

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 already elaborated on the activities of the RBA in the part of this Report pertaining to the implementation of the Broadcasting Law.

1.2. At the session of the RBA Council, held on December 17, 2012, the RBA's financial plan for 2013 was adopted. Under the Broadcasting Law, the financial plan shall determine the total income and expenditures of the Agency, the reserves for unforeseen expenditures, as well as the elements for a complete overview of the policy of wages and employment in the Agency. The financial plan shall be adopted no later than by December 15 of the current year for the following year and it will be approved by the Government of the Republic of Serbia. The RBA traditionally releases its financial plan only upon approval of the Government and hence it is difficult now to analyze or comment on the plan. Much more interesting than the plan itself are the reports about the work of the RBA. The latest report about the work of the RBA in 2011 was released in last August. The newsletter about the work of the RBA for 2012, which is available on the website of the Agency, said that, since January 1, 2007, the RBA had generated revenues solely from the fee charged to broadcasters for the obtained right to broadcasting, namely that the Agency was not using budget funds – on the contrary, it channeled the difference between revenues and expenditures into the Republic's budget. However, the extra revenues have been decreasing by the year. Hence, the extra profit amounted to 82.175.825 dinars in 2010, only to drop to 52.294.346 dinars in 2011. The RBA explains the plummeting revenues and surplus by pointing to the lower broadcasting fees, in line with the amendments to the Rulebook on the Criteria for Determining the Amount of the Fees for Radio and/or Television Broadcasting for 2009. It also reminds that many broadcasters have failed to pay the fees and that many of them had their licenses revoked for failure to pay. If we recall that, in September and October 2012 only, the RBA initiated 67 proceedings for revoking the broadcasting license for non-payment of the broadcasting fee, it is logical to expect a further decrease of the revenues, which could, in turn, force the independent regulator to switch to budget financing for the first time since early 2007. If we bear in mind that the non-payment of the broadcasting fee is not merely an issue of

broadcasters' lack of discipline, but the outcome of the systemic collapse of the media market, we will conclude there are no simple solutions for this problem. Announcements that the Ministry of Finance is preparing the Draft Law on Fees for the Use of Public Resources, which would entrust the collection of broadcasting fees to the Tax Administration, could jeopardize the independence of the independent regulator by enabling the authorities to directly affect its work and decision-making, rendering its existence futile.

STATE AUTHORITIES

2. *The Parliament of the Republic of Serbia*

On December 29, the Parliament of Serbia elected nineteen members to the RTS Programming Committee. Seven members were elected from the ranks of MPs, while 12 candidates were elected from the list proposed by the RBA, from the ranks of professional associations, scientific institutions, religious communities, citizens' associations and NGOs. We wrote about the RBA-proposed candidates in the Monitoring Report for November, when we noticed that, judging from the candidates list, there was not too much interest for membership in this body. Not a single candidate was proposed by media or journalist's associations, or by a scientific institution and religious community for that matter. The proposers included the National Council of the Hungarian National Minority, the Association of Drama Artists, the Association of Music Artists, the Association of Jazz, Pop and Rock Musicians of Serbia and several NGOs. The proposers of several candidates remained unknown, while many were proposed by private persons. From the ranks of the MPs, the Parliament elected Marija Obradovic from SNS, Djordje Milicevic from SPS, Mira Petrovic from PUPS, Milica Radovic from DSS, Jelena Trivan from DS, Snezana Stojanovic Plavsic from URS and Bojan Djuric from LDP. At the proposal of the RBA, the following candidates were elected for membership in the Programming Committee: graduate psychologist Jasmina Lekovic, composer Nenad Milosavljevic, graduate graphic designer Marko Vukomanovic, journalist Katarina Ostojic, LL.B. Istvan Bodzoni, senior undergraduate Aleksandra Grkinic, graduate economist Tanja Santrac, professor of the Singidunum University Zoran Vujovic, graduate philologist Tanja Dojcinovic, graduate philosopher Dragoljub Kojcic, scientific advisor and professor Zoran Avramovic and journalist and consultant Bratislav Grubacic. The Programming Committee of the RTS has a three-year term of office, while the term of office of its previous members expired on December 11. That body is reviewing the realization of the programming concept of the RTS and sending recommendations and suggestions to the General Manager and the Managing Board.

3. *The Ministry of Culture and Media*

At the session of the Parliament's Culture and Information Committee on December 6, the Assistant Minister of Culture and Media Dragan Kolarevic said that the Media Strategy would not be implemented selectively and that all deadlines contained in it would be respected. He said that the Ministry of Culture and Media was preparing five media laws provided for by the Media Strategy, which would be introduced to the MPs prior to the public debate. The said laws are the laws on information, electronic media, unlawful concentration of media ownership, public service broadcasting and foreign means of information, the latter being a technical law pertaining to the issuance of accreditations. Kolarevic also said that the Head of the EU Delegation to Serbia Vincent Degert had proposed to the Ministry to launch an initiative in order to sort out the contradictions between the Broadcasting Law and the Information Law with the Law on Local Self-Government and the Law on Capital City. Kolarevic also commented the opposing of the Media Coalition and MPs representing the opposition to have the field of Information governed by the Law on Public Companies Enterprises. He said that the amendment, providing for the deletion of information from the areas in which the state could establish public companies, was the outcome of negotiations between the Culture Minister Petkovic and the Minister of Finance and Economy Mladjan Dinkic.

