



Republic of Montenegro
BROADCASTING AGENCY

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Podgorica, September 2004



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I GENERAL PROVISIONS

Article 1

This Law shall regulate the conduct of broadcasting activities in the Republic of Montenegro in compliance with the Media law on the level of standards contained in the international documents on human rights and freedoms (OUN, OSCE, Council of Europe, EU).

Article 2

This Law shall regulate the rights and obligations in the broadcasting system of the Republic of Montenegro (hereinafter referred to as: the Republic), particularly with reference to:

- 1) *founding and activities of an independent regulatory authority;*
- 2) *issuing licenses for the transmission and broadcasting of radio and TV signals and licenses for the development and use of cable, satellite and MMDS systems for distribution of broadcasting and other telecommunication signals (hereinafter referred to as: license for the development and use of distribution systems);*
- 3) *broadcasting subscription and tax;*
- 4) *founding and activities of the companies for transmission and broadcasting of radio and TV signals;*
- 5) *construction and use of the broadcasting stations, cable, satellite and MMDS distribution systems;*
- 6) *public broadcasting services;*
- 7) *prevention of unauthorized media concentration;*
- 8) *supervision of the implementation of this law;*
- 9) *other issues of importance for the broadcasting field.*

Article 3

The regulation of relations in the field of broadcasting shall be based on the following principles:

- 1) *freedom, professionalism and independence of broadcast media;*
- 2) *prohibition of all forms of censorship or illegal interference in the work of broadcast media;*
- 3) *balanced development of public and commercial broadcast services;*
- 4) *rational and efficient use of the spectrum of broadcasting frequencies, as a limited natural resource;*
- 5) *free and equal access of broadcasters to the telecommunication infrastructure for the purposes of broadcasting;*
- 6) *development of competition and pluralism in the field of broadcasting;*
- 7) *application of the international standards and principles related to the field of broadcasting;*
- 8) *objectivity, non-discrimination and transparency of the procedure of granting licenses for the transmission and broadcasting of radio and TV signals and licenses for development and use distribution systems.*

Article 4

The expressions used in this Law shall have following meanings:

- **Broadcasting:** *transmission and broadcasting of radio and/or television programmes and other telecommunication signals in encoded or unencoded form by means of terrestrial transmitters, cable or satellite, intended for the direct reception by the general public;*
- **Broadcasting development strategy:** *document, adopted by the Broadcasting Agency, which considers different medium- or long-term citizens' needs for information, determines guidelines and dynamics of their provision, and particularly a number and type of broadcasters, desired service zones and other parameters necessary for its implementation;*
- **Radio-wave frequency:** *fundamental physical parameter of electromagnetic waves or radio waves freely spreading through open space the values of which are placed, according to the convention, within the range from 9 KHz to 3000 GHz.*

- **Radio-wave frequency band:** a part of radio-wave frequency spectrum between two limiting frequencies;
- **Radio station:** one or more transmitters and/or receivers, with the related equipment, placed at certain location, with the purpose of transmission and/or broadcasting of radio and TV signals, with the exception of the receiver for direct reception of the broadcast programmes;
- **Broadcasting frequency spectrum:** a range of radio-wave frequency bands intended for broadcasting, which represents a limited natural resource of general national interest;
- **Broadcasting frequency:** a frequency from the broadcasting spectrum;
- **Service zone:** area surrounding a transmitter in which the intensity of electric field is larger or equal to the value that guarantees the prescribed quality of reception of broadcasting signal.
- **Desired service zone:** geographic area or administrative area intended to become a service zone. The desired service zone is either a service zone of one transmitter or, in the case of network, a sum of individual service zones of each of the broadcasting transmitters or/and broadcasting repeaters;
- **Broadcasting transmitter:** a radio-station transmitting radio or television programme intended for the desired service zone;
- **Broadcasting repeater:** a radio-station, of small radiated strength, transmitting radio or television programme for the purposes of covering the area uncovered by the desired service zone of the broadcasting transmitter;
- **Broadcasting network:** two or more broadcasting transmitters or/and repeaters or their combination, used for the transmission and broadcasting of the same signal at the same time, and intended for the direct reception in the open space;
- **Networking:** establishing a temporary broadcasting network by means of terrestrial, MMDS, cable or satellite communication lines between two or more broadcasters in order to broadcast radio or television signal directly;
- **Broadcasting facility:** a facility housing the broadcasting equipment;
- **Broadcaster:** a natural or legal person registered for the activities of production, transmission and broadcasting radio of programmes (radio and/or television), with the license for transmission and broadcasting obtained in compliance with this Law;
- **Radio station license:** a standard form with the relevant technical data of a radio station, issued by the competent authority;
- **Public broadcasting service:** an activity intended for the production, transmission and broadcasting of radio and/or television programmes of public interest financed and controlled by the public;
- **Commercial broadcasting service:** an activity intended for the production, transmission and broadcasting of radio and/or television programmes of public interest financed by a legal entity in private ownership or by an entrepreneur with the aim to make profit;
- **Independent production:** radio and television programmes intended exclusively for broadcasting, produced by natural or legal persons, registered for that activity in Montenegro, that are not broadcasters;
- **Satellite distribution of broadcasting signals:** the transmission of broadcasting signals by means of satellite stations, intended for the appropriate receiving devices;
- **MMDS (Multi-channel Multi-point Distribution System):** multi-channel wireless system for the distribution of broadcasting signals;
- **Electromagnetic compatibility (EMC):** ability of a device, part of the equipment or system to function without unauthorized interference with any other party in the environment;
- **Interference:** disturbance in the reception of desired signal caused by jamming signals, noise or electromagnetic disturbance;
- **Cable distribution system:** telecommunication network, which is developed, maintained and used for the transmission of radio and television programmes and other telecommunication signals according to contemporary technical and technological solutions;
- **Cable-Operator:** a legal person with a licence for development and use of cable distribution system;
- **Main station in the cable distribution system** (hereinafter referred to as: the main station): the central place for the reception, processing and transmission of radio and television programmes and other telecommunication signals;
- **Sub-station in the cable distribution system** (hereinafter referred to as: the sub-station): the place where incoming programmes from the main station are forwarded to the hubs and where they are processed and transmitted;
- **Hub in the cable distribution system:** the place where incoming programs and signals from the sub-station are forwarded via user network to the terminal connection;
- **Primary network in the cable distribution system** (hereinafter referred to as: the primary network): connects main station with sub-stations and is established through a long-distance optic cable network;
- **Secondary network in the cable distribution system** (hereinafter referred to as: the secondary network): connects sub-station with the hubs and is established through optic and/or coaxial cables and other systems of transmission on the territory of local authority;
- **User network in the cable distribution system:** facilitates reception of radio and television programmes and other telecommunication signals for the final user, and is established by means of optic and/or coaxial cables and other transmission systems;
- **Terminal connection:** the place where equipment or system is physically connected to the cable distribution network;
- **Terminal equipment:** the equipment that is directly or indirectly connected to the terminal connection for the purpose of receiving, processing or transmitting broadcasting signals and other telecommunication signals;
- **Joint antenna system:** a set of technical equipment serving for the direct reception of broadcasting signals and their distribution to the users' receivers in a residential or business building.
- **Advertisement:** programming with the aim to present and draw attention to a certain product, service or company or to induce the consumers to use or buy that product or service;
- **Sponsorship:** any participation of a natural or legal person, not engaged in the production of radio and/or television programme, nor the production of audio-visual works, in financing radio and/or television programmes, for the purpose of promoting their name, trade-mark, reputation, activities or products;

