

#### **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 also tackled the activities of the RBA in the part of this Report concerning the implementation of the Broadcasting Law.

1.2. In July, the RBA released a report on the fulfillment of programming and statutory obligations of the provincial PSB. As in the case of the report on the fulfillment of programming and statutory obligations of the PSB at the level of the Republic, the aforementioned report does not contain an analysis of the radio program, making the Report incomplete. The analysis encompassed the programs RTV1 and RTV2 in 2012. As for RTV1, the Report that, in view of the diversity of the content, the statutory obligation from Article 77 of the Broadcasting Law (entailing that the program of PSB's must include news, cultural, artistic, educational, religious, scientific, children's, entertainment, sports and other content, in order to satisfy the needs of the citizens and other actors and the realization of their rights in the field of broadcasting. The share of the news program is dominant (more than 50%), followed by series (about 12%) and entertainment content (about 12%). The Report pointed to the plummeting of the share of children's, documentary and film program. This fact is highly indicative, since it directly shows how the lack of financial resources impacts the programming content of the PSB. It results in a sharp reduction of the share of non-commercial program significant for the realization of the programming function of the PSB (documentary and children's program). Meanwhile, it is also evident that the share of films is down, which is directly caused by the lack of funds. If this trend persists, we may expect the provincial PSB to reorient its business towards commercial content. The latter, again, could disrupt the state of affairs on the media market, where the PSB would ultimately be unable to perform its core function. This is backed up by a trend of plummeting of the share of premieres relative to reruns, which trend is particularly visible with RTS. With about 80% of own production, RTV1 has far exceeded the statutory quota of own production, although the share of the latter has, in the last year, fallen by almost 9%. About 87% of the production is in the Serbian language, while the rest is in minority languages. However, the Report acknowledges a total absence of own production series and films, which also points to a

lack of financial resources, in view of the high costs of producing such content. Particularly interesting is the fact that the share of independent production is about 7%, which is below the statutory minimum (it has also been acknowledged in the RTS report – 6,56% for RTS1 and 9,01% for RTS2). This shows that both PSB's dedicate little attention to independent production, a trend that has been persisting for the last three years. At that, in the RBA's estimate, the genre structure of independent production on RTV1 does not correspond to the primary goal for which the PSB's are obligated to include independent production content in their program. Hence, while the RTS, which wasn't reprimanded for the genre structure of the independent production, airs about 40% of independent documentary program, while that share is merely 4% in RTV. Meanwhile, the PSB's claim that the content offered to them by independent production is unsatisfactory. The crisis has obviously hit that sector hard, since it is not able to offer the right quality and volume of program that may satisfy the needs and standards of RTV and RTS. The RBA also made interesting remarks about the series program. All the premieres that are aired are foreign production, while merely one domestic series was aired in 2012, as a rerun. The RTV has evidently the same problem as the RTS – the ration of premieres and reruns are 38% to 62%. The situation with films is similar. As for programs intended for specific social groups, their share is about 3%. Just like in the report about RTS, the program intended for specific social groups on RTV is present in a percentage that shows the attitude of the broadcaster towards obligations of general interest in the field of public information, which are defined in Article 78, paragraph 1, subparagraph 2) of the Broadcasting Law". The RBA stops short of saying more clearly if that percentage is sufficient or not, namely if the PSB's program covers all segments of society, without discrimination. One may observe that the share of the program intended for specific social groups on RTV exceeds three times that of RTS. The statistic of behaviors the RBA deems violations of the applicable regulations show that, relative to RTV, the majority of such behaviors concerns the use of Latin instead of Cyrillic language, thus breaching the Broadcasters' Code of Conduct. Such a position by the RBA may be questionable, since the Latin alphabet is in use on the territory of the Autonomous Province of Vojvodina, in accordance with the Law on the Official Use of Alphabet and Language and having in mind that the RTV program is watched, among others, by the ethnic minorities using Latin alphabet and understand the Serbian language. The other group of behaviors the RBA deems to be in contravention of the applicable regulations concerns the obligation of the broadcasters to air content unsuitable for minors only in the period between 00:00-06.00 hours.

