

MINISTRY OF CULTURE, SPORTS AND MEDIA DRAFT

LAW ON ELECTRONIC MEDIA

Podgorica, 19 May 2009

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LAW ON ELECTRONIC MEDIA

CHAPTER I

GENERAL PROVISIONS

Scope of the Law

Article 1

(1) This Law shall govern rights, obligations, and responsibilities of legal and physical entities performing the activity of production and providing of audiovisual media services in Montenegro (hereinafter referred to as „AVM service“); regulate competences, status, and financing of Agency for Electronic Media; stipulate conditions and procedures of license granting for providing and distribution of the audiovisual media services; regulate prevention of illegal media concentration; prescribe establishment of fund for protection of media pluralism; and govern other issues relating to electronic media, in accordance with international conventions and standards.

(2) The provisions of this Law shall not be applied to conditions and procedure of granting licenses for broadcasting frequencies, and shall not be applied to conditions and procedure of rights acquisition of electronic media on installing, use, and maintenance of fixed and mobile broadcasting equipment.

Principles

Article 2

Governing of relations in electronic media shall be based upon following principles:

- 1) freedom, professionalism, and independence of electronic media;
- 2) prohibition of all forms of censorship and/or illegal interference in the work of electronic media;
- 3) balanced development of public and commercial electronic media;
- 4) free and equal access of citizens to all AVM services;
- 5) development of competition and pluralism in the field of AVM services;
- 6) application of the international standards and principles related to the field of AVM services;
- 7) objectivity, non-discrimination and transparency of the procedure of granting licenses for providing and distributing AVM services;

AVM service provider

Article 3

(1) AVM service provider is legal or physical person performing the activity of producing and/or providing AVM service, and is established in Montenegro, which performs activities in accordance with this Law and separate legal acts regulating field of media and electronic communication.

(2) AVM service provider shall be considered as established in Montenegro if has head office in Montenegro and the editorial decisions of AVM services are made in Montenegro.

(3) AVM service provider shall be also considered as established in Montenegro if: one has head office in Montenegro, i.e. permanent residence, and the editorial decisions of AVM services are made in EU Member State or in a third country, where a significant portion of the workforce involved in the AVM service providing is in Montenegro;

(4) AVM service provider shall be considered as established in Montenegro if one has head office located in Montenegro, and editorial decisions on program schemes are made in EU Member State, where a significant portion of the workforce involved in the providing of AVM service is in Montenegro.

(5) When significant portion of workforce involved in providing of AVM service is in Montenegro and in other EU Member State, it shall be considered that AVM service provider is established in Montenegro, if the head office of the provider is located in Montenegro.

(6) When significant portion of workforce involved in providing of AVM service is not in any of the member states, described in paragraph 2, 3, 4 and 5 herein, it shall be considered that AVM service provider is established in Montenegro, if the provider has initially started broadcasting of the AVM service in Montenegro and maintains stable and effective relations with the economy of Montenegro.

Exemptions

Article 4

AVM service providers that are not encompassed by the terms and conditions from Article 3 of this Law shall be considered to be under jurisdiction of Montenegro if they use:

- 1) A frequency granted by Montenegro;
- 2) Satellite capacity appertaining to Montenegro, although it does not use granted frequency described in point 1 of this Article;
- 3) Satellite up-link situated in the territory of Montenegro, although it uses neither a broadcasting frequency nor a satellite capacity described in points 1 and 2 of this Article.

Definition of terms

Article 5

The terms and expressions used in this Law shall have the following meaning:

- 1) **Strategy for Development of AVM Services Sector** is a document defining vision, i.e. policy in this field, general and specific objectives; this document shall determine guidelines and mechanisms for achieving the objectives; lay down dynamic of realization, structure and type of AVM service providers, and other parameters and issues of importance for its realization;
- 2) **Audiovisual media service** is a service under editor competence of media service provider, whose basic purpose is activity of producing and providing of AVM service of program aimed to informing, entertaining or educating of public via electronic communication networks;
- 3) **Program content** is information of all forms and types (news, opinions, notices, messages, statements, and other information), and authorized work /subject to copyright/ published in electronic media in order to inform and meet cultural, educational, and other public needs;
- 4) **Program** is a sequence of motion pictures, with or without sound, creating an unit within program scheme or catalogue, defined by the AVM service provider, and form and content of which are comparable with form and content of TV or radio program;

- 5) **Editorial responsibility** is performing of control over selection of program, and its chronological organization, when TV or radio program is broadcasted, or in catalogue manner, when AVM services are requested /on request/;
- 6) **AVM service provider** is a legal or physical entity, with editorial responsibility for selection of AVM service content and for organization of service providing, which is in possession of license for AVM service providing;
- 7) **Electronic media** is AVM service provider, registered for radio and TV broadcasting, and who attained license for providing of AVM service, in accordance with this Law;
- 8) **AVM service on request (non-linear AVM service)** is a service with conditional access, which enables reception of radio and/or TV program on basis of single request by user and catalogue of program selected by the AVM service provider, and which is available exclusively upon signing of contract on use;
- 9) **Commercial audiovisual communication** is AVM service that introduces a set of pictures, with or without the sound, into the program, with aim of: (a) direct or indirect promoting of goods, services or image of physical or legal entity, who performs any economic activity, in return for payment or for another appropriate compensation, or for (b) self-promotional purposes;
- 10) **Radio or TV advertising** is commercial audiovisual communication meaning broadcasting of any form of information, in return for appropriate compensation or in self-promotional purposes, from the part of legal or physical entity, in order to present and pay attention on some product, service, including immovable estate, rights, obligations, i.e. to motivate consumers to use, or buy given product or service, in return for financial compensation;
- 11) **Surreptitious commercial audiovisual communication** refers to the presentation, in words or pictures, of goods or services, the name, the trade-mark or the activities of a producer of goods or a provider of services, in such cases when this presentation is intended for advertising purposes and could mislead the public as to its nature and character;
- 12) **Sponsorship** refers to the participation of a legal or physical person, that is not involved in the providing of AVM services or in the production of audio-visual works, in direct or indirect financing of AVM services or radio and/or TV programs, with the aim to promote his or her name-firm, trade-mark, reputation, activities or products;
- 13) **Teleshopping** is commercial audiovisual communication representing providing of AVM service of direct offers to the public aimed at purchase, sale or rent of goods and services that cannot be found in free sale.
- 14) **Disposal of products** is commercial audiovisual communication containing of announcement, in course of program, (by mentioning it or through live connecting into the program) of a product, service or trademark, return for payment or for another appropriate compensation;
- 15) **TV promotion** is a type of announcement through inserting certain scenes into the program, which are designated to promote one or more products or services. These scenes shall be inserted by the program presenter and shall be kept separately from the program via acoustic or optical means;
- 16) **European audiovisual works** are radio and TV programs originating from the EU, or from third European countries, or if these works are product of bilateral co-production between European countries;

- 17) **Protected services** is any of following services provided in return for compensation and based on conditional access: TV providing of AVM service, radio broadcasting, transmitting via cable or wireless distribution systems, including satellite and radio programs intended for public reception;
- 18) **Conditional access** is any technical mean or device enabling, in a reasonable manner, limited access to protected radio or TV broadcasting service, in accordance with the subscription rules or priory granted individual authorization.
- 19) **Device for conditional access** is any equipment or software, projected or adjusted for enabling access to protected service in a reasonable manner;
- 20) **Supplementing service** refers to installation, maintenance, or replacement of the device for conditional access; it shall also mean providing of commercial communication services relating to devices for conditional access or to protected services.
- 21) **Unauthorized device** is any equipment or software, projected or adjusted for enabling access to protected service in a reasonable manner without necessary authorization given by service provider;
- 22) **Activities subjected to dispute** shall encompass production, import, distribution, selling, renting, or possessing in commercial purposes of an unauthorized devices; installation, maintaining, or replacement of such devices in commercial purposes; or usage of commercial communication in purpose of promoting the unauthorized devices.
- 23) **Distributor** is a physical or legal person registered for performing of activities in field of telecommunication, who acquired the license for AVM service providing (program distribution) pursuant to this Law;
- 24) **Multiplex** represents a group consisting of radio or TV programs, and/or of other AVM services, which are simultaneously broadcasted via digital modulation within standard television channel, by means of one or more broadcasting frequencies;
- 25) **Program basis** is a document containing program scheme regulating following: (1) type of program content, i.e. dividing of program content in certain groups, (2) envisaged participation of content groups, (3) envisaged maximum participation of advertising and sponsored contents, and (4) envisaged share of in-house production;
- 26) **Program catalogue** is a document containing list of radio and/or TV programs, which is a part of the distributor service, offered to a subscriber in a form of united service program package, via electronic communication networks, where the distributor acquired distribution rights;
- 27) **Public electronic media** means legal entity, established by the state or local self-government unit, performing the activity of production and broadcasting of radio and/or TV program, which is of interest for citizens;
- 28) **Commercial electronic media** means legal entity performing the activity of production and broadcasting of radio and/or TV program, which is of interest for citizens, and financed by the founder in purpose of gaining the profit;
- 29) **Independent production** represents radio and TV program intended exclusively to broadcasting; it is produced by physical or legal person(s) registered for performing such activities in Montenegro, and which are not electronic media;
- 30) **Subscriber (end user)** means any person that is party to a contract made with a distributor of services for the supply of such services, and pays defined fee for services provided, i.e. subscription.

Strategy for Development of Audiovisual Media Services Sector

Article 6

Strategy for Development of AVM Services Sector shall be passed by the Government of Montenegro (hereinafter referred to as “the Government”), following proposal of the ministry competent for media (hereinafter referred to as “the Ministry”).

CHAPTER II

AGENCY FOR ELECTRONIC MEDIA

The Agency

Article 7

- (1) Agency for Electronic Media (hereinafter referred to as “the Agency“) shall be independent regulatory body, which performs public competences, pursuant to this Law;
- (2) The Agency shall represent public interests;

Status of the Agency

Article 8

- (1) The Agency shall be independent legal subject, functionally independent of any state body, and of all legal and physical persons performing activities of production and broadcasting radio and TV programs, or providing other AVM services.
- (2) The Agency shall be established by the State.
- (3) Rights of the founder shall be exercised by the Council of the Agency, on behalf of the state, and pursuant to the provisions of this Law.
- (4) The Agency shall have the status of the legal entity and it shall be registered in the Central Register of the Commercial Court of Montenegro.