II BROADCASTING AGENCY

Article 5

The Broadcasting Agency (hereinafter referred to as: "Agency") shall be an independent regulatory body, which exercises public authorities in compliance with this Law.

The Agency shall be legally separated and independent from the state authorities and all legal and natural persons involved in production, transmission and broadcasting of radio and television programmes or related activities.

The agency shall have the capacity of legal entity and shall be entered into the adequate register kept by the competent authority.

The bodies of the Agency shall be the following: the Agency Council and the Agency Director.

Article 6

The Agency and the independent regulatory authority for telecommunications are obliged, in compliance with this Law and separate law regulating the field of telecommunications, to co-operate with each other and coordinate their work in order to:

- provide rational and efficient use of radio frequency spectrum;*
- implement the regulations related to the development and use of cable, satellite and MMDS systems for distribution of broadcasting and other telecommunication signals (hereinafter referred to as: the distribution systems).*

Agency's Competence

Article 7

Within the field of its competence, the Agency shall:

- 1) adopt the Broadcasting Development Strategy;*
- 2) adopt the Plan for allocation broadcasting frequencies;*
- 3) give opinion on the proposed plan of allotment of radio frequencies;*
- 4) provide efficient use of broadcasting frequency spectrum;*
- 5) issue licenses for the transmission and broadcasting of radio and TV signals;*
- 6) issue licenses for the development and use of distribution systems;*
- 7) determine the amount of compensations for issuing and use of licenses for transmission and broadcasting of radio and TV signals and licenses for the development and use of distribution systems;*
- 8) keep register of broadcasters and issued licenses for the transmission and broadcasting of radio and TV signals;*
- 9) keep register of legal entities that have been issued the license for the transmission and broadcasting of radio and TV signals and license for the development and use of distribution systems;*
- 10) appoint and revoke the members of the Managing Board and give approval of the Statute and other general acts related to providing services of the Enterprise for the Transmission and Broadcasting of Radio and TV Signals;*
- 11) decide upon complaints of natural and legal persons related to the activities of a broadcasters which are not in accordance with the issued license for the transmission and broadcasting of radio and TV signals;*
- 12) decide upon complaints and objections of natural and legal persons in relation to the activities of the companies for transmission and broadcasting of radio and TV signals;*
- 13) impose sanctions against broadcasters in accordance with this Law;*
- 14) supervise the enforcement of provisions of this Law and adopt more detailed regulations for its implementation;*
- 15) co-ordinate and report the broadcasting frequencies to the international broadcasting and telecommunication organizations through the competent state authority;*
- 16) regularly publish bulletin on its activities in printed or electronic form, at least once in three months;*
- 17) perform other activities in compliance with this Law and the Agency Statute.*

Competent state authorities are obliged to obtain the opinion of the Agency, before accepting any international conventions and other agreements in relation to the broadcasting field.

With the aim to exchange experiences, advance its activities and conform with international experiences and standards, the Agency shall co-operate with adequate organizations of other states or with adequate international organizations.

Article 8

In order to carry out the broadcasting development strategy, the Agency shall adopt instructions in accordance with the European standards in compliance with principles contained in the Article 3 of this Law.

Instruction shall be adopted with the aim to regulate in detail the relations and procedures regulated by the provisions of this Law in the cases of unauthorized practices of broadcasters that can refer to technical aspects of broadcasting, advertising, sponsorship, programme quotas, etc.

The instructions shall be adopted transparently, along with obligatory public debate, and published in the "Official Gazette of the Republic of Montenegro".

Article 9

The Agency shall supervise the activities of broadcasters independently or by engaging legal entity qualified for such activity.

The Agency shall especially monitor the realization of the broadcasters' obligation to observe all the conditions under which they have been licensed.

For the purposes of exercising legal competences, the broadcasters are obliged to supply the Agency with all the required data, information and documents to the extent necessary for the realization of its obligations.

Article 10

Natural and legal persons shall be entitled to submit complaints to the Agency regarding the activities of:

18) broadcasters not complying with the issued licence for the transmission and broadcasting of radio and TV signals, and

19) companies for transmission and broadcasting of radio and TV signals.

