision to implement this measure, but by the time of the conclusion of this report, the Government had not made any decision to approve it.