



## **Report on ANEM Workshop “Implementation of the Advertising Law rules”**

Aiming to contribute to building capacities of its member stations, on March 30, 2010, ANEM organized a workshop titled “Implementation of the Advertising Law Rules”, with the support of USAID and IREX. The goal of the workshop was to provide ANEM local and regional member stations with expert explanation of disputed law provisions by competent speakers, so that they could apply them better in practice, but also to come to better solutions for drafting new version of the legislation through open discussion. Guests – panelists at the workshop were: representatives of the Republic Broadcast Agency (RBA), which monitors the implementation of the Advertising Law rules – Nenad Jankovic, the RBA Deputy Executive Director; Mario Brudar, Deputy Head of the Department for Monitoring and Analysis of the RBA and Goran Milisavljevic, Deputy Head of the Monitoring and Analysis of the RBA, in charge of radio; representatives of the Ministry of Trade and Services, Vera Despotovic, senior advisor to the Ministry, who worked on the existing Law and the member of the working group for drafting new Law on Advertising; Slobodan Kremenjak, ANEM lawyer from the law office “Zivkovic & Samardzic”. ANEM guests at the workshop were Maja Rakovic from the Ministry of Culture, as well as the representatives of the donor society: Sibina Golubovic from USAID, Ivana Bjelic from IREX Serbia and Miroslav Jankovic from OSCE mission to Serbia.

23 representatives from 19 ANEM members, radio and TV stations, also participated in the workshop: Radio OK, Vranje; Radio 021, Novi Sad; Radio City, Nis; TV Jedinstvo, Novi Pazar; Radio Petica, Nis; TV Apolo, Novi Sad; Radio Bus, Kovin; TV Alfa, Uzice; RTV Panon, Subotica; Radio Uzice, Uzice; Radio Luna, Uzice; Radio Far, Alibunar; Radio Kikinda, Kikinda; RTV Kragujevac, Kragujevac; RTV Krusevac, Krusevac; TV Niska, Nis; RTV Pancevo, Pancevo; Radio Pozega, Pozega and RTV Zajecar from Zajecar.

**In the first part of the workshop**, the representatives of the RBA spoke about good and bad advertising practice of broadcasters to participants; video examples of hidden advertising, use of “product placement” and improper application of the provisions of sponsorship, along with the RBA’s interpretation of law provisions on TV advertising and sponsorship, clarified to TV stations the proper application of these provisions; in addition, participants could also hear about common mistakes of radio broadcasters in the application of this law, what law stipulates regarding advertising on radio and RBA’s interpretation of the said provisions. **In the second part of the workshop**, the representative of Ministry of Trade and Services, Vera Despotovic, gave a power point presentation and provided answers to most questions received from ANEM before the workshop. Lawyer Slobodan Kremenjak talked about the most common problems occurring in practical implementation of the Advertising Law, and contributed, together with other panellists, to the clarification of dilemmas that broadcasters had about the practical application of certain law provisions and provided noteworthy guidelines for the drafting of the new law.

Presentations of panellists:

**Jasna Milanovic, ANEM coordinator** (introduction into workshop theme and speakers; reasons for this workshop organization – assistance to stations to better understand and implement the rules on advertising, proper preparation for RBA monitoring and obtaining

instructions for drafting new law; brief information on activities of the Ministry's working group for drafting new Advertising Law)

**Nenad Jankovic, RBA Deputy Executive Director** (information on the practice of broadcasters in the application of the Law on Advertising, with greater emphasis on TV broadcasters; he reminded participants that, as of January 2010, the RBA began with the filing misdemeanor charges against some national and regional broadcasters for violations of rules on advertising and announced the beginning of monitoring of local TV and radio stations; he also announced the content monitoring of local broadcasters and explained the penalties for violations of the determined program structure; he said that as of April 1, 2010, the broadcasters would not be able to air commercial graphics out of commercial blocks; he invited the broadcasters to address him personally, by mail or fax when having doubts on the advertising rules application, in order to solve them immediately, not to be subjected to judicial proceedings)

**Mario Brudar, Deputy Head of Department for Monitoring and analysis of the RBA** (he showed 10 video examples of hidden advertising, "product placements" and improper application of the provisions of sponsorship in several national and one regional TV station; with the analysis of these examples at the spot, he explained to present participants what was incorrect and why, what was proposed by the law, how the RBA interpreted these provisions and sanctioned the irregularities in the work of broadcasters; he also clarified the provisions of the sponsorship, along with explanations of how the expert service of the RBA interpreted various forms of sponsorship; he clarified where the information stopped, and marketing began)

**Goran Milisavljevic, Deputy Head of the Monitoring and Analysis of the RBA, in charge of radio** (key points: he pointed out the dominant violations of advertising rules by radio broadcaster; 4 most common mistakes of radio stations are: hidden advertising, exceeding the allowed playing time (6 minutes in one hour) for the advertising messages on the radio, non-compliance to rule relating to the beginning and end of the ad message that ought to be clearly marked with audio signal and violation of the rule that ad messages which referred to a specially charged phone number ought to include the amount of the charged fee, evident during the ad message; he warned radio broadcasters that when it came to sponsored programs, hosts ought not to refer to the sponsor's products)

**Slobodan Kremenjak, ANEM lawyer from the law office "Zivkovic & Samardzic"** (key points: said that the biggest problem with the existing Advertising Law was different interpretation of its provisions, especially when it came to radio broadcasters; it was necessary to accurately define the provisions of the new law to avoid a variety of problems in the future; he stressed the need for stricter RBA controls of the Public Service work, which had a special social role, since in practice RTS often competed with commercial broadcasters, thus not fulfilling its task; he actively participated in the interpretation of the competent authorities of the Law rules, giving the present broadcasters his examples of practical interpretations; provided guidelines for drafting of the new law)