Obligation to coordinate

Article 9

The Agency and regulatory body competent for field of electronic communication shall be obliged to cooperate and coordinate their work, in accordance with this Law and with provisions of separate Law regulating field of electronic communication; they shall cooperate and coordinate work referring to radio frequencies intended for AVM service providing.

Competences of the Agency

Article 10

- (1) The Agency, in the scope of its activities, shall:
 - 1) ensure expert grounds for the preparation of Strategy for Development of AVM Services Sector;
 - 2) cooperate with body competent for protection of competition in course of performing the analysis of electronic communication service market, in part referring to AVM services;
 - 3) determine amount of compensation for renting and using license for AVM service providing;
 - 4) keep registries of AVM service providers;
 - 5) make decision on complaints and objections filed by the physical and legal person(s) regarding the work of AVM service providers;
 - 6) undertake measures towards AVM service providers, pursuant to this Law;

- 7) prepare and publish annual, financial and similar reports on work;
- 8) perform supervision over work of AVM service provider;
- 9) perform other tasks and duties, in accordance with the Law and Statute;

(2) The Agency shall cooperate with relevant regulatory organizations of other countries, in order to exchange experiences, improve its work, and to ensure harmonization with international experiences and standards; this cooperation shall be realized in cooperation with competent state bodies.

Bodies of the Agency

Article 11

Bodies of the Agency shall be:

- 1) the Council of the Agency, and
- 2) Director of the Agency;

Competence of the Council

Article 12

The Council of the Agency (hereinafter referred to as “the Council”) shall:

- 1) pass the Statute of the Agency;
- 2) elect a president among the members of the Council, in a manner and through procedure prescribed by the Rules on Procedure of the Council;
- 3) appoint and dismiss Director of the Agency after the public recruitment procedure is completed;
- 4) pass general act on internal organization and systematization of the job positions;
- 5) adopt working plans and reports on work;
- 6) engage independent authorized auditor to perform audit over periodical and annual statements of revenues and expenses;
- 7) prepare and determine proposal Financial Plan for following year and proposal Financial Statement of The Agency for previous year;
- 8) ensure expert grounds for the preparation of Strategy for Development of AVM Services Sector;
- 9) issue approvals for providing of AVM services;
- 10) give its consent for, temporary or permanent, renouncing, renting, transferring or alienating, in any way, of the approval for providing of AVM services;
- 11) pass an act regulating amount of fee, manner of determining and paying of the fees for approvals for AVM service providing;
- 12) pass an act on minimum program standards for AVM service providers;
- 13) pass acts on enforcement of conditions relevant for defining minimum program quotes for European audiovisual works, and for works of independent producers, in accordance with the European standards;
- 14) pass acts determining conditions and quotes for providing of AVM services of advertising, teleshopping, sponsored programs and other commercial audiovisual communication, in accordance with the European standards;
- 15) give its consent on decisions of Director of the Agency referring to payments in amount exceeding amount defined by the Statute of the Agency;
- 16) adopt Rules of Procedure;
- 17) pass an act on conditions, criteria and manner for dividing financial means of the Fund for Protection of Media Pluralism;

- 18) pass an act on procedure for pronouncing of measures to AVM service provider, pursuant to the provisions of this Law;
- 19) decide upon filed complaints on decisions passed by Director of the Agency;
- 20) pass an act defining the decision-making procedure upon received complaints and objections;
- 21) pass and adopt other acts necessary for implementation of this Law;
- 22) perform other functions in accordance with the Law and Statute of the Agency;

Insight of the public into the Agency's performance

Article 13

The Council shall, until the end of June of current year the latest, make public, via web site of the Agency, following documents:

- 1) Report on Work of The Agency for previous year, with special emphasize on realization of obligations determined by the Law;
- 2) Report on Financial Performance of the Agency for previous year, with supplementing Report of the authorized auditor on financial operations of the Agency;

Members of the Council

Article 14

The Council of the Agency shall comprise five members.

Criteria for appointment of the Council member

Article 15

Member of the Council shall be esteemed expert in the field relevant for performing of activities of the Agency (media, law, economy, audiovisual media services, electronic communication, etc.), with permanent residence in Montenegro and who is a holder of a university level degree, at least.

Conflict of Interest

Article 16

(1) Member of the Council shall not be:

- 1) member of the national Parliament and of the local assemblies;
- 2) person elected, nominated, or appointed by the President of Montenegro, the Parliament of Montenegro, or the Government of Montenegro;
- 3) officials of the political parties (president of the party, member of the presidency of the party, their deputies, members of executive and general committees of the party, and other party's officials);
- 4) persons which, as stake holders, shareholders, members of managing bodies, employees, persons under contract, etc. have an interest in legal entities involved in activities of production, broadcasting and/or distribution of radio and/or TV program, or of other AVM services, and related activities (advertising, electronic communication, etc), in a way that the membership of such person in the Agency Council may result in the conflict of interests
- 5) person sentenced by legally-binding court decision for committing criminal act against official duty, criminal act of corruption, fraud or theft, regardless to pronounced sentence, or a person sentenced by legally-binding court decision for any criminal act on sentence of imprisonment exceeding six months, during the period of legal consequences of the sentence;

- 6) Persons who are spouses of the persons stated in the Articles 1- 4 herein, or who are related to them in straight line regardless of the degree of kinship, or in indirect family relationship up to the second degree, or persons in affinity relation.
- (2) If the Council Member is subject to a conflict of interests related to decision-making on a certain issue from the Council's field of competence, they are obliged to inform other members in order to be exempted from discussion and decision-making on that issue.
- (3) If a Council Member has participated in work regardless of the existing conflict of interest, the other members are obliged to revise the adopted decisions and may declare them not valid.
- (4) A Council Member shall not be a founder or in any way included in the submission of an application for obtaining a license for providing of AVM service during the period of 12 months after the termination of their term as the Council Member.

Appointment and dismissal of the Council member

Article 17

The Council shall be appointed and dismissed by the Parliament of Montenegro (hereinafter referred to as "the Parliament").

Authorized nominators

Article 18

- (1) Candidate for the Council member shall be nominated by:
 - 1) the Ministry, nominating one member;
 - 2) universities / faculties of political science or law faculties, nominating one member;
 - 3) associations of commercial broadcasters, nominating one member;
 - 4) non-governmental organizations and citizens' associations for protection of human rights and freedoms, nominating one member;
 - 5) Non-governmental organizations in field of media, nominating one member;
- (2) A person proposed for the member of the Agency Council is not necessary and obligatory to be from the part of authorized nominator.
- (3) Nominators may, referred to in paragraph 1, point 2, 3, 4, and 5 herein, jointly or separately propose one candidate each for the Council member.
- (4) Candidates for the Council members shall be proposed by the authorized management bodies of the legal persons described in the paragraph 1 of this Article, in accordance with their statutes.
- (5) If nominator referred to in paragraph 1, point 2, 3, 4, and 5 herein, submits more than one separate proposal, then only proposal supported by the majority of the authorized nominators shall be discussed and examined.

Content of proposal for the Council member appointment

Article 19

- (1) Proposal for appointment of the Council member shall contain following information: name and surname, address, short biography of the proposed candidate; proposal shall be signed, verified, and sealed by the authorized nominator, i.e. authorized nominators.
- (2) Proposal of the candidate for the Council member shall be submitted on the form determined by the Parliament body competent for appointment (hereinafter referred to as "Working Body").

(3) Following documents shall be enclosed to the proposal described in the paragraph 1 of this Article:

- 1) Certificate on permanent residence in Montenegro of the nominated candidate;
- 2) Certificate on completed education of the nominated candidate;
- 3) Statement of the proposed candidate on acceptance of nomination, and on non-existence of obstacles for his/her nomination described in Article 16 of this Law;

(4) Non-governmental organization, in position of the nominator, shall submit, together with certificates/evidences referred to in paragraph 3 herein, following documents:

- 1) Certificate on registration in register of non-governmental organizations in competent body of state administration;
- 2) Founding act and statute, in text stored in the competent body of the state administration;
- 3) Reports on work and financial reports for previous three years.

(5) Proposal for appointment of the Council member, which is not prepared in accordance with the paragraph 1, 2, 3, and 4 herein, shall not be discussed and examined.

Non-governmental organization as authorized nominator

Article 20

(1) Non-governmental organization may be nominator of the candidate for the Council member, if:

- 1) It is registered in competent body of the state administration at least three years prior to publishing of public call for submitting of proposal for the Council nomination;
- 2) In founding act and statute, as basic goals and functions, stated issues from the field envisaged by the Article 18, paragraph 1, point 4 and 5, of this Law, and has been continuously working upon these issues for previous three years;

(2) One non-governmental organization may participate in proposing procedure for the Council member only in framework of one category nominator, described in the Article 18, paragraph 1 of this Law.

Independence of the Council member

Article 21

(1) Council Member shall not represent the authorized nominator, but perform their duty independently, autonomously, according to their own knowledge and conscience, in compliance with this Law, the Agency Statute, and other general legal acts.

(2) Nobody has the right to influence the work of the Council Member in any way, nor are they obliged to take into account anybody's instructions regarding their work, except the decisions of the competent court.

Term of office of the Council

Article 22

(1) Term of office of the Council shall start on the day of appointment, and it shall be appointed for the period of five years.

(2) A person may not be elected member of the Council more than two times in a row.

(3) The Council shall be considered as appointed when at least three members of the Council are appointed.

Initiating of the procedure for the Council appointment

Article 23

The Working Body, referred to in Article 19, paragraph 2 of this Law, shall initiate the procedure of appointment of the Council by issuing a public invitation for the authorized nominators, not later than 6 (six) months before the expiry of term of office of current Council.

Public invitation

Article 24

Public invitation shall be sent to the authorized nominators by publishing it in “The Official Journal of Montenegro,” at the web site of the parliament, and at least in one daily printed media published in Montenegro.

