

V THE DIGITALIZATION PROCESS

In our previous reports, we tackled the improvements in the digitalization process. Announcements and hints that digitalization and the putting into operation of the experimental/pilot network would be postponed were evidence of something being in the works. After that, back in late October, RATEL released in public consultations the frequencies allocation plan, which was needed for setting up the network on which the digital signal would be tested. It was expected that the said network would be followed by the amendments to the Strategy and to the Rulebook on Digitalization, at least in order to change the plan of the shutdown of the analog signal and to foresee a pilot network.

We remind that the Digitalization Strategy was released in July 2009. It laid down the basic strategic guidelines and defined a framework for the digital switchover. The deadline for the total switchover to digital terrestrial television broadcasting was set for April 4, 2012 and the document also laid down the obligations of the competent authorities in that process and the deadlines for the realization of these obligations. Unfortunately, these deadlines were not observed. In particular, the shutdown of the analog signal and the transition to digital broadcasting throughout the country in just one day was proven to be too complex and unrealistic of a task for Serbia.

The Rulebook on Digitalization was adopted in February 2011. Pursuant to the Law on Electronic Communications, the Rulebook was supposed to regulate the manner and the time schedule for the digital switchover, the requirements and dynamics as to the setting up of the network for the distribution of digital television program, the requirements for setting up the multiplex and the scope of usage of the radio frequencies to the extent necessary for a digital switchover. Additionally, the Digitalization Strategy provided that the Rulebook would also define the rights and obligations of commercial broadcasters in the digital switchover process and settle the status of broadcasting licenses expiring after the deadline for the analog shutdown. Instead, the only novelty the Rulebook from February 2011 brought was the allocation of channels by zones for the first and second multiplex in the scope of the network for the allocation, broadcasting and multiplexing of digital television program. Everything else was practically a repetition of what was already contained in the Strategy.

The amendments that are now proposed are far more comprehensive. First, with the amendments to the Strategy, Serbia renounced April 4, 2012 as the deadline for the complete digital switchover. Even more importantly, it gave up from the one-day switchover and opted for a gradual transition in stages, in accordance with the deadlines provided for by Serbia's

international obligations, in other words no later than by June 17, 2015. The regions for this switchover in stages shall include one or several allocation zones. The Government shall adopt a Digital Switchover Plan laying down the sequence order and timeline of the switchover in stages in each of the regions. The Plan will also define a deadline of no more than six months for the shutdown of the analog signal in each of them. Furthermore, the Government will, at least nine months in advance, determine on which particular day in the six-month period, provided for by the Digital Switchover Plan, the analog signal will be switched off in each specific region. In this manner, the Government will have sufficient space to plan the digital switchover according to the circumstances, but there will also be a framework it will have to adhere to as to how the predictability of the whole process will be guaranteed to all participants. Additional conditions are also provided for the putting into operation of the third and subsequent multiplexes after the switchover itself. These conditions pertain to market needs and financial feasibility. Moreover, the broadcasting network will have to fulfill coverage requirements in accordance with the Broadcasting Law, in other words, coverage of at least 90% of the population of Serbia for the multiplex, including national channels. RATEL is also enabled to pass a decision declaring the public company “Broadcasting Equipment and Communications” an operator with major market strength, laying down the obligations thereof, particularly with respect to providing access to multiplex to broadcasters with valid licenses (ban on the discrimination against particular broadcasters and on denying the rights to a place in the multiplex to anyone possessing a valid terrestrial broadcasting license). RATEL’s decision also provides for price control and cost-based accounting. The technical and commercial conditions for access will be regulated by a contract entered into by the public company “Broadcasting Equipment and Communications” with each particular broadcaster. At the same time, RATEL will be authorized, if an agreement is not reached, to pass a decision enabling access to multiplex and regulate the technical and commercial conditions thereof. Furthermore, in cooperation with the RBA, RATEL will assign logical numbers for the numerical marking of television programs in the multiplex, so that the positioning of channels is not left to anybody’s arbitrary decision. Finally, the procedure of changing the licenses is regulated by having the RBA obligated, within no less than 30 days prior to the shutdown of the analog signal and switchover to digital broadcasting in a particular allocation zone, to replace the broadcasting license by amending the radio station permit, as an integral part thereof, by a license issued by the public company “Broadcasting Equipment and Communications” and a decision by RATEL, laying down the access to multiplex.

It is also provided that the public company “Broadcasting Equipment and Communications” will set up the network so as to test it, prior to the complete shutdown of the analog signal, on special frequencies constituting the initial test network. Such network would consist of 15

transmitters on particular locations so as to cover around 50% of the population in Serbia and it would be activated simultaneously with the existing analog networks until the moment of the total digital switchover. The Rulebook provides that the access to multiplex in the initial test network will be enabled to the republic and provincial public service broadcasters, as well as to national broadcasters. It is also stipulated that neither the fee for the use of radio frequencies, nor the costs for the radio stations within the initial network, will be charged.

Unfortunately, while detailing certain aspects of digitalization and regulating those aspects in a more practical and feasible manner, the public consultations about these two documents could represent an introduction to a new conflict that could compromise digitalization instead of facilitating it. Here's why. In RATEL's comments, voiced during the public consultations, it was said that, contrary to what was stated in the preamble of the Rulebook, that Agency did not propose at all the same text as the one tabled by the Ministry. Furthermore, RATEL said to be unclear about the methodological approach to the selection of channels for two multiplexes that would be filled in during the switchover; who coordinated the selected frequencies with neighboring and other administrations; and what the selection of the channels meant as to the number of gap fillers – low-power transmitters that must exist on lower locations in order to better cover certain parts of the territory. RATEL therefore insists that the choice of channels by allocation zone be reconsidered, namely for seven coverage levels i.e. seven multiplexes and not for only two. That proposal is undoubtedly in disagreement with the ambitions of the Ministry to free the bulk of the spectrum for the digital dividend. In any case, the public consultations about the drafts of the aforementioned two documents are commendable and a sign that the process of digitalization is finally moving forward. However, a concern is the fact that the Ministry and the regulatory agency harbor different opinions as to how to manage this process. For the time being, it is unclear if and how they will be able to reconcile their diverging opinions.

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The withdrawal of the state from the ownership of public media, as a national commitment proclaimed in the Media Strategy, remains a dead letter on paper, not followed by any concrete measure. The Action Plan accompanying the Media Strategy stipulates that the state will fulfill the aforementioned obligation within no later than 24 months upon establishing the legal grounds. Since the Strategy's adoption, however, no competent authority has yet come forward to explain what "establishing legal grounds" actually means. Namely, the

grounds for privatization already exist. It is contained in the provisions of both the Public Information Law and the Broadcasting Law. Even the regulations that allowed the state to keep owning certain media outlets are not imperative. We remind that, under the Law on the Capital City and the Law on Local Self-Government, the capital city and units of local self-government are entitled, but not obliged, to establish media outlets. If, however, there is a particular case where it is necessary, for the purpose of privatizing certain media owned by the state, to determine special legal grounds, it should not serve as an excuse to postpone the privatization of the remaining state-owned media where such special grounds is not necessary.