The Agency shall overrule an unfounded complaint and inform the complainant.

The Agency is obliged to deliver to the broadcaster or to the company for the transmission and broadcasting of radio and TV signals, without delay, any accepted complaint for their explanation.

If the Agency is satisfied with given explanation, it shall inform the complainant.

If the broadcaster or the company for the transmission and broadcasting of radio and TV signals fails to give its explanation within the specified time or notify that the petition is unfounded and the Agency finds the complaint founded, it is obliged to undertake legal measures against the broadcaster or the company for the transmission and broadcasting of radio and TV signals, as well as to instruct the complainant of other legal remedies.

Agency Council

Article 11

The Agency Council shall consist of five members that shall be elected from among the prominent professionals in the fields relevant for the broadcasting activities (telecommunication, media, law, economy, etc.).

The Agency Council Members shall exercise their function on a part time basis, and they be entitled to a monthly pecuniary compensation for their work in amount of the one received by the Supreme Court Judge of the Republic of Montenegro.

Article 12

The Parliament of the Republic of Montenegro shall ratify the appointment of the Agency Council members.

The authorized nominators for members of the Agency Council shall be:

- Government of the Republic of Montenegro;*
- University of Montenegro;*
- Broadcasters associations in Montenegro, excluding associations of public broadcasting services;*
- Non-governmental organizations and citizens' associations involved in the protection of human rights and freedoms;*
- Non-governmental organizations in the media sphere.*

A nominee for the Agency Council Member shall not necessarily be from the ranks of the authorized nominator.

Article 13

The authorized nominators of the Agency Council Members shall adopt the Appointment Act independently.

The Appointment Act shall be signed and attested by the authorized nominator of the Agency Council Member and, in addition to the name, it must include the data on residence of the appointed Agency Council Member.

Written consent of the appointed Agency Council Member concerning the acceptance of the nomination shall be attached to the Appointment Act, as well as his statement that there are no obstacles for his appointment, referred to in the Article 14 of this Law.

If there are more subjects authorized to nominate the Agency Council Member in compliance with the Article 12, paragraph 2 indented lines 3, 4 and 5 of this Law, the Appointment Act shall be adopted with one consent, by means of coordination.

If the authorized nominators referred to in the Article 12, paragraph 2, indented lines 3, 4 and 5 of this Law designate more than one nominee, the Parliament of the Republic of Montenegro shall ratify the appointment of a candidate whose nomination is supported by the majority of the authorized registered non-governmental associations.

Data on registered non-governmental associations shall be submitted to the Parliament of the Republic of Montenegro by the administration authority competent for keeping the register of non-governmental organizations.

If the Appointment Act is submitted contrary to the provisions of this Law, the Parliament of the Republic of Montenegro shall request from the nominator of the Agency Council Member to conform it with the provisions of this Law not later than within 15 days.

If the Parliament of the Republic of Montenegro fails to determine which Appointment Act is the valid one, it shall request from the authorized subjects referred to in the Article 12, paragraph 2, indented lines 3, 4 and 5 to submit to the Parliament of the Republic the conformed Appointment Act not later than within 15 days.

Article 14

The Agency Council members may not be:

- 1) Members of Parliament and city council members;
- 2) elected, appointed and assigned persons in the Government of the Republic of Montenegro (Ministers, their deputies, assistants, as well as heads of separate organizational units under the direct control of the Government of the Republic of Montenegro and other officials);
- 3) officials of political parties (parties' chairmen, members of presidencies, their deputies, members of executive and main boards, as well as other party 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 the production and/or broadcasting of radio and/or television programmes and in other related activities (advertising, telecommunications, etc.), in a way that the membership of such person in the Agency Council may result in the conflict of interests;
- 5) persons sentenced by final and binding decision for the offence of violation of official duty, offence of corruption, fraud or theft, regardless of the sentence imposed, or that were sentenced for other offences to imprisonment for longer than 6 (six) months, during the period of legal consequences of the sentence;
- 6) persons who are spouses of the persons stated in the previous indented lines 1 to 4 of this paragraph or who are related to them in straight line regardless of the degree of kinship.

A nominee of the Agency Council member is obliged to submit a written statement that there are no obstacles for the appointment as prescribed by this Law.

Article 15

If the Agency Council Member is subject to a conflict of interests related to decision-making on a certain issue from the Agency 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.

If an Agency 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.

An Agency Council Member shall not be a founder or in any way included in the submission of an application for obtaining a license for the transmission and broadcasting of radio and TV signals and license for the development and use of distribution system during the period of 12 months after the termination of their term as the Agency Council Member.

Article 16

Agency Council Member shall be appointed for the period of five years, with the possibility of the appointment renewal.

As an exception from paragraph 1 of this Article, when being appointed for the first time, two Council Agency members shall be elected for the period of five years, two members for four years and one member for three years.

The term of office for the members of the first Agency Council constitution shall be decided by the lot drawn by the Parliament Speaker in the presence of representatives of the authorized nominators of Agency Council Members.

Article 17

Agency Council Member shall not represent the authorized nominator, but perform their duty independently according to their own knowledge and conscience, in compliance with this Law.

Function of the Agency Council member may be terminated only for the reasons and following the procedure prescribed by this Law.

Nobody has the right to influence the work of the Agency 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 adopted in the process of judicial control of the Agency Council's activities.

Article 18

The Agency Council Member's term of office shall be terminated:

- 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 authorized nominator, about which they shall inform the Agency Council and the Parliament of the Republic of Montenegro within 8 days;
- 4) in case of death.

Article 19

The Agency Council Member may not be recalled during their term of office.