Content of public invitation

Article 25

Public invitation shall obligatory contain following:

- 1) Authorized nominators described in Article 18, paragraph 1 herein, and number of nominations they may submit;
- 2) Criteria that candidate for the Council member has to fulfil;
- 3) Criteria that non-governmental organizations, as authorized nominators, have to fulfil;
- 4) Documentation that have to be submitted attached to the nomination;
- 5) Name and address of the body where nominations are submitted;
- 6) Manner of submitting, and deadline for submitting of nominations;

Deadline for submitting of nomination

Article 26

- (1) The deadline for submission of proposals for the Council appointment runs from the date of publication of the call in the daily print media.
- (2) The deadline for submission of proposals for the Council members shall be 45 days from the date of publishing of public invitation.

List of candidates for the Council appointment

Article 27

- (1) The Working Body shall publicly announce, not later than within eight days from the date of expiry of the submission deadline, in the same manner in which the public invitation was published, the list of all applicants with completed and timely submitted proposals for the Council members;
- (2) The Working Body shall adopt, not later than within 15 days from the date of expiry of the submission deadline, proposal of list for the Council appointment, per authorized nominator;
- (3) The Working Body shall also attach, to the proposed list for the Council appointment, proposals of the authorized nominators fulfilling the conditions and requirements prescribed by the Law.
- (4) If nominator of certain categories submits more than one separate nomination, shall contain the nomination for which the law stipulates that it will be considered.
- (5) Proposed list for the Council appointment, with attached reasoning and report on completed procedure for the Council appointment, shall be delivered to the Parliament for discussion and decision-making.

Deciding upon proposed list

Article 28

- (1) The Parliament shall decide upon proposed list for the Council appointment not later than within 60 days from the date of delivering material described in Article 27, paragraph 5 of this Law.
- (2) The Parliament shall decide upon entire proposed list of candidates for the Council appointment.

Reopening of procedure

Article 29

- (1) If the proposed list is not complete, procedure shall be reopened for the Council member appointment from the category of nominator whose proposal is not adopted.
- (2) In case of paragraph 1 of this Article, the Working Body shall publish again public invitation for the authorized nominators whose proposals are not adopted, not later than within 15 days from the date of adoption of proposed list and in manner prescribed by this Article.
- (3) Term of office of the Council member appointed upon reopened public invitation shall last until expiry of the term of office of the Council, pursuant to Article 22, paragraph 1 of this Law.

Compensation for the Council member

Article 30

The Council Members shall be entitled to a monthly compensation for their work in amount of the one received by other employees in the Agency in the month prior to payment of compensation. The Council Members shall be entitled to reimbursement of the costs arising from performing of duties as the Council member, in accordance with the Statute of the Agency.

Termination of term of office of the Council member

Article 31

The Council Member's term of office shall be terminated, only by respecting the procedure envisaged by this Law, in following cases:

- 1) with the expiry of the period of their appointment;
- 2) if they are recalled because of reasons prescribed by this Law;
- 3) if they submit written resignation to the Parliament, about which they shall inform the Council and the authorized nominator within 8 days;
- 4) in case of death;

Recall of the Council member

Article 32

The Parliament shall recall the Council member and replace him with the other member if:

- 1) it is established that, on the occasion of submission of the proposal for appointment, he/she submitted inaccurate personal data or omitted to reveal the data or circumstances that are of relevance for the possible appointment;
- 2) he/she fails to attend sessions and meetings of the Council for the period longer than six months;
- 3) it is established that, during the term of the Council, any of the circumstances referred to in the Article 16 of this Law occurred;
- 4) because of illness, on the basis of results of a competent medical institution, he/she is not able to perform duty of the Council Member for the period longer than 6 (six) months;

Procedure for recalling of the Council member

Article 33

- (1) Procedure for recalling of the Council member shall be initiated by the Council or by the Working Body;
- (2) The Parliament shall pass decision on recalling of the Council member only upon completion of the procedure during which all relevant circumstances were determined and during which the Council Member has been allowed to explain all the circumstances.

Suspension of the Council member

Article 34

The Council may suspend, by the two third majority vote of the total number of its members, the Council Member against whom the request for recalling was submitted, until the final decision of the Parliament.

Appointment of the new Council member

Article 35

- (1) In case when the term is terminated before the expiry of the period of appointment of the Council Member, the Working Body is obliged to publish public invitation for the authorized nominators of the Council members for new proposals, not later than within 15 days from the date of termination of term.
- (2) Provisions of this Law governing the appointment of the Council member shall be applied to the procedure of appointment of the Council member referred to in paragraph 1 of this Article.
- (3) Newly-appointed Council member shall be appointed for the period until the expiry of the former member's term of office.
- (4) The Council Member who was recalled before expiry of term of office, pursuant to the Article 32, paragraph 2, points 1 and 2, shall not be appointed for the Council member again.

Cessation of the Council's work

Article 36

If, due to the termination of certain members' terms, the number of the members is less than 3 (three), the Council shall not work and reach valid decisions.

Recall of the Council

Article 37

- (1) The Parliament of Montenegro shall recall the Council if:
 - 1) it is established that the Council does not meet and hold sessions for the period longer than 6 (six) months;
 - 2) the Council fails to realize the obligation prescribed by Article 12, paragraph 1, point 2 of this Law;
 - 3) the Council fails to publish, at the web site of the agency, financial report of the Agency for the previous year and report of the auditor;
- (2) Procedure for recall of the Council shall be initiated by the Working Body described in Article 19, paragraph 2 of this Law.

Work of the Council

Article 38

- (1) The Council shall work in sessions.

- (2) The sessions of the Council shall be held when necessary, at least once a month;
- (3) The session of the Council shall be organized upon request of at least three Council members or upon the request of the Agency Director.
- (4) The Council shall pass decisions by majority vote of the total number of present members, unless it is otherwise stipulated by this Law or by the Agency Statute.
- (5) The sessions of the Council shall be open for public, unless the Council decides otherwise by majority of vote of the total number of present members.
- (6) Director of the Agency has the right to participate in the session of the Council, without the decision-making right.
- (7) Participation of third person in work of the Council shall be more closely regulated by the Rules of Procedure of the Council.

Director of the Agency

Article 39

- (1) The appointed Director of the Agency shall be a person who meets the following conditions: has citizenship of Montenegro and permanent residence in Montenegro, is a holder of minimum University Degree, and has at least five years of work experience.
- (2) The Agency Director shall:
 - 1) represent and act on behalf of the Agency;
 - 2) organize and manage work of the Expert Service of the Agency;
 - 3) be responsible for his/her work to the Council;
 - 4) be responsible for the legal performance of functions by the Agency
 - 5) propose general act on internal organization and systematization of the Agency;
 - 6) propose business plan of the Agency;
 - 7) submit Report on Work, and periodical and annual statements of revenues and expenses of the Agency;
 - 8) submit Financial Statement of the Agency for previous year;
 - 9) propose general act on minimum process of work during strike of employees;
 - 10) propose decisions on buying and selling of means and property of Agency, decision on putting of the Agency's property under mortgage, and decision on taking bank loans and the granting of financial guarantees, in accordance with the provisions of the Law;
 - 11) perform other duties prescribed by the Law and Agency Statute
- (3) The term of office for the Agency Director shall be 4 (four) years.
- (4) A person may be appointed the Agency Director maximum two times in a row.
- (5) A person who is not qualified to be the Council Member shall not be appointed Director.

The Agency Statute

Article 40

- (1) The Agency Statute shall include the provisions related to:
 - 1) the seat of the Agency;
 - 2) internal organisation of the Agency;
 - 3) manner of operation, decision making and competences of managing bodies of the Agency and persons with special authorizations;
 - 4) procedure of adopting decisions regarding petitions and complaints of physical and legal persons on the AVM service provider;

- 5) manner of publicizing operating reports, financial plans, statements of income and expenditures and other documents the Agency is obliged to present to the public in compliance with this Law
- (2) The Agency Statute shall contain provisions on other issues prescribed by this Law.

Funding of the Agency

Article 41

- (1) The Agency shall acquire the funds from:
 - 1) fees paid for using of broadcasting frequencies prescribed by the Law governing field of electronic communication;
 - 2) a part of the subscription paid to distributors of AVM program contents;
 - 3) Once-occurring fees paid for registration of the AVM service provider;
 - 4) other sources in compliance with law;
- (2) The amount of the fee referred to in paragraph 1, point 1 of this Article, shall be determined by the Agency Council and by the Council of regulatory body for electronic communication.
- (3) The amount of the fee referred to in paragraph 1, point 2 of this Article shall be determined by the Agency Council.
- (4) The amount of the fee referred to in paragraph 1, point 1 and 2 of this Article shall be determined on basis of annual program and financial plan of the Agency.

Financial Plan of the Agency

Article 42

- (1) Overall expenses of the Agency's operations encompassed by the financial plan, including reserves for the unforeseen costs, shall reflect the realistic costs of the Agency necessary for the successful implementation of the Agency's operations.
- (2) All income and expenditure accounts of the Agency shall be subject to annual audit by the independent authorized auditor.
- (3) The Agency is obliged to publish, not later then within six months from the end of the fiscal year, the annual report on work, and the report of the authorized auditor on the annual account, as well as to make them available in a convenient manner to every interested party.

CHAPTER III

LICENSE FOR AVM SERVICE PROVIDING

License

Article 43

A legal or physical person who is holder of the license for providing of AVM service (hereinafter referred to as "License") shall acquire the right to provide AVM service, by means of electronic communication networks, intended for indefinite number of users.

Application for issuing of license for AVM service providing

Article 44

Application for issuing of license may be submitted by:

- 1) legal or physical person who acquired the right, by public tender, to use broadcasting frequencies and license for them as well;

- 2) legal or physical person who acquired the right on broadcasting of radio and/or TV program via digital broadcasting system on VHF and UHF frequencies, granted to the operator of multiplex terrestrial digital broadcasting system;
- 3) legal or physical person who intends to use electronic communication networks for broadcasting of radio or TV program, without usage of the broadcasting frequencies.

Content of the application

Article 45

Application for issuing of the license shall be submitted on special form; form and contents of application are prescribed by the Agency.

Deadline for issuing of license

Article 46

- (1) The Council shall issue license to the applicant, who submitted complete and high-quality documentation, not later than within 15 days from the date of submitting of application.
- (2) The Council shall prescribe detailed criteria for issuing of license.

Procedure rules

Article 47

Provisions of the Law on General Administrative Procedure shall be applied to the procedure upon application for issuing of license, unless this Law prescribes otherwise.

