

II MONITORING OF THE IMPLEMENTATION OF EXISTING REGULATIONS

1. *Public Information Law*

The implementation of the Public Information Law was elaborated on in the section about freedom of expression.

2. *Broadcasting Law*

2.1. At its extraordinary session on March 21, the Council of the Republic Broadcasting Agency (RBA) reviewed the report of the Department for Oversight and Analysis of Broadcasters' Program dated March 21, in relation to the reality show "Farma – pregled", aired on March 20 on RTV Pink. The RBA Council requested an explanation from the station about the program, after announcing it was going to furnish the transcript and video material of the show to the competent prosecutor, with the request to establish if a criminal offense had been committed. The controversial program contained the statement by one of the participants that he had been in a relationship with an underage girl, at the time an eight-grade student of elementary school. According to the findings of the RBA Council, such content constituted a violation of both the Broadcasting Law and the Broadcasters' Code of Conduct. The RBA Council initiated a procedure for pronouncing measures against TV Pink. In statements that could have been read in the media, the RBA stressed that the controversial statement was not aired in live or deferred transmission, but in an overview of daily activities of the participants in the reality show, which makes the responsibility of the broadcaster even greater, since they could have decided not to broadcast the statement. On the other hand, RTV Pink believes that the reactions to the statements made by the participants of the reality show are justified, but excessive. They claim that the participant in question did not say that he had sexual intercourse with an underage girl, but that it was merely a platonic relationship. In the contrary case, the statement would not have been aired, RTV Pink said.

Under the Broadcasting Law, the competence of the RBA includes oversight of the work of broadcasters and controlling and attending to the consistent enforcement of the provisions of the Broadcasting Law. Article 19 of that Law expressly says that the RBA shall attend to the protection of minors and the respect of personal dignity in programs broadcast on radio and television, about which it will enact a general binding instruction. Furthermore, Article 68 provides for the obligation of broadcasters to refrain from broadcasting content glorifying or

supporting violence or other forms of criminal behavior. The RBA is authorized for pronouncing measures against broadcasters, namely a notice, warning, or temporary or permanent revocation of the broadcasting license. The warning is pronounced, among other cases, where the broadcaster has violated a legal obligation for the first time, but in such a way that the violation seriously threatens the principle of regulating the relations in the field of broadcasting. The warning will be published in the media and, without exception, in the program of the broadcaster it pertains to. The protection of minors is one of the key goals the RBA realizes in the scope of its regulatory function. In the concrete case, grounds may exist for pronouncing several measures. By the time this report was completed, the RBA Council has not pronounced measures, but the latter are expected in the coming period. It will also be interesting to see what will be the reaction of the prosecutor's office to the claims about the possible commission of the criminal act against the sexual freedom of a juvenile person.

2.2. At a session held on March 25, the Council of the Republic Broadcasting Agency (RBA) passed the decision to suspend the license of Radio Fokus for a period of 30 days. Radio Fokus has a national coverage license; the Council made the said decision due to the price of text messages the listeners were charged for having their favorite songs aired, the amount of which was not officially stated in the program of Radio Fokus.

Under the Broadcasting Law, the RBA is authorized to temporarily revoke the broadcasting license to a broadcaster that has continued to violate the provisions of the Law, or regulations adopted on the basis thereof, in spite of an issued warning, or which has failed to comply with the requirements stated by the broadcasting license, or has failed to take measures for remedying the violations established by the RBA Council in the aforementioned warning. If these conditions are met, the RBA Council is entitled to pass a decision to temporarily revoke the broadcasting license for 30 days. The above-described case may also be observed from the aspect of regulations concerning electronic communications. Sending text messages for hearing one's favorite song on the air falls in the category of value added services, in accordance with the Law on Electronic Communications. The operator of value added services is obligated to pre-release a detailed description and the price of the service, namely all its integral parts. The Rulebook on Obligations of Operator of Value Added Services additionally defines that the operator of such services is a person providing that service to a service user. Bearing in mind the well-known circumstances of the case, the broadcaster in question may also be considered an operator of value added services unless, in the concrete case, the telecommunications service was provided by some other entity. The failure to publicly state the prices of text messages shall be subject to misdemeanor liability under the Law on Electronic Communications, which stipulates that the legal entity shall be fined between 500.000 and 2.000.000 RSD, if it fails to

provided value added services in line with the provisions of the Law. The Law also stipulates that an entrepreneur may be prohibited to perform a certain business activity in the period of three years, namely one year for the responsible person in the legal entity. The same case could be treated as a violation of advertising regulations. Namely, Article 57 of the Advertising Law says that the advertisement message sent to a number to which a special tariff applies must contain the amount of that tariff. In the concrete case, one could claim that for self-promotion reasons, Radio Fokus advertized the programming action – the broadcasting of the favorite songs of its listeners – while the amount of the special tariff that was charged in the advertising message was not stated. Furthermore, it is important to take into account consumer protection regulations. Each listener has the right to know the price of the service offered to him/her in the broadcaster's programming.