Exceptionally from the provisions of paragraph 1 of this Article paragraph, the Parliament of the Republic of Montenegro shall ratify the recall of the Agency Council Member and replace him with the other member who is appointed by the authorized nominator of the Agency Council Member who will finish the remaining period of the recalled member's term, if:

- 1) because of illness, on the basis of results of a competent medical institution, they are not able to perform duty of Agency Council Member for the period longer than 6 (six) months;
- 2) it is established that, on the occasion of submission of the proposal for appointment, they submitted inaccurate personal data or omitted to reveal the data that are of relevance for the possible appointment;
- 3) it is established that, during the term of the Agency Council member, any of the circumstances referred to in the Article 14 of this Law occurred;
- 4) without sufficient reason or approval of the Agency Council, they fail or refuse to perform duty of Agency Council Member during the period of at least 6 (six) consecutive months, or if during the period of one year they failed to perform their duty for at least 6 (six) months.

The Parliament shall ratify the recall of the Agency Council Member only on the basis of the well-explained recall decision, adopted by the authorized nominator of the Agency Council Member.

The decision referred to in the paragraph 3 of this Article shall be adopted only upon completion of the procedure during which all relevant circumstances were determined and during which the Agency Council Member has been allowed to explain all the circumstances.

From the moment when the recall decision is submitted to the Parliament of the Republic of Montenegro until its ratification, the Agency Council may suspend, by the majority vote of the total number of its members, the Agency Council Member to whom the decision refers to.

Article 20

The Parliament Speaker of the Republic of Montenegro shall initiate the procedure of appointment of the Agency Council Members by issuing a public invitation not later than 3 (three) months before the expiry of their term of office.

The invitation referred to in paragraph 1 of this Article shall be sent to the authorized nominators of the Agency Council Members.

The authorized nominators of the Agency Council Members are obliged to submit to the Parliament of the Republic of Montenegro the Appointment Acts of the Agency Council Members not later than 60 days from the date of issuing public invitation.

The Parliament of the Republic of Montenegro shall ratify the appointment of new Agency Council Members before the expiry of terms of former members.

In case when the term is terminated before the expiry of the period of appointment of the Agency Council Member, the authorized nominator of the Agency Council Member is obliged to submit to the Parliament of the Republic of Montenegro the Appointment Act of the new Agency Council Member, without any delay and not later than within 30 days.

The Parliament of the Republic of Montenegro is obliged to ratify the appointment of new Agency Council Member not later than 60 (sixty) days from the day of receiving the Appointment Act.

The appointment shall be ratified for the period until the expiry of the former member's term of office.

Until the ratification of the new member's appointment, the Agency Council shall adopt valid decisions in incomplete composition, but if, due to the termination of certain members' terms, the number of the members is less than 3 (three), the Agency Council shall not reach valid decisions.

Article 21

The Agency Council shall:

- 1) adopt the broadcasting development strategy;
- 2) adopt the Broadcasting Frequencies Allotment Plan;
- 3) give opinion on the proposed Broadcasting Frequencies Allotment Plan;
- 4) adopt the decision on the issuing public tender for granting licenses for the transmission and broadcasting of radio and TV signals;
- 5) adopt the decision on the issuing of public tender for granting licenses for the development and use of cable and MMDS distribution systems;
- 6) grant licenses for the transmission and broadcasting of radio and TV signals and licenses for the development and use of distribution systems;
- 7) adopt the rules on the amount, manner of determination and payment of fees for licenses for the transmission and broadcasting of radio and TV signals and the rules on the amount, manner of determination and payment of fees for the development and use of distribution systems;
- 8) prescribe the forms of licenses for the transmission and broadcasting of radio and TV signals and licenses for the development and use of distribution systems;
- 9) adopt more specific rules on the procedure of imposing penalties and shall impose penalties on broadcasters in compliance with this Law;
- 10) address the complaints of natural and legal persons related to the activities of broadcasters not complying with the licence for transmission and broadcasting of radio and TV signals;
- 11) address the complaints of natural and legal persons related to the activities of companies for transmission and broadcasting of radio and TV signals;
- 12) determine minimum quotas for both its own and European programme production;

- 13) *determine minimum quotas to public broadcasting services for broadcasting independent production programmes, in compliance with European standards;*
- 14) *determine terms and quotas for the broadcasting of advertisements, in compliance with European standards;*
- 15) *adopt the Statute, investment plans and other general acts of the Agency;*
- 16) *appoint and recall the Director of the Agency;*
- 17) *adopt and publicize operating reports and interim and annual statement of accounts of the Agency;*
- 18) *give consent to decisions of the Agency Director regarding payments exceeding the amount determined by the Agency Statute;*
- 19) *appoint and recall the Managing Board of the company for the transmission and broadcasting of radio and TV signals;*
- 20) *give consent to the Statute of the company for the transmission and broadcasting of radio and TV signals and give consent to other general documents related to the conditions for the provision of services;*
- 21) *appoint authorized auditor for periodical and annual accounts of the Agency and the company for the transmission and broadcasting of radio and TV signals;*
- 22) *adopt the standing orders;*
- 23) *adopt the regulations for enforcement of this Law*
- 24) *conduct other activities in accordance with the Law and the Statute of the Agency.*

Article 22

The activities of the Agency Council shall be public.

The Agency Council shall meet when needed, at least once a month (regular session).

The Agency Council may have extraordinary session at the request of two Council Members or upon the proposal of the Agency Director.

Article 23

The Agency Council shall adopt valid decisions provided that the majority of the total number of members is present at the session.

Decisions shall be adopted by majority vote of the total number of the Agency Council Members.

The Agency Council Chairman shall be elected and recalled by the majority vote of the total number of members.

Article 24

The Agency Director may participate at the Agency Council sessions without the decision-making right.

The Agency Council may decide to exclude the Director from the work of the Council.

Employees in the Agency or third parties may be invited to attend sessions of the Agency Council.

Agency Director

Article 25

The Agency Council shall appoint the Agency Director, on the basis of the public tender.