Content of the license

Article 48

- (1) License shall define structure of the program, technical conditions for production of radio and/or TV program, and general conditions for usage of license and fees.
- (2) License shall obligatory data on:
 - 1) holder of the license;
 - 2) title of radio or TV program;
 - 3) type of electronic communication networks for distribution of radio and/or TV programs;
 - 4) allocated broadcasting frequencies on basis of completed procedure of public competition, when analogue broadcasting systems are used for providing of AVM service of radio and/or TV program;
 - 5) access of the AVM service offered to the transmission capacities of separate radio or TV programs within multiplex, when digital broadcasting systems are used for providing of AVM service of radio and/or TV programs;
 - 6) identifying symbol of radio or TV program;
 - 7) the license validity period;
 - 8) amount of fees and conditions of payment;
- (3) The license shall not be, permanently or temporarily, consigned, rented or otherwise transferred or alienated, without previous consent of the Council.

License holder

Article 49

- (1) License holder may be domestic or foreign, natural or legal person, registered for the production and providing of AVM service of radio and/or TV program, with seat i.e. permanent residence on the territory of Montenegro.

(2) Foreign natural or legal person shall not be allowed to participate in the fixed assets of legal entities, which have status of the public broadcasting service.

(3) Holder of the license for AVM service providing shall not be political party, organization or coalition, and legal entity established by the political party, organization and coalition.

Status of the AVM service provider

Article 50

(1) Physical or legal person registered for the production and distribution of the radio and/or TV program shall acquire the status of an AVM service provider, by obtaining the license, in compliance with the provisions of this Law.

(2) The AVM service provider may be involved in the production and broadcasting of radio and/or television programme in the capacity of:

- 1) national public broadcasting service;
- 2) local public broadcasting service;
- 3) commercial broadcaster;

National public broadcasting service

Article 51

National public broadcasting service shall provide a quality reception of radio and/or television programs for at least 85% of the population in Montenegro.

Local public broadcasting service

Article 52

Local public broadcasting service shall provide a quality reception of radio and/or television programs for at least 85% of the population in the local administration unit on the territory of which such program is broadcasted.

Commercial broadcaster

Article 53

Commercial broadcaster of AVM services shall provide a quality reception of radio or television programmes for following:

- 1) at least 75% of the population in more than 10 local administration units (national coverage or network);
- 2) at least 80% of the population at the territory encompassing 4 to 10 local administration units (regional coverage or network);
- 3) at least 85% of the population at the territory encompassing at least 4 local administration units (local coverage or network);

Approval for program networking

Article 54

(1) Program networking shall be allowed in purpose of simultaneous broadcasting of radio or TV program of two or more AVM service providers, in duration not exceeding three hours per day, continuously or collectively.

(2) The Council shall issue approval for networking, referred to in paragraph 1 of this Article, with previously given consent by regulatory body for electronic communication.

(3) Providing of AVM service of the same program shall be prohibited if it violates provisions on media concentration envisaged by this Law, or anti-monopoly provisions envisaged by special legal acts.

Connecting of the AVM service providers

Article 55

- (1) AVM service providers may connect into regional or national networks, with regional and wider coverage, if:
- 1) connected AVM service providers appoint one person responsible for joint program, who will guarantee providing of AVM service of program content in compliance with this Law; AVM service providers deliver act on appointment to the Council, not later than within 15 days prior to broadcasting of the joint program;
 - 2) every AVM service provider connected into one system broadcasts at least one hour of the program of in-house production, in period between 07-22 h per day, on the territory for which the approval was granted;
 - 3) joint in-house production of AVM service providers is in Montenegrin language, except for the program content described in paragraph 1, point 2 of this Article, and that it represents at least 10% of program content broadcasted per day via network;
 - 4) connected electronic media introduce joint program basis and sign the contract on manner of realization of program basis, and deliver both documents to the Council in purpose of acquiring previous approval;
- (2) National program network shall be radio or TV program available for at least 85% of the population in Montenegro.
- (3) Regional program network shall be radio or TV program available for at least 70% of the approved service zone of AVM service providers connected by networking.
- (4) Regional or national network, in terms of program requirements and limitations prescribed by this Law, shall be considered as single radio or TV program.

Providing of AVM service of electronic media program that acquires license for the first time

Article 56

- (1) Electronic media that acquires license for the first time shall be obliged to start with broadcasting of program, via all assigned broadcasting frequencies, not later than within 180 days from the date of publishing the list of persons assigned broadcasting licenses in "Official Journal of Montenegro."
- (2) Electronic media that widen its service zone, on basis of public competition, shall be obliged to start with broadcasting of program via assigned broadcasting frequencies not later than within 90 days from the date of license issuing.
- (3) Inobservance of the provisions of paragraph 1 and 2 of this Law shall result with initiative for opening of the procedure for depriving of assigned broadcasting frequencies, in compliance with this Law.
- (4) The Agency shall submit initiative, referred to in paragraph 3 of this Article, to the regulatory body competent for electronic communication.

Providing of AVM service without usage of broadcasting frequencies

Article 57

- (1) Electronic media, which acquired license for providing of AVM service of radio or TV program via electronic communication network, without usage of broadcasting frequencies, shall be obliged to deliver to the Agency contract signed with operator of electronic communication network, not later than within period of 90 days from the date of license acquiring.
- (2) Every next contract signed with the operator of electronic communication network shall be delivered to the Agency, not later than within period of 15 days from the date of signing the contract.

Prohibition of issuing license to one broadcaster for providing of AVM service through the other broadcasting frequency or via other multiplex of digital terrestrial broadcasting system covering wider or entire part of the same service zone

Article 58

When an AVM service provider covers an approved service zone via one broadcasting frequency, or in framework of multiplex of digital territory broadcasting service, the AVM service provider shall not be issued license for providing of AVM service via other broadcasting frequency, or by means of multiplex of digital territory broadcasting system, which would cover wider or entire part of the same service zone.

Temporary broadcasting license

Article 59

(1) The Council may grant a temporary license for the providing of AVM services for a limited period if certain events are to take place.

(2) Temporary license for AVM services providing shall be granted upon the request of the legal person intending to broadcast radio or TV program related exclusively to the event of special interest for citizens, and the license shall be valid only during the event for which it has been granted.

(3) The fee amount and more detailed requirements for granting a temporary license for the providing of AVM service shall be prescribed by the Council.

Period of license validity

Article 60

(1) The license for providing of AVM service shall be granted for the period of 15 years.

(2) Exceptionally from the paragraph of this Article, and in order to ensure prompt transmission from analogue to digital terrestrial broadcasting systems, license may also be granted for a shorter period not exceeding six years.

(3) The validity of the license may be extended on the request of the license holder, who is obliged to submit the request to the Agency not later than 6 months before the expiry of the valid license.

Cessation of the license validity prior to expiry date

Article 61

(1) The license for providing AVM services may cease to be valid before the expiry of the license validity in the following cases:

- 1) if the electronic media informs the Agency in writing that he does not intend to broadcast programme any longer;
- 2) if electronic media, without reasonable justification, fails to comply to the Council's order to remove all shortages that refers to illegal media concentration;
- 3) if the measure of temporary revoking of the license is imposed to broadcaster for two times;
- 4) if it is determined that the electronic media presented incorrect data when applying to the public tender or omitted to reveal the data of importance in the decision making process upon the application;
- 5) if electronic media fails to start with broadcasting in prescribed period;
- 6) if electronic media does not deliver to the Agency contract with operator of at least one electronic communication network not later than within the period of 90 days from the date of license issuing;

- 7) if regulatory body for electronic communication revokes license of the broadcaster granted for using of broadcasting frequencies;
 - 8) if electronic media, without reasonable justification, stops providing of AVM service, during one calendar year, in period of 10 consecutive days, or in period of 15 days with intermissions;
 - 9) after the expiry of defined deadline when the electronic media was warned to remove all shortages or to stop activities that do not comply with provisions of the license granted and of the Law
 - 10) if the electronic media was imposed fine due to violation of copy and related rights;
- (2) In case of the liquidation procedure of electronic media, license shall cease to be valid on the day when legal entity becomes invalid.
- (3) If any of the reasons referred to in paragraph 1 of this Article take place, the license shall cease to be valid upon the license withdrawal decision taken by the Agency.

Warning and temporary license revoking

Article 62

The Agency may impose a warning to electronic media and it may temporarily revoke its license.

Warning

Article 63

- (1) The Agency Director shall issue a warning to the AVM service provider that has violated any of the obligations determined by this Law, Agency's regulations or by the licence granted, with the assumption that a warning shall be enough for the electronic media to remove the consequences of its illegal behaviour (fee payment, obligatory delivery and updating of data on AVM service provider).
- (2) On the occasion of imposing the warning, the Agency Director shall specify which obligation the electronic media has violated, and determine measures that the electronic media should undertake in order to eliminate the violation.

Temporary license revoking

Article 64

The Agency Director shall temporarily revoke the licence, for the period of 30 days, if:

- 1) electronic media continues to violate provisions on program content prescribed by this Law even after imposing of the warning sanction;
- 2) Warning measure, referred to in paragraph 1 of article 62 herein, was imposed.

License revoking

Article 65

The electronic media that has been previously issued the sanction of temporary revoking of the license for AVM service providing, for two times, shall be deprived of the license.

Special regulation

Article 66

A special regulation of the Council shall closely prescribe the procedure of making a decision on temporary and permanent license withdrawal, which shall be based on the principles of objectivity and impartiality, and the electronic media shall be allowed to give their position with regard to the facts that occasioned the initiation of the procedure.

Administrative dispute

Article 67

- (1) Decision of the Council shall be final.
- (2) Administrative dispute may be initiated against the final Council's decision.