As for RTV2, its function is slightly more specific, since it airs content in minority languages, but also in Serbian. RBA's analysis has shown that the predominant languages are Hungarian with about 36%, Romanian with about 12%, Ruthenian, Slovakian and Roma, with approximately the

same shares (about 10%). The share of the program in Serbian is around 8% and the channel also airs content in Croatian, Macedonian, Ukrainian and Bunjevci language. The RBA concludes that, by ensuring language diversity of the broadcasted content, RTV2 has fulfilled the specific obligations of the PSB provided for by Article 78, paragraph 1, subparagraphs 2), 3) and 4), which concern production and broadcasting of programs intended for all segments of society, especially taking into account specific social groups, the respect for standards of language and speech of the majority population and in proportion with the size of ethnic minorities, as well as fulfilling the needs of the citizens for content expressing their cultural identity. The characteristics of the RTV2 channel make it specific compared to all other PSB channels. If we take into account the expression of the cultural identity of ethnic minorities (since this is not a specific programming obligation of the provincial PSB only), one may observe the extent to which the RTS (PSB at the level of the Republic) is below the standards set by RTV2. On the other hand, the quota of independent production on RTV2 is lagging. Observing the overall programming in all languages, the share of independent productions is about 7% less than the 10% statutory minimum. Also, according to the reports, the genre structure of independent productions on RTV2 is not satisfactory. Of all PSB channels in Serbia, only RTS2 with 9% is close to meeting the statutory quota for independent production content.

1.3. On its website, the RBA also posted the report on the fulfillment of commercial broadcasters' obligations for 2012. This report tackled the realization of programming and statutory obligations of commercial broadcasters holding a national coverage license, relative to the Broadcasting Law and the Advertising Law. It is evident that the majority of broadcasters have fulfilled its statutory obligations relative to the quotas for programming content in Serbian language and own production content. The sole exception is TV Prva, which has failed to meet the 50% statutory minimum for the share of Serbian language programming, while it has managed to raise it by 10% compared to 2011. Relative to the share of particular genres in the programming of commercial broadcasters, the report emphasized that the news program is dominant on TV B92, both relative to the share in own production (84%) and relative to the diversity of news content. The programs of TV Pink and TV Prva are dominated by entertainment content, although their news program is on the rise compared to the previous year. It was also emphasized that the entertainment program of TV Pink is dominated by reality shows. Children's program is negligible with almost all broadcasters, save for Hepar Kids TV, specialized for this type of content and Hepar TV, which has a 7% share of children's programs. On the basis of RBA's analysis, it is obvious that the share of documentary programs on Hepar TV is on the rise, while being negligible on other stations. Commercial content ranges from 10% (Hepar TV) to 16% (Pink). Regarding aggregate volume, the share of premiere programming on

all stations remains higher than that of reruns. As for the only specialized channel, Hepi Kids TV, airing children programs, the report says that they should have a bigger share of scientific content, in view of the specific audience of that station. It also points to programs that may be harmful for minors, especially “Adulterers” and “Moment of Truth”, aired on TV Pink, as well as “Mad House” on TV Hepi. The report highlighted “Adulterers” as the most controversial one, due to the morally unacceptable messages, graphic sex, violence and the use of foul language. It said the RBA had taken several measures, including ordering the broadcaster to label such content as feature programs, in order to avoid confusing the viewers into believing they are watching documentary content (they must also replace profanity and insults with bleep sounds) in order to protect minors. We remind that in March, the “Adulterers” was under special monitoring by the RBA and that misdemeanor proceedings were initiated over its content, which we have written about in our previous reports. “Moment of Truth” was also criticized and characterized as offensive for the dignity of the participants due to the nature of the questions and answers, which were labeled intrusive and borderline indecent and unethical. A similar observation was made regarding the show “Mad House” on TV Hepi. The report said it was “based on bizarre and shocking topics, with rows, physical violence, insults and foul language at its core” and that the RBA Council has pronounced similar measures to that related to “Adulterers”. The analysis includes an overview of obligations under the Advertising Law, along with statistics on prosecuted offenses. The absolute recorder-holder is Hepi TV, which was subject to 800 misdemeanor reports filed by the RBA. These reports most often concerned the failure to separate advertising slots from the remainder of the program and the exceeding of the 12-minute quota for commercials per each hour of aired programming. Somewhat specific is the case of Hepi TV, against which the RBA has filed a large number of reports for violations of the ban on alcohol advertising. The Agency has also filed many reports against the specialized children’s channel Hepi Kids TV, for breaching the ban on non-children advertising in children’s programs longer than 30 minutes.

Finally, relative to these two reports – one concerning the provincial PSB and the other about national commercial broadcasters – we may put the same objections as in our prior reports in relation to the report concerning the RTS (PSB at the level of the Republic). First, there is no report about the monitoring of radio – either of the PSB radio program or that of commercial broadcasters. The qualitative analysis isn’t there either, since the mere statistics about the share of specific types of programming tells nothing about the quality of the program aired. Thirdly, if the purpose of the report was to influence the broadcasters to improve their offer, the RBA should then analyze the effects of its prior reports, released in the last couple of years. In the absence of such an analysis, one may rightfully question the purpose of this huge endeavor by

the RBA. Fourthly, the statistics of offenses was presented in a way that violates the presumption of innocence. The fact that, in the concrete case, the RBA believes that an offense has been committed does not necessarily mean it is actually the case. In the Serbian legal system, the courts should be the judges of that.