The appointed Agency Director may be a person who, in addition to the general conditions, meets the following special conditions:

- 1) *citizenship of the Republic of Montenegro and residence in the Republic;*
- 2) *minimum University Degree;*
- 3) *at least 5 years of work experience.*

The term of office for the Agency Director shall be 4 (four) years.

A person who is not qualified to be the Agency Council Member shall not be appointed Director.

Article 26

The Agency Director shall:

- 1) *represent and act on behalf of the Agency;*
- 2) *organize and manage the Agency's activities;*
- 3) *execute decisions of the Agency Council;*
- 4) *be accountable for the execution of the broadcasting systems development strategy and the implementation of the Broadcasting Frequencies Allotment Plan;*
- 5) *propose to the Agency Council business plans and operating reports, interim and annual statements of accounts and investment plans of the Agency;*
- 6) *perform other duties prescribed by the Agency Statute.*

Agency Statute

Article 27

The Agency Statute shall include the provisions related to:

- 1) *seat of the Agency;*
- 2) *internal organisation of the Agency;*
- 3) *manner of operation, decision making and competences of managing bodies of the Agency;*

- 4) *procedure of adopting decisions regarding petitions and complaints of natural and legal persons on the activities of broadcasters and companies for the transmission and broadcasting of radio and TV signals;*
- 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.*

Funding of the Agency

Article 28

The Agency shall acquire the funds from:

- 1) *fees for the registration of broadcasters;*
- 2) *fees for the registration of legal entities that have been issued license for the development and use of distribution systems (hereinafter referred to as: signal distributors);*
- 3) *fees paid for the license for transmission and broadcasting of radio and TV signals;*
- 4) *fees paid for the license for the development and use of distribution system;*
- 5) *a part of the broadcasting subscriptions;*
- 6) *a part of tax on radio receivers;*
- 7) *a part of revenues of the company for the transmission and broadcasting of radio and TV signals, in accordance with the decision of the Agency Council;*
- 8) *other sources in compliance with law.*

Any excess of income over expenditures, the Agency may use exclusively for the fulfilment of legal obligations related to the execution of function of independent regulatory body in the field of broadcasting.

The Agency shall adopt the financial plan not later than three months before the beginning of each fiscal year.

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.

The financial plan shall be public and publicized in the manner prescribed by the Agency Statute.

All income and expenditure accounts of the Agency shall be subject to annual audit by the independent authorized auditor, hired by the Agency Council.

The Agency is obliged to publish in the Operating Bulletin, not later then within three months from the end of the fiscal year, the annual operating report 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.

Article 29

The decision of the Agency shall be final.

Any natural and legal person that considers that the individual decision of the Agency has violated their right or legally protected interest, may initiate administrative proceedings against that decision in the competent court, in compliance with the separate Law.

III LICENSE FOR TRANSMISSION AND BROADCASTING OF RADIO AND TV SIGNALS

Article 30

The Agency shall issue the license for the transmission and broadcasting of radio and TV signals, in the procedure and according to the criteria prescribed by this Law.

A holder of the license for the transmission and broadcasting of radio and TV signals shall acquire the right to broadcast, directly or through distribution systems, radio and TV signals intended for indefinite number of users.

Article 31

The license for the transmission and broadcasting of radio and TV signals shall determine the programme structure and technical standards for production, transmission and broadcasting of radio and television signals, as well as general conditions of the use and fees.

The license for the transmission and broadcasting of radio and TV signals shall include the information about:

- 1) *the holder of the right to use the license;*
- 2) *the allocated broadcasting frequencies;*
- 3) *service zones, locations of equipment, radiated strength of the transmitter;*
- 4) *manner of the broadcasting signal transmission;*
- 5) *terms related to the impartial, objective and measurable criteria prescribed by a public tender in compliance with the Article 37 of this Law;*

- 6) *identifying symbol of the broadcast programme;*
- 7) *the license validity period;*
- 8) *amount of fees and conditions of payment.*

The integral part of the license for transmission and broadcasting of radio and TV signals shall be the license for radio stations and license for the transmission of radio and TV signals by means of distribution systems, which shall be issued by the Agency in cooperation with competent authority.

The license for the transmission and broadcasting of radio and TV signals shall not be permanently or temporarily consigned, rented or otherwise transferred or alienated.

The conditions established in the license for the transmission and broadcasting of radio and TV signals may be changed by the Agency during the validity period only in accordance with law and at their own expense.

Article 32

Holder of the license for the transmission and broadcasting of radio and TV signals may be domestic or foreign, natural or legal person, registered for the production, transmission and broadcasting of radio and/or television programmes, with residence and seat on the territory of the Republic.

Foreign natural or legal person shall not be allowed to participate in the fixed assets of legal entities involved in the activities of public broadcasting services.

Article 33

Following entities shall not be holders of the license for the transmission and broadcasting of radio and TV signals:

- 1) ***religious community or another religious organization or legal entity founded by it, except when the license for radio programme broadcasting on local level is concerned;***
- 2) ***political party, organization or coalition, or a legal entity founded by the political party, organization or coalition.***

Article 34

Natural or legal person registered for the production, transmission and broadcasting of radio and/or television programmes, shall acquire the status of a broadcaster by obtaining the license for the transmission and broadcasting of radio and TV signals, in compliance with the provisions of this Law.

The broadcaster may be involved in the production, transmission and broadcasting of radio and/or television programme in the capacity of:

- 1) *Republican public broadcasting service;*
- 2) *local public broadcasting service;*
- 3) *commercial broadcasting service.*

Article 35

The Republican public broadcasting service shall provide a quality reception of radio and/or television programmes for at least 85% of the population in the Republic (national coverage).

The local public broadcasting service shall provide a quality reception of radio and/or television programmes for at least 85% of the population in the local administration unit on the territory of which such programme is broadcast (local coverage).

The commercial broadcasting service shall provide a quality reception of radio or television programmes for at least 60% of the population in the desired service zone.