CHAPTER IV

RIGHTS AND OBLIGATIONS OF THE ELECTRONIC MEDIA

Article 68

- (1) The electronic media shall be responsible for the contents of the broadcasted program in compliance with this Law and the Law regulating the field of media.
- (2) The electronic media is obliged:
 - 1) to inform the public on the events and matters of public importance in the country and abroad in a truthful, complete, impartial and timely manner;
 - 2) to contribute to the observance and promotion of fundamental human rights and freedoms, democratic values and institutions, and pluralism of ideas;
 - 3) to enhance public dialogue culture and to observe the linguistic standards;
 - 4) to protect integrity of minors /minor persons/;
 - 5) to announce warning for program content that could impair physical, health, moral, intellectual, emotional and social development of a child;
 - 6) to respect the privacy and dignity of citizens;

Obligatory identification

Article 69

- (1) The name, logo, or abbreviated identifying symbol of radio or TV program shall be broadcast in the following manner:
 - 1) For a television programme – during the entire programme broadcasting;
 - 2) For a radio programme – at least once in 20 minutes of programme broadcasting;
- (2) It is forbidden to use the name, logo, or abbreviated identifying symbol not corresponding with the registered name of the radio or TV programme.
- (3) The name, logo, or abbreviated identifying symbol of radio or TV programme shall be marked even in cases when programmes from other broadcasters are taken over, and, when broadcasting programmes of independent production, the name shall be stated in the announcement and/or final notice of the programme.

Change in radio or TV program structure

Article 70

- (1) Electronic media is obliged to inform the Agency in written about every significant change in structure of radio or TV program that is broadcasted.
- (2) The significant change in program structure, in sense of this Law, shall be every change of at least 10% of the program structure on basis of which the license was granted.
- (3) The Agency may revoke approval for change of program structure if determines that change would cause shortage of certain program content, in the zone covered by radio or TV program, for which the electronic media has license.

European audiovisual works

Article 71

- (1) European audiovisual works in sense of this Law are as follows:
- 1) the works originating from member-states of the European Union;
 - 2) the works originating from the states signatories of European Convention on Trans-frontier Television and fulfils requirements prescribed by this Law;
 - 3) the works created exclusively as co-production in framework of agreements related to audiovisual sector signed between EU member states and third countries, and which fulfils requirements defined in each of these agreements;
- (2) The works, referred to in paragraph 1, points 1 and 2 of this Article, shall be those mainly produced by authors and employees with permanent residence in the mentioned countries, provided they fulfil one of the following conditions:
- 1) works created by one or more producers established in one or more aforementioned countries; or
 - 2) their production is supervised and actually controlled by one or more producers established in one or more of those States; or
 - 3) the contributions of co-producers of those States to the total production costs is preponderant and the co-production is not controlled by one or more producers established outside those States;
- (3) the works referred to in paragraph 1 of this Article shall be those created exclusively in co-production with producers established in one or more EU member states; with the producers established and registered in one or more third European countries, with which the European Union has concluded agreements related to the audio-visual sector, provided that the works are mainly created by authors and workers permanently residing in one or more of these European countries;
- (4) works that are not European, within the meaning of paragraph 1 of this Article, but are produced within the framework of bilateral co-production treaties concluded between EU member-states and third countries, shall be deemed to be European works provided that the EU co-producers supply a majority share of the total cost of the production and that the production is not controlled by one or more producers established outside the territory of European Union;

Share of European audiovisual works

Article 72

- (1) Electronic media is obliged to ensure majority of share of European audiovisual work during its broadcasting in one year;
- (2) Electronic media, who does not ensure share of European audiovisual works referred to in paragraph 1 of this Article, shall increase share of such works on annual basis in accordance with criteria and manner defined by the Council's regulation, whereas the minimum initial volume is **10%**.
- (3) Broadcasting in one year, referred to in paragraph 1 of this Article, shall not include broadcasting time intended for news, sports events, advertising, teletext, and teleshopping.
- (4) Share of European audiovisual works shall include audiovisual works of in-house production.
- (5) Provisions of the paragraph 1-4 of this Article shall not refer to broadcasters-holders of the license for broadcasting on regional and local level, not linked into regional or national networks and non-profit broadcasters.

Audiovisual works of independent producers

Article 73

(1) An independent producer of audiovisual works (hereinafter referred to as “the independent producer”) shall be a legal or physical person who fulfils the following conditions:

- 1) it is registered for the performance of activities in field of production of audiovisual works and has the seat in Montenegro or in one of the European Union member states;
- 2) it is not included into the organizational structure of the broadcaster;
- 3) electronic media of TV program may have up to 25% of shares in capital of producer or managerial or voter’s rights at the most;
- 4) each order of an individual broadcaster of the television programme represents half of his annual production at most;

(2) An independent producer shall be a legal or physical person registered as a producer of audiovisual works with seat in one of the third countries, if European works comprise the major part of its audiovisual production in the last three years and fulfils the conditions prescribed in the paragraph 1, points 2 and 3 of this Article.

(3) The independent producer may not be legal or physical person whose average share of financial means for covering total expenses of production or co-production, in which it participated in the last three years, does not exceed 10%.

Share of audiovisual works of independent producers

Article 74

(1) The television programme broadcaster shall ensure that the share of audiovisual works of independent producers in the annual programme amounts to at least 10% of the time.

(2) Electronic media, who does not achieve the portion of audiovisual works of independent producers as prescribed in paragraph 1 of this Article, shall increase the portion of those works each year proportionally in accordance with the criteria and manner defined in the regulation passed by the Council.

(3) At least half of the works referred to in the paragraph 2 of this Article shall be produced in previous five years.

(4) The news and current affairs programme, sport events, advertising, teletext and teleshopping shall not be included into the annual broadcasting time referred to in paragraph 1 of this Article.

Article 75

Provisions of the Article 76 of this Law shall not refer to AVM service providers who are granted license for broadcasting of AVM services at local and regional level, and are not connected into regional or national networks or to non-profit broadcasters.

In-house production

Article 76

(1) In-house production shall be informative, cultural, art, sports and other works, as well as other program content originally produced by the electronic media, or produced upon previous order of the electronic media for own purposes.

(2) In-house production shall include works broadcasted for the first time, and for the second showing as well.

(3) Advertisements and teleshopping shall not be deemed program content created by means of in-house production.

(4) Criteria for determining program content of in-house production shall be closely defined by the Council.

(5) Second showing of radio or TV work shall be precisely marked and announced.

Right to short information

Article 77

(1) Every electronic media shall have the right, under the equal conditions, to short information about all significant shows and other events of public importance.

(2) Short information, referred to in paragraph 1 of this Article, shall be information broadcasted within informative program in duration not exceeding 90 seconds.

(3) The organizer of an important event may request electronic media to pay only rental fee, if envisaged such, and a compensation for possible real costs arising from the organization of the event.

(4) The right to short information may be limited or excluded if its broadcasting would severely hurt the feelings of participants in the event or endanger public peace and order.

(5) An electronic media, who used the right to short information, shall enable other electronic media, who could not tape the broadcast of the event, a single use of the tape and shall have the right to ask compensation for that, proportional to his share in the actual costs as well as the mentioning of his name or the name of the company in the tape recording.

Broadcasting of event of special public importance

Article 78

(1) Electronic media shall not acquire the exclusive right to broadcast event of special public importance in Montenegro, unless provides quality reception of radio or TV program for at least 75% of total population in Montenegro.

(2) A number of electronic media may acquire exclusive right to broadcast an event of special public importance in Montenegro if ensure, by means of networking, quality reception of radio or TV program for at least 85% of total population in Montenegro.

List of events of special public importance

Article 79

(1) The Council shall, in compliance with the European standards, define and prescribe list of events of special public importance in Montenegro.

(2) The Council is obliged to inform Permanent Committee for Trans-frontier Television on the list of events referred to in paragraph 1 of this Article.

(3) The Council is obliged to deliver notice on defined list and measures to the states-signatories of the European Convention on Trans-frontier Television.

Exclusive broadcasting right for event of special public importance

Article 80

Electronic media exercising exclusive right for broadcasting of event of special public importance is obliged to allow other interested electronic media to tape and broadcast short information/report from such event, which may contain authentic image and sound of such event, in duration not exceeding 90 seconds.

CHAPTER V

LICENSE FOR DISTRIBUTION OF AVM SERVICES UPON REQUEST

Licensing procedure for distribution upon request

Article 81

(1) The Agency shall grant license for distribution of AVM services upon request (hereinafter referred to as „distribution license”), in compliance with this Law.

(2) A person holder of distribution license shall acquire status of distributor and right to distribute radio and television programs, as well as other AVM services, to the end users in certain area.

Application for license granting for distribution upon request

Article 82

Person who intends to use electronic communication network for distribution of radio or television program and other AVM services as well shall submit application for distribution license.

Distribution license

Article 83

(1) Distribution license shall contain data on following:

- 1) the holder of the license;
- 2) the name of AVM service;
 - 1) service zone i.e. zone of AVM service providing;
 - 2) program catalogue;
 - 3) amount and conditions for payment of annual fees;
 - 4) license validity period;
 - 5) other rights and obligations of the license holder;

(2) License shall not be transferred to other legal person without previous approval given by the Agency.

(3) The Agency shall approve transferring of license only in case of transfer of activity with transfer of equipment and current subscribers on services of distributor.

Contract with electronic communication operators

Article 84

(1) Holder of the distribution license for program and other AVM services, by means of electronic communication network, shall deliver following documents to the Agency, not later than within 90 days from the date of license granting:

- 1) contract signed with operator of at least one electronic communication network; or
- 2) evidence on registration in the Register of Operators kept by regulatory body for electronic communications;

(2) Every next contract signed with the operator of electronic communication network shall be delivered to the Agency, not later than within period of 15 days from the date of signing the contract.

Conditions for granting of license

Article 85

(1) Conditions for granting of distribution license shall be more closely prescribed by the Council.

(2) Provisions of this Law referring to the licensing procedure for AVM service providing shall be accordingly applied to the procedure of granting distribution license unless it is otherwise stipulated.

Revoking of distribution license

Article 86

The Council may revoke distribution license if:

- 1) distributor fails to perform in compliance with the conditions and parameters stipulated by the license;
- 2) the fee is not paid in compliance with the license;
- 3) the competent court determines that distributor **seriously** violated copy or related rights by distributing program, and **imposes criminal sanction or fine on distributor for committed offence in compliance with the law**;
- 4) regulatory body for electronic communication, ex officio, revoked license for usage of radio frequency from the distributor;
- 5) competent state body determines violation of regulations and submits proposal for license revoking;

CHAPTER VI

RIGHTS AND OBLIGATIONS OF DISTRIBUTOR

Rights of distributor

Article 87

(1) Distributor shall perform activities of distribution of radio and TV program on the territory of Montenegro exclusively by means of registered/licensed electronic communication network.