## **2. *The Press Council***

In the period covered by this Report, the Press Council found that three newspapers violated the Journalists Code of Ethics. In the case of Dragan Djilas, the Mayor of Belgrade and President of the Democratic Party against the daily "Kurir", the Press Council found that the Code was breached in a text claiming that Djilas had withdrawn four million euros in cash from his personal account in a Belgrade bank. In the Council's opinion, Kurir released inaccurate information, failed to distinguish between facts, assumptions and speculation and, in a hurry to release the information immediately, blindly trusted its source and failed to exercise due journalist caution. Similarly, in the case of Nino Brajovic, the Secretary General of the Association of Journalists of Serbia (UNS) against the daily "Politika", the Press Council found that Politika had violated the Code of Ethics by failing to check in advance the information it subsequently published and by failing to consult any source, which is contrary to the principle of objective, accurate and complete information of the public. Politika's journalist, the Press Council said, "blindly trusted the source of the information, failing to take into account that sources often pursue their own interests and adjust their accounts to those interests". The contested article claimed that, in the trial launched by Nino Brajovic's slander lawsuit against Petar Stojanovic (which lawsuit was rejected, since slander was decriminalized after Brajovic filed the lawsuit), several witnesses had confirmed the claims from the text over which Stojanovic was sued. In the case of Zoran Radovanovic, the President of the Immunization League, against Vecernje Novosti, the Press Council found that Novosti had violated the Journalists' Code of Ethics by having their journalist, writing about a serious topic potentially affecting the health of a large number of people, failed to adhere to the rules of due journalist caution, opting instead to blindly trust his source, disregarding the possibility that the source could have followed his own interests or those of a social group and adapt his account accordingly. Furthermore, the members of the Complaints Commission of the Council found that the text also violated the provision of the Code prohibiting journalists to spread unsubstantiated fear. Disturbing claims about the allegedly high risk from the vaccine against cervical uterus for the life and health of little girls were made

without any evidence whatsoever and might have very serious consequences. The text namely claimed that the use of the said vaccine led to 136 deaths, 942 permanent disabilities, while 5919 patients never recovered.

The Press Council also made a statement at the request of the weekly “Novi glas komune” from Apatin to establish if the Code of Ethics was respected in their texts “Suicide” and “Student Commits Suicide”, published on August 10, 2012 and August 17, 2012. As we wrote in the part of this Report about legal proceedings monitoring, the weekly was fined 1.000.000 dinars by the Appellate Court in Novi Sad, as damages to the plaintiffs Nenad and Vesna Nisic. The texts concerned the suicide of a university student in Apatin and the motives behind the act. The journalist paraphrased in his text part of the suicide letter left by the girl, while mentioning that she lived in poverty, was very talented and a very good student. The text was accompanied by pictures of the house where the girl lived, from the funeral, as well as one photograph with a diploma from a competition. Nenad and Vesna Nisic are the parents of the student that committed suicide. With a majority of votes, the Press Council ruled that the text didn’t breach the Code of Ethics. The majority of the members of the Complaints Commission found that the girl was treated with due respect in the text and that her suicide was depicted as a tragedy, without any intent on injuring the dignity of the victims and the feelings of her family. Since it is an event that shocked the entire town, making local headlines for days, the majority of the Commission’s members thought the local newspaper was right to report about it and try to shed light on the suicide. “Novi glas komune” was found to have done it with moderation, respecting the interest the event generated with the citizens. Two of the eleven members of the Commission, of which ten attended this particular session, believed that the release of the suicide letter is not in line with professional standards, since it is a personal letter that does not contain any information that would contribute to shedding light on the motive, nor is there a justified interest of the public to get to know about it. They said that even the way the journalists obtained that letter is controversial. For that reason, one member of the Commission decided to abstain from voting, while the other believed that the newspaper also violated the Code by publishing the letter and engaging in speculation about the motive of the suicide, which may not be established, due to which the journalists entered the domain of speculation and gossip. This opinion is important, because it demonstrates that news outlets have begun to understand the importance of self-regulation, namely the extent to which it is important to consult a self-regulatory body for all contested issues emerging in the journalist profession on daily basis. Moreover, the Deputy President of the Managing Board of the Press Council Petar Jeremic told in an interview for the UNS website that “one of the goals of the Press Council to ensure that its opinions are taken into account in legal proceedings”. Relative to the controversial verdict of the



Appellate Court in Novi Sad, it is necessary to also hear the opinion of the professionals from the Press Council.