



PRESIDENT

**Dr. Agnes Callamard**  
Executive Director  
ARTICLE 19  
Free World Centre  
60 Farrington Road  
London EC1R 3GA

ET/28947-2/2011.

October 4<sup>th</sup> 2011

Dear Madam:

First of all, allow me to express my appreciation to ARTICLE 19 for following with such interest the administration of the Hungarian media and the daily operation of our agency.

However, on behalf of myself and my colleagues, I have to firmly reject those unfounded accusations you directed toward our agency in your letter regarding Klubradio that operates in Budapest on the 95.3 MHz frequency. I am confident that the accusations can be attributed solely to the lack of accurate and relevant information.

Let us see the real facts.

In Hungary - similarly to the European practice -, radio frequencies owned exclusively by the state are utilized by the government agency authorized by law - the autonomous Media Council - through legitimate procedures of procurement tenders, which also include the possibility of appeal. The media service provider achieving the highest score in the tender may enter into a seven-year media service agreement for the use of the desired frequency. The contract may be extended once for another five years.

Among approximately 50 local and regional (in and outside of Budapest) radio frequencies this year, **on May 26, 2011** the Media Council has published tenders for three commercial frequencies with a reception area covering Budapest. In the scoring scheme of the draft tender proposals, within the programming structures, commitments to public-information programs were the most valuable. Besides this, points could be earned for commitments to music shows also. The more pronounced consideration of music shows in the evaluation of tenders was requested by media service providers in previous forums. This is because the lower production cost provides for less expensive broadcasting for them, which considering the difficult economic situation persisting for years throughout Europe, became an important consideration for media service providers.

Among the tenders for three commercial frequencies published with the same terms was the Budapest 95.3 MHz, currently used by Klubradio. The final tender invitation for the above

mentioned three Budapest frequency rights was published **on July 21, 2011**. According to the final tender invitation for the Budapest frequencies, tenders with any programming formats are accepted, and the applicants have even more freedom in the compilation of programming plans. The most points are still awarded for programs of public interest, and extra points can be received for the greater proportion of Hungarian music within music programmes.

The foregoing is supported by the objective declared in the final tender invitation, e.g., for the Budapest 95.3 MHz radio frequency: *"The objective of the Tender Invitation is that the Media Council ensure with the Budapest 95.3 MHz media service opportunity as a state property a responsible, purposeful and effective management, and that the media services contribute to the creation and maintenance of the diversity of the media market, and that facilitate the process whereby radios with predictable and stable operations enter or remain on the market, as well as that besides its **informative, entertaining, and musical** nature - with an emphasis on meeting Hungarian music quotas -, local information and values relevant to the reception area be expressed and featured in the media service."*

Thus, the final tender invitation contains an evaluation system taking into account the opinion of all service providers, declares in its objectives the importance of public-information programming, and, moreover, it places the latter in front of any other content considerations.

An important principle of the utilization of radio frequencies for decades has been that a service provider could not have simultaneously more than one licenses in the same reception area to provide media services. This basic rule serves to ensure the diversity of media services, and it cannot be bypassed by any service provider for any reason. Klubradio had the opportunity in 2010 as the winner of the Budapest 92.9 MHz to enter into a media service agreement in accordance with the provisions of the law. Based on the principle above, the condition for this was that the media service provider first sign the termination agreement with respect to the rights to the Budapest 95.3 MHz - already in its possession and continuous use - and subsequently execute the agreement for acquiring the rights to the Budapest 92.9 MHz. However, Klubradio has not terminated its rights to the 95.3 MHz before the execution of the agreement within the deadline specified in the tender invitation, and, thus, could not start broadcasting on Budapest 92.9 MHz.

I wish to kindly bring it to your attention that the Media Council acts with respect to every tender procedure in accordance with the effective laws and regulations, taking into account the principles of equal opportunity, objectivity, transparency, and non-discriminative procedures, and it does not apply with respect to the tender applicants any unjustified distinction, exclusion, or restriction. Currently, Klubradio is still continuously broadcasting its programs on 95.3 MHz.

Among seven other tender applicants, Klubradio has submitted its tender for the Budapest 95.3 MHz commercial frequency, and the Media Council is expected to complete the evaluation and selection this year. Besides this, it is also possible that Klubradio enter the competition for the new tender for the Budapest 92.2 MHz frequency soon to be published with similar conditions to the three Budapest frequencies mentioned above.

Of course, even if Klubradio won the rights with respect to any frequency, the main rule would continue to remain valid: one media service provider may only have one frequency in the same reception area at the same time.

I wish you and your colleagues continued success in your work, and if you need accurate information in the future with respect to the activities of our agency, we are at your disposal in the future, too.

Sincerely,

*Szalai Annamária*

Annamária Szalai

President

National Media and Infocommunications Authority