(2) Distributor license does not give any right to its holder to perform the distribution of radio and TV programs via the reception system with a common antenna device, which represents a cable and antenna structure built as a standard installation of residential buildings, and used for reception of programs distributed via terrestrial transmitters and other electronic networks that are not part of licensed electronic communications network, unless the license of regulatory body for electronic communication for such distribution is obtained in accordance with the regulations governing the right of access to cable infrastructure, channels and verticals, as well as the joint antenna device

Distributor's obligations

Article 88

(1) Distributor shall not distribute its programs, except for accurate data on time, data about system and electronic program guide, and one advertising program for own purposes

(2) Distributor shall not have a share in legal entity that is electronic media.

(3) Distributor is obliged to establish an internal organization of business within 3 months from the issuance of license for distribution, and to keep separate accounting for activities AVM service providing to the end users from those that refer to other sectors (manufacturing and providing of AVM service of program, infrastructure renting, providing of other services of electronic communication, etc).

Previous written consent of program owner

Article 89

(1) Prior to activation of a particular radio or television program in the program catalogue, distributor is obliged to acquire written consent of the owner of the program, and shall not begin

distribution of the program prior to obtaining of such consent, which is forwarded to the Agency in purpose of recording.

(2) Distributor is obliged to distribute radio and/or television programs simultaneously, in full form and without change, in accordance with received consent.

(3) Distributor is allowed to perform distribution of coded satellite program only if concludes a contract for distribution with the owner of such programs, which allows decoding in purpose of further public re-broadcasting.

(4) If distributor provides services of distribution of radio and TV programs that represent the prevailing way of receiving these programs in a particular service area, the Agency is obliged to determine the distributor's obligation to transfer certain programs or content, at the request of the media service provider

Copy and related rights

Article 90

Distributor shall respect the protected copyright or related rights, in accordance with provisions of the law.

Distributor's obligations relating to program content

Article 91

(1) When preparing basic package of services, a distributor shall not distribute the program content that is in contrary to the law.

(2) Distributor is obliged to abide by the list of programs included in program catalogue.

(3) Distributor is obliged to notify the Agency, in written form, prior to all changes of the program list, and changes of the number and structure of program packages.

(4) Distributor is obliged to pay special attention that distributed programs are not harmful for children.

(5) Distributor is obliged to stop distribution of program content violating program standards prescribed by the Council, without further delaying.

User agreement on the manner and conditions of providing of distribution service

Article 92

(1) Distributor shall sign user agreement with the end user of services on manner and conditions for providing distribution services of radio and TV program, and other AVM services as well.

(2) User agreements shall obligatory contain provisions regulating following:

1) amount and manner of payment of accession fee,

2) amount and manner of payment of monthly fee,

3) program catalogue included in distribution service,

4) information on procedure for filing complaint relating to distributor's operations;

(3) Text of the contract with the end user shall be approved by the Council.

(4) Pricelist of services shall be approved by the Council.

Prohibition of refusal to connect

Article 93

(1) Distributor shall not deprive the interested user of the connection if the technical possibilities for it exist.

(2) Distributor shall not limit access to the end users on national, religious, sex, property, or other basis; Distributor shall not perform election of distributed programs in interest of only one national or religious community in Montenegro;

(3) Service shall be offered to all citizens in zone technically covered by distribution; person who accepts unique and non-discriminatory conditions laid down in offer shall have the right to conclude subscriber's contract.

(4) Subscriber, in any case, shall not be conditioned with waiving the right on using the same or other service offered by other distributor in purpose of accessing to the program catalogue, offered on basis of license.

(5) Subscriber shall have the freedom to choose whether to buy device for reception from the distributor or in domestic market, under the condition that it is legally imported in compliance with the legal acts regulating that field.

Registry of AVM service providers and subscribers

Article 94

(1) The Agency shall keep public registry of licenses granted for AVM service providing.

(2) Procedure for keeping the registries, referred to in paragraph 1 of this Article, shall be prescribed by the Council.

(3) The agency shall deliver, in accordance with the law governing the field of media, to the state body competent for audiovisual media sector all data necessary for registration in media registry, which refer to every license issued for AVM service providing.

(4) All distributors of program services shall allow Agency to access their databases on subscribers via internet, with full respect of legal acts and provisions on protection of data on individuals.

CHAPTER VII

FUND FOR PROTECTION OF MEDIA PLURALISM

Fund

Article 95

(1) Fund for protection of media pluralism (hereinafter referred to as "the Fund") shall be established in purpose of instigating production of commercial electronic media and protection of diversity of electronic media in Montenegro.

(2) The Fund shall operate within the Agency.

The Fund's means

Article 96

(1) The Fund's means shall stimulate the production of programme contents of electronic media at local and regional levels, which are of public interest, and which are particularly important for:

- 1) national minorities in Montenegro,
- 2) prevention of all forms of discrimination,
- 3) encouraging and promotion of social inclusion of disabled persons,
- 4) protection of nature, environment, and health;
- 5) enhancing culture of public dialogue,
- 6) encouraging cultural activities,
- 7) development of education, science and art,
- 8) protection of Montenegrin national and cultural identity,
- 9) encouraging and promotion of exercising and protection of human rights,
- 10) development of awareness on gender equality

(2) The Fund's means shall be allocated for encouraging of pluralism and diversity of radio and television programs.

Criteria for the Fund's means allocation

Article 97

(1) Criteria for allocation of Fund's means are as follows:

- 1) Quality and substantial innovations of offered program;
- 2) Significance of program for realization of goals referred to in Article 98 of this Law;
- 3) Economy and long-term aspect of program,
- 4) General interest for cultural development, and

(2) The Fund's means shall not be allocated for programs already co-financed on any basis from the Budget of Montenegro or from budget of local self-government units.

Sources for Fund financing

Article 98

(1) Financing of the Fund shall be provided from the following sources:

- 1) part of the subscription fee paid to the distributors of program services;
- 2) form the Budget of Montenegro;
- 3) additional fees for usage of broadcasting frequencies paid during realization of public tenders for granting of rights on using of such, where the amount of offered fee is one of criteria for election of broadcaster or distributor;
- 4) from other sources in accordance with the law;

(2) Amount of the fees referred to in paragraph 1, point 1, shall be defined by the Council.

Distribution of the means

Article 99

(1) Distribution of the means from the Fund shall be performed by the Council every six months, on basis of public tender and in accordance with the special regulation.

(2) The Council shall, in the special regulation referred to in paragraph 1 of this Article, prescribe the manner and procedure for following:

- 1) realization of public tender for co-financing of program contents from the Fund;
- 2) monitoring of spending of means and realization of program contents for which the means were allocated;

(3) List of means' users, program contents for which the means were allocated, and report on realization shall be published at the web site of the Agency.

CHAPTER VIII

PUBLIC BROADCASTING SERVICES

Article 100

Public broadcasting service shall produce and broadcast news programmes, cultural, art, educational, scientific, children, entertainment, sports, and other program contents, that ensure exercise of the rights and interests of citizens and other subjects in the field of informing.

National and local public broadcasting services

Article 101

(1) Public broadcasting service shall be established by the law for territory of Montenegro (national public broadcasting service), and by the decision of the competent municipal assembly for the territory of local self-government unit (local public broadcasting service).

(2) Public broadcasting services shall be involved in the production and broadcasting of radio and/or television programmes and shall have special obligations related to the realization of public interest in the field of information in compliance with this Law and the Law regulating field of media..

General interest

Article 102

In order to realize public interest in the field of information, public broadcasting services shall:

- 1) independently and autonomously produce, edit and broadcast programmes that do not serve to the political, economic or other power centres;
- 2) objectively and timely inform the public on political, economic, cultural, educational, scientific, sports and all other important events and issues both in the country and abroad;
- 3) produce and broadcast programs intended for all segments of the society, without any discrimination, especially taking into account specific social groups such as children and youth, minority ethnic communities, the disabled, the socially and medically challenged, etc.;
- 4) promote the culture of public communication and linguistic standards;
- 5) produce and broadcast the programmes expressing the cultural identity of nations, nationalities and ethnic groups;
- 6) produce and broadcast programmes in native languages of national and ethnic groups in the areas inhabited by them
- 7) during the election campaign, on the basis of separate regulations, provide equal presentation of political parties, coalitions and candidates with the accepted candidature and election lists
- 8) mutually co-operate and exchange program contents of interest for the citizens of Montenegro;

Election campaigns

Article 103

(1) Political commercial audiovisual communication shall not be permitted in the programs of public broadcasting services except during the election campaign.

(2) According to the provisions of this Law, the following activities shall be considered to be political commercial audiovisual communication during the election campaign: announcements, videos and other forms of propaganda aimed at influencing the choice of voters when voting at the elections for the President of Montenegro, Members of Parliament and City Councillors.

Religious propaganda

Article 104

Religious propaganda shall not be permitted in the programmes of public broadcasting services.

Regulations on presentation of political parties, coalitions, and candidates

Article 105

(1) The regulations on the presentation of political parties, coalitions, and candidates with accepted election lists and candidatures shall be adopted by the Council of the public broadcasting service.

(2) The regulations referred to in paragraph 1 of this Article shall prescribe the manner of presentation of both political parties and independent candidates who are not represented in the Parliament or the assemblies of the local self-government units.

Ordering party

Article 106

(1) An ordering party of political propaganda shall be clearly indicated in political propaganda contents.

(2) Ordering party of political propaganda shall be accountable for its verity and correctness, and the public broadcasting service shall be accountable for the compliance of such programmes with provisions of this Law and the Law regulating field of media.

Refuse to broadcast political propaganda content

Article 107

A public broadcasting service may refuse to provide AVM service of political propaganda that does not comply with law and the adopted rules of presentation of political parties, coalitions, and candidates with the accepted election lists.

Manner and conditions of presentation of political parties, candidates and their programmes

Article 108

Public broadcasting services shall announce, 15 days after the elections for the President of Montenegro or the Parliament of Montenegro or assemblies of local self-government units are scheduled, in daily press and in other ways accessible to the public, the manner, and conditions of presentation of political parties, candidates and their programmes.

Announcing of the results of public opinion polls on candidates and political parties

Article 109

Seven days before the day of elections, it shall not be permitted to announce the results of public opinion polls on candidates and political parties in the programmes of public broadcasting services.

