

II MONITORING OF THE IMPLEMENTATION OF EXISTING LEGISLATION

1) Broadcasting Law

▪ RISE IN SUBSCRIPTION FEES FOR RTS

Belgrade, May 3, 2009 – Since April 2009, the subscription fee for television and radio went up to 434 RSD from the hitherto 387 RSD. Regardless of the increase, collection was also up in almost all Serbian cities, except in the South of Serbia, while in Belgrade it has reached 81%, the Chairman of the Republic Broadcasting Agency (RBA) Council, Bishop Porfirije, said.

According to the Broadcasting Law, the subscription fee for television and radio shall serve to finance activities of the Public Broadcasting Service's institutions aimed at achieving the general interest as provided for by the law. The owners of radio and TV sets are obliged to pay a single subscription fee for television and radio in the same amount on the entire territory of the Republic of Serbia. The increase in the subscription fee from April 2009 was the result of the yearly adjustment of the subscription amount with the growth of retail prices in the previous calendar year, as provided for by the Broadcasting Law.

▪ RTV DIRECTORS AND EDITORS APPOINTED

Novi Sad, May 4, 2009 - The Radio Television of Vojvodina (RTV) Steering Committee has appointed Aleksandar Dotlic to be the Director of TV Novi Sad, at the proposal of General Manager, Blazo Popovic. Pavle Milivojev has been appointed Director of Radio Novi Sad; Ljubisa Nikolin is the new Editor-in-Chief of TV Novi Sad, while Radovan Balac shall be the new Editor-in-Chief of Radio Novi Sad.

According to the Broadcasting Law, the Steering Committee of the Vojvodina Public Service appoints and dismisses the directors of radio and televisions, as well as program editors-in-chief, by a two-third majority, whereas the decision on appointment is passed by the said Committee at the proposal of the General Manager, after holding a public competition. Members of the Steering Committee are appointed and dismissed by the Republic Broadcasting Agency.

▪ **A DOZEN BROADCASTERS LOSE OPERATING LICENSES**

Belgrade, May 4, 2009 – The Chairman of the Republic Broadcasting Agency (RBA) Council, Bishop Porfirije, has said that a dozen local and regional television and radio stations have lost their operating licenses due to unpaid debts. He stressed though that he believed that the percentage of revoked licenses was not high, since there were 467 issued licenses in Serbia.

▪ **TV ENTER LOSES LICENSE**

Belgrade, May 12, 2009 – Belgrade's television stations, Enter and SOS kanal, have lost their operating licenses due to unpaid debts, while TV Art could soon suffer the same fate. Previously, TV Plus, also based in Belgrade, has lost its license.

One of the grounds for a broadcasting license to cease to be valid prior to its term of issuance is the case if the broadcaster, in spite of a written warning, fails to discharge the obligation to pay the broadcasting license fee. The said obligation is provided for by the law, while the amount of the fee is determined by the RBA, based on the criteria contained in the Law. Exempted from the obligation to pay the fee are Public Service institutions, state-owned local and regional communities' stations pending privatization, as well as civil sector stations.

▪ **RTS AND RTV UNDER „POPULAR“ CONTROL**

Belgrade, June 6, 2009 – The Republic Broadcasting Agency Council has proposed 24 candidates for members of Radio Television of Serbia and Radio Television of Vojvodina program councils. The competition for members of the said program councils has received applications from only 32 candidates.

According to the Broadcasting Law, members of the Program Committee of the Broadcasting Institution of Serbia are appointed by the Parliament of the Republic of Serbia, while the members of the Program Committee of the Broadcasting Institution of Vojvodina are appointed by the Parliament of the Autonomous Province of Vojvodina. The RBA Council is authorized to propose candidates, on the basis of a public competition. By having proposed these candidates, the RBA Council has fulfilled its legal obligation.

- **COMPETITION FOR FREQUENCIES TO BE HELD IN JULY**

Sremska Kamenica, June 9, 2009 – Deputy RBA Council Chairman, Goran Karadzic, announced that the competitions for allocation additional frequencies in Serbia would be called for in July.

According to the Broadcasting Law, the public competition for the issuance of broadcasting licenses shall be called for when, on the basis of the Radio Frequencies Distribution Plan, the possibility exists for new broadcasting licenses to be issued. The public competition, announced for July, is the result of the fact that previous competitions were marred by poor turnout, namely certain broadcasters that have obtained licenses earlier, have lost the same due to unpaid fees.