Article 36

If a broadcaster does not use or has no intention to fully use one radio frequency in the same desired service zone, the Agency may allow, if requirements from the Broadcasting Frequencies Allotment Plan are met, more broadcasters to broadcast radio and/or television programme at the same frequency in the same desired servicing zone.

The broadcasters referred to in paragraph 1 of this Article shall jointly compete for obtaining the license for the transmission and broadcasting of radio and TV signals, submitting, inter alia, the contract by which they have, precisely and mutually, regulated the time of programme broadcasting of each of the broadcaster who intends to jointly use the broadcasting frequency.

The Agency Council shall issue separate license for the transmission and broadcasting of radio and TV signals to each of the broadcasters referred to in paragraph 2 of this Article, which shall specify the broadcasters that use the same frequency and conditions of joint usage.

Licensing Procedure

Article 37

The Agency shall issue the license for the transmission and broadcasting of radio and TV signals on the basis of a public tender, in compliance with this Law.

The Agency is obliged, in accordance with the broadcasting development strategy, to announce public tender when, on the basis of the Broadcasting Frequencies Allotment Plan, there are possibilities for granting new licenses for the transmission and broadcasting of radio and TV signals.

The public tender shall include:

- 1) desired service zone area;*
- 2) belonging broadcasting frequencies;*
- 3) allowed radiated strength and locations;*
- 4) basic technical requirements for production, transmission and broadcasting of programme;*
- 5) the amount of the prescribed fees;*
- 6) deadline for submission of applications;*
- 7) deadline for adopting decisions;*
- 8) non-discriminatory, objective and measurable criteria of decision-making (program structure, percentage of the population in the desired service zone that has to be provided with quality reception of radio and/or television programme, presence of programmes in languages of minorities, etc.).*

The public tender shall be published in the "Official Gazette of the Republic of Montenegro" and in at least one daily newspaper.

The deadline for applying to the public tender shall be at least 30 days from the day of the advertisement publication.

The Agency shall prescribe, by special regulation, technical, organizational and programme requirements for the programme production, transmission and broadcasting, in compliance with the provisions of this Law.

Article 38

The applicant to the public tender referred to in the Article 37 of this Law shall submit the following documentation:

- 1) if it is a legal entity, the registration document for broadcasting activities;*
- 2) proof of the fulfilment of public tender requirements;*
- 3) data related to programme structure;*
- 4) data on technical and technological conception of the transmission and broadcasting of radio and TV signal;*
- 5) data on the status of legal entity, if the legal entity is in question, the owner of capital and the manner of financing;*
- 6) statement that there are no obstacles in terms of provisions of this Law referring to unauthorized media concentration.*

The applicant may submit other documentation assumed to be important for obtaining the right to transmission and broadcasting of radio and TV signals.

If the data submitted along with the application to public tender, are incomplete or incorrect, the Agency Council shall return such application to the applicant to complete or correct it within 7 (seven) day.

If the applicant fails to complete the application to the public tender within 7 (seven) days from the day of being informed by the Agency Council that the application is incomplete, the Agency Council shall reject the application.

Article 39

The Agency shall make sure that:

- 1) all interested parties have access to the public tender under equal terms;*
- 2) all complete and duly submitted applications are reviewed in a detailed and objective manner;*
- 3) the issuance of radio station licenses and licenses for the development and use of distribution systems is duly provided, so that the license for the transmission and broadcasting of radio and TV signals is issued not later than 90 days from the publication of the list of applicants with complete and timely submitted applications;*
- 4) all applicants whose applications were rejected shall be provided with explanation why their applications were rejected within eight days from the day when the decision under the public tender was taken.*

The Agency is obliged to:

- 1) publicly announce, not later than within 15 days from the date of expiry of the submission deadline, in the same manner in which the tender was issued the list of all applicants with complete and timely submitted applications;*
- 2) decide on granting the right to transmission and broadcasting of radio and TV signals only in compliance with the established criteria and prescribed conditions and standards for the programme production, transmission and broadcasting;*
- 3) within seven days from the day of making decision on granting the rights to transmission and broadcasting of radio and TV signals, invite the applicants who have been granted such right to submit all necessary technical documents (the Studio Equipment Project and Broadcasting Equipment and Communications Project) not later than 30 days from the date of the invitation;*
- 4) issue the license for the transmission and broadcasting of radio and TV signals within the prescribed deadline;*
- 5) publish in the 'Official Gazette of the Republic of Montenegro' a list of entities that have been granted the license for the transmission and broadcasting of radio and TV signals.*

Article 40

An applicant to the public tender, which is dissatisfied with the Agency' decision, shall have the right to submit the objection to the Agency Council, not later than 15 days from the date of obtaining a notice that the application was rejected.

The Agency shall prescribe in detail the procedure of deciding upon the objection.

The Agency is obliged to take decision upon the objection not later than 15 days from the date of its submission.

An administrative proceeding can be initiated against the decision taken upon the objection.

Article 41

A broadcaster is obliged to start broadcasting not later than 120 days from the date of publication of list of entities that have been granted the license for the transmission and broadcasting of radio and TV signals in the 'Official Gazette of the Republic of Montenegro'.

Violation of the provision of paragraph 1 of this Article shall result in the revoke of license for transmission and broadcasting of radio and TV signals in compliance with this Law.

Article 42

If the service zone of a broadcaster is covered by one broadcasting frequency, the license for the transmission and broadcasting of radio and TV signals for another broadcasting frequency that would cover a greater or overall part of the same service zone shall not be issued.

The Agency may issue, without a public tender and in accordance with the Broadcasting Frequencies Allotment Plan, the license for the transmission and broadcasting of radio and TV signals by means of broadcasting repeater for additional coverage, to a broadcaster whose service zone is not entirely covered from one location due to land configuration.