The declaration of the Assistant Culture and Media Minister Dragan Kolarevic has confirmed that the Government has given up on "redefining the Media Strategy". The announced redefining caused the concern of many that the Government was once again buying time and trying to avoid the obligations assumed in the document that was one of the prerequisites for obtaining EU candidate status. On the other hand, since many were not overly satisfied with certain concepts provided for by the Strategy (for example the part providing for the establishment of regional public service broadcasting) the announcement that a set of media laws is going to be directly prepared (the adoption of which is prescribed by the Strategy) does not mean that all solutions suggested by the Strategy will actually be implemented. Professional associations continued with activities aimed at anticipated amending of the legislations. Hence, the Association of Independent Electronic Media (ANEM) sent to the Ministry of Culture and Media its opinion about what the professionals expected to see in the laws on electronic media and public service broadcasting. First, ANEM is insisting on the independence of the regulatory body, which must be ensured through the system of funding. ANEM has supported the concept under which the work of the regulatory body will be financed from the fees charged to the media. The fees must be determined in such a way to enable normal operation of the regulatory body, not to be excessive and not to obstruct normal functioning of media. Independence must also be

guaranteed through a system for electing members to the regulatory body, while the procedure of their election must be simpler, more democratic and transparent than it is currently the case. Moreover, ANEM insists on the transparency of the work and control of the regulator. The new Law on Electronic Media must guarantee the freedom of receiving and rebroadcasting media services from other states, as well as prevent irregularities on the advertising market. The Law must be technologically neutral – both in the principles of license issuance and obligations the media service providers must adhere to (relative to the content of their services). Finally, the Association called for the strengthening of the capacity of sector regulators in the fields of electronic media and electronic communications; to prevent pirate broadcasting, namely unauthorized provision of media services. Concerning the announcements that a separate law on public service broadcasting would be passed, ANEM told the Ministry that this was not necessary and that the law dealing with electronic media might regulate the relevant issues. Instead of establishing new, institutionally organized public service broadcasters, ANEM believes the focus should be on the content aspect of the public service broadcasting. ANEM is also advocating for a more transparent procedure for electing the bodies of the existing public service broadcasting institutions. Furthermore, it insists on the bookkeeping separation of commercial and public functions of the existing public service broadcasters, as well as on the TV subscription fee as the main source of financing of the public service broadcasting. Furthermore, the increase of the collection rate thereof must be accompanied by the narrowing of the rights of public service broadcasters to compete with commercial media on the advertising market. Also needed is the full and consistent application of European standards of state aid control. ANEM announced to the Ministry of Culture and Media that it planned to take an active part in the public debate about the announced drafts of new media laws, with the goal to contribute to having the best possible concepts adopted, which would be in the interest of both the media sector and the citizens.

COLLECTIVE ORGANIZATIONS FOR THE PROTECTION OF COPYRIGHT AND RELATED RIGHTS

4. *The Organization of Musical Authors of Serbia (Sokoj)*

In early December, the Croatian capital Zagreb hosted the regional meeting of organizations for the collective realization of music rights, regrouping the representatives of copyright organizations from Croatia, Slovenia, Serbia, Montenegro and Bosnia-Herzegovina. Apart from boosting regional cooperation and reviewing the proposed new regulations in the EU in this

domain, the participants also considered the possibility of creating a single regional music market, as a prerequisite for the arrival of large international digital services. "Big markets are the priority of large music companies. The Croatian market has merely 4.5 million people – it is too small to be interesting to them. The idea was, together with other colleagues in the region, to offer to these large digital music services to come to a common market," the Director of the HDS ZAMP Nenad Marcec said. The Director of SOKOJ Aleksandar Kovacevic said that the biggest problem in Serbia was the low level of awareness about the importance of respecting authors' rights and other forms of intellectual property. "The biggest problem is the state television RTS, which has been entangled for six years in a court dispute with Soko, after the latter sued it for unauthorized use of the repertoire", Kovacevic said.

5. *The Organization of Phonogram Producers of Serbia (OFPS)*

The Record Labels Union of Serbia, a non-government and non-profit organization, whose membership is almost identical to that of OFPS, has sent to the Ministry of Education, Science and Technological Development and to the Parliament (Committee for Education, Science and Technological Development and Information Society) the proposed amendment to the Law on Amendments to the Law on Copyright and Related Rights. The amendment has proposed the introduction of an obligation for broadcasters to broadcast, at annual level, no less than 50% if their music program produced in Serbian language (of the total music program aired annually). In a statement conveyed by the daily "Informer", the Secretary General of the Record Labels Union of Serbia Rodoljub Stojanovic explained the Union's intention was to preserve and develop domestic production. "We do not want to have Serbian producers discharging their employees; on the contrary, they should be able to invest in their business", Stojanovic said. The Record Labels Union of Serbia tried to compare its proposal and the provisions of the Broadcasting Law prescribing that, out of the total annual broadcast time, broadcasters ought to air no less than 50% of content produced in Serbian language. At the present time, the proposal has not been included in the law, but the Record Labels Union of Serbia is expected to put it forward during the debate on the new Law on Electronic Media.