OPINION

The Monitoring of the Broadcasting Law implementation apparently points to no irregularities in the observed period. However, although not visible in the said period, the main problem in the implementation of the aforementioned law occurred as back as late last year and has persisted to this period: this is namely the uncompleted procedure of election of two new RBA Council members for vacancies in that Council. The Culture and Information Committee of the Serbian Parliament has not provided for the election of these members, putting thereby the Council in the position to operate in incomplete composition, although the proposers of the said candidates – the media, media associations and organizations, as well as non-governmental organizations – insisted on that, believing that all legal conditions for such election had been fulfilled. This matter has been considered in more detail in the Section about the monitoring of activities of state authorities, namely of the Parliament of the Republic of Serbia.

2) Personal Income Tax Law

- **HIGHER TAXES ON AUTHOR'S FEES**

Belgrade, May 14, 2009 – The representatives of ANEM, NUNS, NDNV and Lokal Press have requested the Government and the Serbian Parliament to reconsider the negative effects of the Personal Income Tax Law and to restore the charges on authors' fees on the previous level.

Changes and supplements to the Personal Income Tax Law, adopted by the Serbian Parliament in late April, have cut in half – in some cases completely revoked – the standardized costs that were, directly pursuant to the law, deducted from the said fees pre-taxation, which has resulted in an actual rise of taxes on fees. Since it is in the nature of the media activities to enter a large number of authors' contracts, the adopted changes to the Law had posed a realistic threat of deteriorating the position of media staff. After an outcry of media and artistic associations, the Government proposed to the Parliament new amendments to the Personal Income Tax Law that were adopted and became effective on the 8th of June, 2009 and that have increased the standardized costs deducted from the fees pre-taxation. However, these changes failed to restore the prior tax level. The said tax increase may contribute to the further impoverishment of journalists and other media staffs, for it is realistic to expect less employment or lower fees. See here

3) Personal Data Protection Law

a. GUIDE TO THE PERSONAL DATA PROTECTION LAW

Belgrade, May 19, 2009 – The Commissioner for Information of Public Importance and Personal Data Protection has published a Guide to the Personal Data Protection Law, whose text has also been posted on the Commissioner's website. The Commissioner has highlighted the importance of raising the level of privacy protection culture for preventing privacy violations.

b. INSUFFICIENT PERSONAL DATA PROTECTION

Belgrade, June 5, 2009 – The Commissioner for Information of Public Importance and Personal Data Protection, Rodoljub Sabic, has warned that Serbia was seriously lagging behind in personal data protection, indicating that not only the Personal Data Protection Law was long overdue, but also that, after the adoption of the same, the conditions for its implementation were yet to be provided.

The Personal Data Protection Law was adopted in the Parliament of the Republic of Serbia in October 2008 and has formally been in effect since January 1st, 2008. Unfortunately, its implementation has been merely formal, since the conditions related to funding, equipment and staffing are yet to be created.

4) Law on Free Access to Information of Public Importance

- **GOVERNMENT FAILED TO PROVIDE FOR WHISTLEBLOWER PROTECTION**

Belgrade, May 8, 2009 – The Commissioner for Information of Public Importance and Personal Data Protection Rodoljub Sabic has said that the amendments to the Law on Free Access to Information of Public Importance shall remove the inconsistencies and regretted that lack of protection of whistleblowers uncovering corruption in their companies and inform the public thereof.

- **INITIATIVE FOR WHISTLEBLOWER PROTECTION**

Belgrade, June 12, 2009 – The Commissioner for Information of Public Importance and Personal Data Protection has sent a formal initiative to the Ombudsman of the Republic of Serbia proposing the Ombudsman to submit, in accordance with his constitutional authority, an amendment to the Draft Law on Changes and Supplements to the Law on Free Access to Information, which amendment would serve to protect whistleblowers.

The regular reports published by the Commissioner for Information of Public Importance and Personal Data Protection are pointing to an increase of the extent of usage of free access to information of public importance rights. The Commissioner has in the previous period been particularly engaged in raising the awareness about the need to protect whistleblowers.

Implementation of other media legislation

The implementation of the **Public Information Law** – the core media law – has been reviewed in the Section about freedom of expression.

The **Advertising Law** is also an important law for the media. Commercial radio and TV stations, as well as print media, are making their living mainly from advertisers. In that process, they are obliged to comply with the rules provided for by the said Law. The existing law has shown in practice certain concepts to be obsolete or too rigid and hence the line ministry has, amid requests by the Broadcasters' Association, decided to effect changes to this Law. Find more details about this matter in the following Section – adoption of new laws.

Copyright and Related Rights Law is important for broadcasters, for they are to a great extent the beneficiaries of the object of protection of copyright and related rights. The implementation of the existing law has revealed certain shortcomings, imposing the need for new solutions. Find more details about the new law in the following Section.