Article 43

The Agency may grant a temporary license for the transmission and broadcasting of radio and TV signals for a limited period of time if certain events are to take place.

Temporary license shall be granted upon the request of the natural or legal person intending to broadcast programme related exclusively to that event and the license shall be valid only during the event for which it has been granted.

The fee amount and more detailed requirements for granting a temporary license for the transmission and broadcasting of radio and TV signals shall be prescribed by the Agency Council.

Article 44

The license for the transmission and broadcasting of radio and TV signals shall be granted for the period of 10 years.

On the applicant's request, the license for the transmission and broadcasting of radio and TV signals may also be granted for a shorter period.

The validity of the license for the transmission and broadcasting of radio and TV signals 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.

Considering the actions of the license holder for the transmission and broadcasting of radio and TV signals in the previous period, with regard to the observance of provisions of this Law and regulations based on it, the Agency may:

- 1) approve the extension, after announcing a new public tender for the desired service zone wherein the license holder shall have an advantage, if all other requirements of the tender are met;*
- 2) deprive the license holder of such extension.*

Article 45

The Agency shall keep public register of issued licenses for the transmission and broadcasting of radio and TV signals and register of licenses for the development and use of distribution systems.

The procedure of keeping the registers referred to in paragraph 1 of this Article shall be prescribed by the Agency.

In compliance with the Media Law, the Agency shall submit to the competent state authority in charge of information issues all necessary data for entry in the media records, referring to each of the issued licenses for the transmission and broadcasting of radio and TV signals.

Article 46

The license for the transmission and broadcasting of radio and TV signals may cease to be valid before the expiry of the license validity in the following cases:

- 1) if the broadcaster informs the Agency in writing that he does not intend to broadcast programme any longer;*
- 2) if it is determined that the broadcaster 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;*
- 3) if the Agency, in compliance with the provisions of this and separate telecommunication law, revokes the issued broadcasting station license or license for transmission of radio and TV signals through distribution systems due to appearance of any of the reasons prescribed by these laws;*
- 4) if the Agency, following the procedure in compliance with this law and regulations based on it, imposes the sanctions against the broadcaster by way of permanently or temporarily revoking the license for the transmission and broadcasting of radio and TV signal;*

If any of the reasons referred to in paragraph 1 of this Article take place, the license for the transmission and broadcasting of radio and TV signal shall cease to be valid upon the license withdrawal decision taken by the Agency.

Penalty Provisions

Article 47

The Agency may impose a warning, fine to a broadcaster and it may, in accordance with the provisions of this Law, temporarily or permanently revoke its license for the transmission and broadcasting of radio and TV signals.

Every decision to impose sanctions to broadcasters shall be adopted by the Agency following the procedure, during which the broadcaster shall be able to give its position, and shall be published in the Agency's Operation Bulletin and in other ways prescribed by the Agency Statute and this Law.

A broadcaster may initiate administrative proceeding against every decision of the Agency to impose sanctions.

Article 48

The Agency shall issue a warning to the broadcaster that has violated any of the obligations determined by this Law, Agency's regulations or by the licence granted for transmission and broadcasting of radio and television signals, with the assumption that a warning shall be enough for the broadcaster to remove the consequences of its illegal behaviour.

On the occasion of imposing the warning, the Agency shall specify which obligation the broadcaster has violated, and determine measures that the broadcaster should undertake in order to eliminate the violation.

The warning shall be publicized in the programme of the broadcaster it refers to.

Article 49

A fine shall be imposed by the Agency upon the broadcaster that:

- 1) in spite of the warning violates the obligation prescribed by this Law or by the regulation of the Agency based on this Law.*
- 2) violates the obligations related to the terms and quotas for the broadcasting of advertisements, prescribed by the Agency.*

Article 50

The Agency shall revoke the licence for the transmission and broadcasting of radio and television signals, for the period of 30 days, provided that, regardless of the imposition of both warning and fine, the broadcaster:

- 1) fails to start broadcasting programme in the prescribed deadline;*
- 2) without justified reason, stops broadcasting programme for more than 60 consecutive days or 90 (ninety) days with intermissions during the calendar year;*
- 3) violates the provisions on unauthorized media concentration prescribed by this Law; fail to pay the license fee for the transmission and broadcasting of radio and TV signal.*

The broadcaster that has been previously issued the sanction of temporary revoking of the license for the transmission and broadcasting of radio and TV signals, for two times, shall be deprived of the license for transmission and broadcasting of radio and television signals

Article 51

A special regulation of the Agency shall closely prescribe the procedure of making a license withdrawal decision, without the additional terms/conditions to those prescribed by this Law, which shall be based on the principles of objectivity and impartiality, and the broadcaster shall be allowed to give their position with regard to the facts that occasioned the initiation of the procedure.

The representative of the broadcaster shall have the right to attend the meeting of the Agency Council where the revoke or deprivation of license is to be discussed.

Article 52

The broadcaster that has been deprived of the license for the transmission and broadcasting of radio and TV signals shall have the right to submit an objection to the Agency Council that shall postpone its execution, not later than 15 days from the date of receiving the decision.

The broadcaster is obliged to implement the final decision of the Agency Council on temporary or permanent license withdrawal, without any delay, and if not, enforcement procedure shall be carried out.

An administrative proceeding may be initiated against the Agency Council's decision upon the objection.

Fees Paid by Broadcasters

Article 53

The broadcasters shall pay a single registration fee.

The fee referred to in paragraph 1 of this Article shall be determined on the basis of the Agency's actual expenses related to:

- 1) *issuance of the radio-stations licenses*
- 2) *issuance of licences for the transmission of radio and television signals by means of distribution systems;*
- 3) *technical inspection of studio and broadcasting equipment;*
- 4) *entry into the registry in the broadcasters.*

Article 54

The broadcaster shall pay an annual fee for the issued license for the transmission and broadcasting of radio and TV signals in 12 equal monthly instalments.