Revenues of public broadcasting services

Article 110

(1) The broadcasters of public broadcasting services shall acquire their revenues from the part of general revenues of the Budget of Montenegro i.e. part of general revenues of local self-government units, and other sources in compliance with law and founding act.

(2) The Budget of Montenegro or of the local self-government unit shall provide a part of the funds for the realization of citizens' right to be informed without discrimination, guaranteed by the Constitution and the Law, based on the programming important for:

- 1) exercising of the right on public information and informing of all citizens of Montenegro, exercise of rights of members of minority groups in Montenegro and members of other minority national and Montenegrin communities abroad;
- 2) exercise of human rights and political rights of the citizens, and enhancing of legal and social state and civil society;
- 3) development of culture, science, education and art;

- 4) protection of Montenegrin national and cultural identity;
- 5) encouraging of cultural activity;
- 6) information intended for persons with hearing and sight impairments;

(3) With the aim to realize the rights, referred to in the paragraph 2 of this Article, the Budget of Montenegro, or the budget of local self-government unit shall provide a part of the funds for the program contents Albanian and Roma language.

(4) Administration authority competent for media affairs, on behalf of the Government of Montenegro or the competent executive authority in the local self-government unit, and the public electronic media shall stipulate by contract mutual rights and obligations related to the use of funds referred to in paragraph 1 and 2 of this Article.

(5) The Manner and conditions of the fund provision, referred to in paragraphs 1 and 2 of this Article, shall not influence the editorial independence of the public broadcasting service

(6) The contract, referred to in the paragraph 4 of this Article, shall be announced in a manner prescribed by the founding act of the electronic media and submitted to the Agency.

(7) Administration authority competent for media affairs, on behalf of the Government of Montenegro, or the competent executive authority in the local self-government unit, and the Broadcasting Centre shall stipulate by contract mutual rights and obligations related to the costs of transmission and broadcasting of program by public broadcasting services by means of terrestrial systems.

Managing Bodies in the public broadcasting services

Article 111

(1) The following bodies shall be formed in the broadcasters of public broadcasting services:

- 1) the Council;
- 2) Director;

(2) The manner of appointment, election, and decision-making and competence of the bodies referred to in paragraph 1 of this Article as well as the other issues important for the work of the broadcaster of public broadcasting services shall be prescribed in law or in the charter of the public broadcasting service

The Council

Article 112

(1) The Council of the public broadcasting service shall represent the interests of the citizens of Montenegro or the local self-government unit on the territory where the program is being broadcast;

(2) The Council of the public broadcasting service shall be functionally independent from any state authority, as well as from all physical and legal persons involved in the production, transmission and broadcasting of radio and television programmes or other related activities.

(3) A person who does not qualify for the member of the Agency Council in compliance with this law shall not be appointed member of the Council of the public broadcasting service.

(4) The members of the Council of the public broadcasting service shall be elected from among the prominent experts in various areas relevant for the functioning of a public broadcasting service (journalists, sociologists, lawyers, economists, engineers, media analysts, marketing experts, etc.).

Number of the Council's members

Article 113

The Council of the public broadcasting service shall:

- 1) On national level, consist of up to 9 members, provided that the number of the Council Members is odd;
- 2) On local level, consist of up to 5 members.

CHAPTER IX

PREVENTING ILLEGAL MEDIA CONCETRATION

Media concentration existence

Article 114

(1) According to the provisions of this Law, media concentration shall be present whenever the broadcaster:

- 1) has a share in the founding assets of another broadcaster, a company publishing daily newspapers and vice versa, or a company involved in the news agency activities and vice versa;
- 2) simultaneously holds several licenses for the transmission and broadcasting of radio and TV signals
- 3) simultaneously broadcasts both radio and television programmes
- 4) simultaneously broadcasts radio and/or television programme and publishes a daily newspaper distributed in the area where radio and/or television programmes are also being broadcast;
- 5) simultaneously broadcasts radio and/or television programme and is involved in news agency activities

(2) According to the provisions of this law, media concentration shall also be present whenever the founders of electronic media are physical and legal persons, which are at the same time:

- 1) founders of another broadcaster;
- 2) founders of a company publishing a daily newspaper distributed in the area where these radio and/or television programmes are being broadcast;
- 3) founders of a news agency;
- 4) spouses or relatives both in the straight and indirect line up to the second degree of kinship among the individuals mentioned;

(3) Electronic media holder of a number of licenses granted by the Agency is obliged to keep management and accounting structures separately for each license.

Illegal media concentration

Article 115

Illegal media concentration shall be considered to exist whenever:

- 1) electronic media licensed for the transmission and broadcasting of radio and TV signals on the national level of coverage (85% of the population of Montenegro) has more than 25% share in the capital assets of another broadcaster with the same license;
- 2) a broadcaster, except for the national public broadcasting service, broadcasts more than one television and one radio programme in the same area or with the similar program basis;
- 3) electronic media licensed for the transmission and broadcasting of radio and TV signals on the national level of coverage has more than 10% share in the capital assets of a publisher of a daily newspaper with circulation exceeding 3000 copies, and vice versa

- 4) electronic media licensed for the transmission and broadcasting of radio and TV signals on the national level of coverage has more than 10% share in the capital assets of a company involved in the news agency activities, and vice versa
- 5) electronic media licensed for the transmission and broadcasting of radio and TV signals on the national level of coverage is simultaneously a publisher of a daily newspaper with circulation exceeding 3,000 copies
- 6) a radio or television station as electronic media on local or regional level of coverage has more than 30% share in the capital assets of a broadcaster licensed for broadcasting on the regional or local level of coverage in the same area;
- 7) a radio or television station electronic media on local or regional level of coverage is simultaneously a publisher of a local daily newspaper, in the same or the neighbouring areas;

Special cases of illegal media concentration

Article 116

Illegal media concentration shall also be considered to exist when, in the cases referred to in the Article 121 of this Law, physical person who is the founder of the broadcaster or the founder, or the persons who are his relatives in the straight line up to the second degree of kinship or their spouse, participate in the capital assets of another broadcaster, founder of a daily print media or a news agency, with more than the determined amount of the capital assets.

Licensing and illegal media concentration

Article 117

- (1) The Council shall not adopt a decision on issuing the license for the transmission and broadcasting of radio and TV signals to the applicants if it determines that such issuing would result, according to the provisions of this Law, in illegal media concentration.
- (2) The applicant for the license issuing shall submit, in addition to the application, an attested statement that possible issuing of the license for electronic media shall not result in illegal media concentration, according to the provisions of this Law.

Change in ownership structure of the broadcaster

Article 118

- (1) The electronic media shall inform the Agency in writing of any change in the ownership structure.
- (2) If change of the ownership structure of electronic media, which was valid when the license was granted, exceeds 10% of share, it shall be considered partial transfer of ownership, for which the prior approval in written of the Council needs to be acquired.
- (3) The Council shall issue license/approval referred to in paragraph 2 of this Article only if sure that proposed future owner shall continue with fulfilment of assumed obligations and conditions prescribed by the granted license and demonstrates ability to fulfil them until the expiry of license validity.
- (4) If the Council determines that after the issuance of license to the electronic media, illegal media concentration is present, it shall order the broadcaster to conform its status with the provisions of this law relating to illegal media concentration within three months.
- (5) If the electronic media fails to act in accordance with the order referred to in paragraph 4 of this Article within the specified deadline, without justified reason, the Agency shall revoke the broadcaster's license for the transmission and broadcasting of radio and TV signals.

(6) Domestic legal entity in which some of the founders are foreign legal entities, registered in the countries where internal regulations forbid or unable the origin of the founding capital to be disclosed, shall not be holder of the license.

(7) If a foreign legal entity referred to in paragraph 6 of this Article appears as one of the joint owners of the electronic media after the license has been obtained, the provisions of this law related to termination of validity of the license for the electronic media before its expiry shall be applied

Data on founder and related persons with direct or indirect share in ownership of electronic media founder

Article 119

(1) Electronic media shall, not later than 31 December of current calendar year, deliver to the Agency data on founder(s), its/their seat, name, and seat of all persons with direct or indirect share in ownership of electronic media founder, including the data on level of share, i.e. ownership amount.

(2) Electronic media shall, not later than 31 December of current calendar year, deliver to the Agency data on:

- 1) Its ownership share in other companies providers of AVM services or distributor in accordance with the provisions of this Law;
- 2) Share of its owners exceeding 10% of total ownership in companies providers of AVM services or distributor in accordance with the provisions of this Law;

(3) If electronic media fails to fulfil obligation referred to in paragraph 1 and 2 of this Article, the Agency shall initiate procedure for imposing of sentences prescribed for disregard of conditions defined by the granted license.

CHAPTER X

COMMERCIAL AUDIOVISUAL COMMUNICATION

Forms of commercial audiovisual communication

Article 120

Forms of commercial AVM communication shall be radio and television advertising, teleshopping, sponsorship, and disposal of products.

Principles

Article 121

(1) Commercial audiovisual communication shall be based upon following principles:

- 1) freedom of advertising and sponsorship;
- 2) accuracy, integrity, and exactness;
- 3) identification of advertiser;
- 4) prohibiting misuse of confidence; prohibition of discrimination;
- 5) prohibiting behaviour endangering health or security and protection of environment;
- 6) prohibiting violation of moral;
- 7) protection of children's rights and their mental and moral health;
- 8) respect and protection of competition;

(2) Commercial audiovisual communication shall be realized in accordance with this Law, law-regulating field of media, special regulation of the Council, and other relevant regulations.

Prohibitions

Article 122

- (1) Commercial audiovisual communication shall be accurate, honest, and defined.
- (2) Transmitting of messages by means of techniques with subconscious influencing, which present manipulation or are harmful in social and emotional sense, shall be prohibited in advertising, teleshopping, and sponsorship.
- (3) Usage of data that may cause misleading of identity of advertiser, his/her activities, characteristics, quality, origin and other data related to product or service.
- (4) Advertiser shall not impose any editing influence on the program content.

Radio and television advertising

Article 123

Radio and TV advertising (hereinafter referred to as “advertising”), recommending of products and services during the program not intended for advertising, and other forms of hidden and fraud advertising shall not be permitted.