**Vera Despotovic, a senior adviser to the Ministry of Trade and Services** (gave a PowerPoint presentation with answers to questions that stations previously made; she said that the Ministry would make use of this discussions from the workshop as inspiration and instruction for the improvement of the legislation and its solutions; she urged present broadcasters to officially, through ANEM, send their proposals and opinions concerning the development of the new Law on Advertising to the Ministry; she concluded that the biggest problem of the current law that something that was supposed to be its advantage – the inaccuracy of some provisions was to serve easier adaptation to changes in practice, but had rather led to uncertainties that became a nuisance to broadcasters; she provided exclusive information on the use of personal goods of public figures in ad messages and additional

interpretation of certain rules and provisions of this Law); her full presentation is provided at the end of the report.

### **The results of the workshop:**

- The workshop served to clarify many of broadcasters' dilemmas about the application of the advertising rules - given that many provisions of the existing Advertising Law are rather vaguely defined, a number of problems has been created in the practice; therefore ANEM invited to the workshop the most competent speakers, who have, with their speeches, presentations and answers to the questions of the participants, contributed to the achievement of the planned impact of the workshop
- Achieved excellent interaction between speakers and broadcasters/participants of the workshop – the workshop allowed an open and active discussion of all present, which contributed to reaching of the set goal: broadcasters to obtain explanations of legal provisions and guidelines for implementation of the Advertising Law from competent speakers, primarily the competent bodies, but also to facilitate practical issues and problems of broadcasters to be heard, as well as suggestions for solutions of the new law, being in preparation
- Direct contact of broadcasters and the competent authorities is one of the greatest effects of the workshop, according to the participant; as a result, representatives of the RBA and the Ministry called on broadcasters to contact them in the future regarding any uncertainty they might have about the application of the Advertising Law and submit questions through ANEM about any vague provision of existing law and suggestions for drafting a new Advertising Law
- Present broadcasters had the opportunity to hear exclusive information from representatives of the competent authorities – from the representatives of the RBA and the Ministry – that as of April 1, 2010, broadcasting of commercial graphics outside the advertising segments was not allowed, and from the representatives of the Ministry, on the use of personal goods of public figures in advertisements – that the face, voice or other personal good of journalists, presenters and anchors of news, sports and children's radio and TV broadcasts could not be used in advertising messages that promoted the manufacturer, vendor, product or service for the purpose of encouraging their purchase; these information will serve broadcasters to properly apply the rules on advertising
- Representatives of the RBA announced the start of monitoring of implementation of advertising rules, as well as monitoring of the content of the program of local and regional media, reminding the present representatives of ANEM stations that they ought to comply with the legal provisions and the program content, based on which they had been granted licenses; present broadcasters were thus timely informed of the planned monitoring and were given advice on points to which they should pay particular attention, together with explanations of the obligations and rights entitled under the Broadcasting Law and Advertising Law, as well as prescribed sanctions
- As the discussion at the workshop showed that, due to the inaccuracy of the Advertising Law, it was necessary to facilitate its implementation for broadcasters, on ANEM request, the RBA representatives have agreed to publish on its website, in due time, examples of good and bad practices of broadcasters in the application of rules on advertising, to help them to apply legal provisions better
- During the discussion, dissatisfaction of local broadcasters with the work of the Public Service Broadcaster and its right to broadcast advertisements was notable; therefore the RBA was urged: until a new law was brought, to introduce a more severe control of RTS when it came to program cut in prime time; to control the application of the rules on the sale of advertising space in advance and selling advertising space to one person or group of related persons, as there were clear limits for the RTS in both rules, which no one controlled; to carry out stricter monitoring of RTS, as it was obvious that it violated the rules of a total of 6 minutes of advertising during one hour of program on all channels

- The workshop also served to obtain guidelines for drafting a new Advertising Law, which would be useful for both relevant Ministry and ANEM, as a participant in the working group:
  - The new law should be more liberal and in line with European regulations and standards, in particular with the Directive on audiovisual media services
  - With the new law, commercial radio stations should also be given the right to 12 minutes of advertising messages broadcasting in one hour, rather than the current 6 minutes
  - radio broadcasters should also be allowed the right to broadcast commercial content of 15 minutes in duration, as given to TV broadcasters (TV shop)
  - Radio stations proposed that the new law should amend, or enforce a completely new, more liberal provision, which allowed the liquor advertising on radio before 18h advertising, because the evening is the prime time for television, for radio is not
  - The broadcasters requested the review of the right of the Public Service Broadcaster to advertise messages, or even to revoke this right, because of its other sources of income and its special social role, which it had not been fulfilling; but if the solution that the Public Service retained the said right was to be kept, it should be reduced (limited), but also it will be necessary to introduce an obligation of transparent accounting separation of income and expenditure, to know and control what is to be paid from subscriptions and what from advertising
  - Drafting of the new law should take into account all the problems occurring in current practical implementation, in order to be removed with the new legislative solutions
  
- Survey on the workshop effects, which was completed by present broadcasters after the event, showed that doubts on the implementation of many vague provisions of the law had been largely clarified, that the participants were satisfied with treatment of the topic, quality of speakers, debate, answers provided and particularly the interactivity of the workshop, direct communication with representatives of the competent authorities, as well as the ability to mutually share experiences and opinions and give suggestions for solutions of the new law.