Prohibition of refusal to broadcast advertisements if refusal may cause or maintains monopoly position

Article 124

Refusal to broadcast AVM service of advertisement shall not be permitted, if refusal may cause or maintain monopoly, or any other dominant position of the market participants or it may result with disloyal competition.

Advertising prohibition

Article 125

Following shall not be advertised in electronic media programs:

- 1) products intended for concealing of alcohol influence when Alco-tests are applied;
- 2) products sharing trademark with tobacco products, whose advertising is prohibited by the law;
- 3) “business escort” agencies;
- 4) pornography;
- 5) Scientifically unsubstantiated content and method of dealing with health and other life problems that undoubtedly can cause damage to the "user" (charlatanry in any form, etc.);
- 6) betting, games of chance and gambling

Illegal advertising

Article 126

The advertisements shall not contain:

- 1) Visual and audio forms, content or elements that are recognized as used for the important news or press releases (e.g., daily, news, etc.);
- 2) identification and recognition of any program in other program content with intent to mislead user of AVM service that watches/listens to that specific program;
- 3) Use of parts of a program (title, logo, music, etc.);

Prohibition of advertisement broadcasting

Article 127

(1) It is forbidden to provide AVM services of advertisement that contains a continuous flashing light or certain types of recurring visual effects, which can cause problems with the viewers with photosensitive epilepsy.

(2) Advertisement shall not:

- 1) discredit and disparages a competitor, its product or service;
- 2) represent competition product or service in form of bad copy or reproduction;

Advertisement message

Article 128

Advertisement message shall not be in form of copy of other advertiser's message, its activities, products, or services, and it shall be illegal to use trademark or any logo used by the competitor;

Scene of death, injury, violence, and destruction of buildings and nature

Article 129

The advertisement shall not contain Scenes of death, injury, violence, and destruction of buildings and nature.

Children and juveniles

Article 130

(1) Advertisements shall not contain material that will use inexperience of children and may cause fear and aggression, and inappropriate moral and social behaviour of children and juveniles.

(2) Advertisement message intended for children and/or juveniles shall not recommend a product or service, which is not intended for those persons.

Advertising of alcohol beverages

Article 131

(1) Advertising of alcoholic beverages, except for beer and wine, including any emphasis of brands or labels of alcoholic beverages or producers of these drinks shall not be permitted.

(2) The advertisement message shall not contain or show imitation or use of alcoholic beverages.

Duration of advertising in programs of public broadcasters

Article 132

(1) Duration of advertising in programs of public broadcasting services shall not exceed 10 % (6 minutes) per hour of broadcasted program.

(2) Time envisaged for teleshopping shall not exceed 5% (3 minutes) per hour of broadcasted program.

(3) Broadcast of advertisements and teleshopping exceeding 9 minutes in any hour of program broadcasting during the day shall not be allowed.

Duration of advertising in programs of commercial broadcasters

Article 133

(1) Duration of advertising in programs of commercial broadcasting services shall not exceed 15 % (9 minutes) per hour of broadcasted program.

(2) Time envisaged for teleshopping shall not exceed 5% (3 minutes) per hour of broadcasted program.

(3) Broadcast of advertisements and teleshopping exceeding 20% (12 minutes) in any hour of program broadcasting during the day shall not be allowed.

Daily duration of advertising

Article 134

(1) Daily duration of advertising and teleshopping shall be determined for period 00:00h - 24:00 hours.

(2) Advertisements and teleshopping shall be broadcasted, by rule, in blocks, and clearly recognizable, and separated from other program contents by optic and acoustic means.

(3) Teleshopping shall be broadcasted for at least 15 minutes in continuity.

Contents not including advertisements

Article 135

Advertisements shall not be included in:

- 1) religious content;
- 2) formal ceremonies (inauguration of the President of Montenegro and similar occasions);
- 3) programs relating to tragic events of large extent;
- 4) Programs lasting 30 minutes or shorter;

Exemption

Article 136

The advertisements shall not be considered to be:

- 1) free announcements of public works and charity campaigns;
- 2) free presentations of works of art;
- 3) free publicizing of information on producers, organizers, sponsors or donors of works of art, cultural and entertainment events and charity campaigns
- 4) information and promotion of own program contents;

SPONSORSHIP

Prohibition of sponsorship for program content

Article 137

(1) The sponsored programming shall not instigate the sale, purchase or renting of products or services of the sponsor or a third party, particularly not through special presentation of such products or services.

(2) The program content shall not be sponsored by physical and legal persons the basic business of which is the production or sale of products or providing services whose advertisement is forbidden by the Law governing field of media.

(3) Political parties, coalitions and other political organizations shall not be sponsors of broadcasting programmes.

(4) The news or the informative program dealing with current affairs shall not be sponsored.

Program content identification

Article 138

(1) Any sponsored program content must be distinctly marked as such by indicating the name or the logo of a sponsor.

(2) If a program is sponsored fully or partially, it must be distinctly marked as such by the sponsor identification given at the beginning, during or at the end of such broadcast.

(3) For sports and cultural or art programs, sponsor identification may be given both at the beginning and the end of natural breaks.

CHAPTER XI SUPERVISION

Supervision over enforcement of the Law

Article 139

The supervision over the enforcement of this Law shall be performed by the Agency independently, or by engaged legal person competent for such activities.

Supervision over obligation fulfilment by AVM service providers

Article 140

(1) The Agency shall separately perform supervision over fulfilment of obligation by AVM service providers in order to ensure that all requirements and conditions defined by the granted license are met.

(2) The AVM service provider shall deliver all data, information, and documents necessary for performing of regulatory function in this field, upon the Agency's request, in order to ensure implementation of competencies prescribed by the Law, in period of at least seven days, which shall be precisely defined by the Agency.

CHAPTER XII PENALTY PROVISIONS

Infringement of the Law

Article 141

(1) A fine chargeable in the amount from ten-fold to three hundred-fold minimum salary in Montenegro shall be imposed on the legal person on the grounds of the infringement of the law if:

- 1) permanently or temporarily consigns, rents or transfers or alienates in any other way, without the Council's consent, the granted licence for AVM service providing (Article 46, paragraph 3);
- 2) provides AVM service without licence or approval of the Council (Articles 48, 52, 58, and 86, paragraph 2);
- 3) performs networking not complying with Article 53 of this Law;
- 4) broadcasts program content not complying with the Law governing field of media (Article 71);
- 5) broadcasts name, logo or abbreviated identity sign of from its own or taken over broadcasting program contrary to the provisions of the Article 72 of this Law;
- 6) fails to notify the ownership structure change (Article 73, paragraph 1);
- 7) fails to provide appropriate share of the European audiovisual works (Articles 75 and 77);
- 8) fails to note in precise and clear manner time of second showing of radio or TV program (Article 79, paragraph 2);

- 9) fails to provide or allow to all interested broadcasters to record and broadcast short reports from the events, for which the broadcaster obtained the exclusive licence for the broadcasting (Article 82);
- 10) provides AVM service contrary to the provisions of the Article 89, paragraph 1 of this Law;
- 11) performs contrary to the provisions of the Article 91 of this Law;
- 12) performs contrary to program standards defined by the license granted (Article 93);
- 13) performs contrary to the provisions of Article 95 of this Law;
- 14) performs contrary to the provisions of Article 106 of this Law;
- 15) fails to indicate an ordering party in political propaganda (Article 108, paragraph 1);
- 16) fails to comply to the Article 110 of this Law;
- 17) performs contrary to the Article 111 of this Law;
- 18) violates the provisions on the illegal media concentration (Articles 120 and 123);
- 19) violates the provisions of the Articles 128-141 of this Law referring to advertising, teleshopping, and sponsorship;
- 20) performs contrary to the provisions of the Articles 143 and 144 of this Law;

(2) A fine chargeable in the amount from half-fold to twenty-fold minimum salary in Montenegro shall be imposed on the responsible party in legal person, and on the physical person, on the grounds of the infringement of the provisions of paragraph 1 of this Article.

CHAPTER XIII

TRANSITIONAL AND FINAL PROVISIONS

Article 142

- (1) The Broadcasting Agency shall continue to operate under the name - the Agency for Electronic Media.
- (2) The Agency shall overtake employed persons, funds, equipment, rights, and obligations of the previous Agency.
- (3) The Agency shall perform functions and have competencies of the regulatory body for program content, prescribed by the Law governing field of electronic communication.

Publishing of the public invitation for authorized nominators

Article 143

The Working Body of the Parliament shall publicize, not later than eight days from the date of coming into effect of this law, public invitation to the authorized nominators of the Council Members, referred to in Article 18, paragraph 1 of this Law, to submit their proposals/nominations.

Deadline for submission of nominations for the Council members' appointments

Article 144

The deadline for the submission of nominations for the Council Members shall be 30 days from the date of issuing public invitation.

Deadline for appointment of the Agency Council members

Article 145

The Parliament shall appoint the Council members not later than within period of 30 days from the date of expiry of deadline referred to in Article 157 of this Law.

Term of office of the members of the Broadcasting Agency Council

Article 146

Term of office of the members of the Broadcasting Agency Council shall be terminated by appointment of the members of the Agency Council.

The Council Constituting

Article 147

(1) The Council shall be constituted not later than within period of 30 days from the date of appointment of its members.

(2) At its constitutional session, the Council shall elect its chairperson and adopt the decision on issuing public tender for the appointment of the Agency Director.

Appointment of the Agency Director

Article 148

The Agency Council shall appoint Agency Director not later than within period of 30 days from the date of expiry of deadline for submission of applications on public competition.

Termination of term of office of the Agency Director

Article 149

Term of office of the Director of the Broadcasting Agency shall be terminated by appointment of the Director of the Agency for Electronic Media.

Adoption of the Statute

Article 150

The Council shall adopt the Agency Statute not later than within period of 30 days from the date of appointment of the Council member, in compliance with this Law.

Bylaws

Article 151

Bylaws necessary for implementation of this Law shall be adopted by the Council not later than within period of six (6) months from the date of its constituting.

Cease of validity of previous Law

Article 152

On the date of entering into force of this Law, the provisions of the Broadcasting Act (“Official Journal of RMNE”, no 51/02,) and other regulations and acts related to the sector of audiovisual media services, not complying with this Law, shall cease to be valid.

Entering into force

Article 153

This Law shall enter into force eight days after the date of its promulgation in the “Official Journal of Montenegro.”