Article 55

The amount, manner of determination and manner of payment of broadcasters registration fee and fee for the licenses for transmission and broadcasting of radio and TV signals shall be determined by the regulations adopted by the Agency Council and shall be published in the "Official Gazette of the Republic of Montenegro".

Special Rights and Obligations of Broadcasters

Article 56

The broadcasters shall be accountable for the contents of the programme they broadcast in compliance with this Law and the Media Law.

The broadcasters are obliged:

- 1) *to inform the public of 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 promotion of fundamental human rights and freedoms, democratic values and institutions, pluralism of ideas, to promote the public dialogue culture and observe the linguistic standards.*
- 3) *to respect the privacy and dignity of citizens.*

Article 57

The name, logo or abbreviated identifying symbol of the broadcasting program shall be broadcast in the following manner:

- *for a television programme – during the entire programme broadcasting;*
- *for a radio programme – every two hours of programme broadcasting.*

It is forbidden to use the name, logo or abbreviated identifying symbol not corresponding with the registered name of the broadcaster's programme.

The name, logo or abbreviated identifying symbol of the broadcasting 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.

Article 58

Networking of two or more broadcasters, for the purpose of simultaneous programme broadcasting, shall be allowed, in the duration of up to three hours daily in continuity or in total, if it does not interfere with the programme broadcasting of other broadcasters.

The approval for the networking referred to in paragraph 1 of this Article shall be issued by the Agency Council.

Exceptionally, the Agency may allow networking for a longer period of time, under the conditions prescribed by the special regulation adopted by the Agency Council.

The networking for the purpose of broadcasting the same programme shall be forbidden, if it violates the provisions on media concentration prescribed by this law or antimonopoly provisions prescribed by special regulations.

Article 59

No broadcaster shall be granted an exclusive right for the broadcasting of an event of great importance for the citizens of the Republic unless they are able to provide the quality reception of broadcasting programme for at least 85% of the population in the Republic.

More than one broadcaster may be granted an exclusive right for the broadcasting of the events of great importance for the citizens in the Republic in case the networking provides the quality reception of broadcasting programme for at least 85% of the population in the Republic.

In compliance with the European standards, the Agency Council shall, in precise and transparent manner, establish a list of events of great importance for the citizens in the Republic.

The broadcaster with the exclusive right to broadcast the events of great importance is obliged to allow all other broadcasters that are interested to record and broadcast short reports from that event in the duration of up to 120 seconds, which may contain both the authentic picture and sound from the event.

IV CABLE, SATELLITE AND MMDS DISTRIBUTION SYSTEMS

Article 60

Distribution systems shall be developed in accordance with contemporary solutions for wide-range networks, with regard to the digitalisation in broadcasting and technological convergence in the field of telecommunication and in accordance with the international standards and recommendations.

Article 61

The main station, sub-stations, secondary and user network with hubs and end connections on the territory of one or more units of local administration shall be constructed and used on the bases of the license for the development and use of cable distribution systems granted in compliance with this Law.

Article 62

The Agency, in cooperation with the units of local administration on whose territory the cable distribution system is being built, shall announce a tender for granting rights for the development and use of cable distribution system.

The tender referred to in paragraph 1 of this Article shall include:

- 1) *data on the area in which the cable distribution system is constructed with the planned number of connections;*
- 2) *technical parameters for the development and use of the cable distribution system;*
- 3) *period of time for which the right for development and use of the cable distribution system is granted;*
- 4) *the lowest annual fee amount for development and use of cable distribution system;*
- 5) *deadline for submitting the application.*

Article 63

In addition to the tender referred to in Article 62 of this Law, legal entity or a contractor shall submit the following:

- 1) *proof of registration into the court register,*
- 2) *necessary technical documentation and*
- 3) *the fee amount quotations for the development and use of the cable distribution system.*

Technical documentation referred to in paragraph 1 of this Article shall particularly include the following:

- 1) *data on organisation of the cable distribution system, planned capacities, technical characteristics and the capacity of devices and equipment;*
- 2) *deadlines and dynamics of the cable distribution system development.*

More detailed technical conditions for the development, use, beginning of operations and technical inspection of the constructed cable distribution system shall be prescribed by the Agency in cooperation with the regulatory telecommunication authority.

Article 64

The right to construct and use the cable distribution system shall be granted by issuing a license to the legal entity that has offered the best conditions according to the tender requirements.

The license for development and use of the cable distribution system shall contain the following:

- 1) *technical parameters of the cable distribution system;*
- 2) *amount and terms of payment of the fee for the development and use of the cable distribution system;*
- 3) *period of the license validity;*
- 4) *other rights and duties of the license holder.*

The license for development and use of the cable distribution system shall be allocated for the period of 10 years.

The conditions stipulated in the license for the development and use of cable distribution system may be modified by the Agency during the period of validity only in accordance with this law and separate telecommunication law.

Article 65

The company for the transmission and broadcasting of radio and TV signals is obliged to enable approach and use of infrastructure at its disposal to the legal entity that has obtained the license for the development and use of cable distribution system (hereinafter referred to as: cable operator), in accordance with the technical possibilities and general regulations of the company, which shall be stipulated in the separate contract.

According to its Status, the company for the transmission and broadcasting of radio and TV signals is obliged to publicly announce the general document on the prices of its services.

Provided that the company for the transmission and broadcasting of radio and TV signals denies access to and use of its infrastructure, the Agency shall adopt a decision upon the complaint.

Article 66

The cable operator shall pay the fee for the development and use of cable distribution system, 50% of which shall be the income of the Agency in the amount of 50% and of the local administration unit on the territory of which the cable distribution system is being developed.

The lowest amount of the fee referred to in paragraph 1 of this Article shall be determined by the Agency based upon the projected number of connections to the cable distribution system.

The cable operator having been granted the license for the development and use of cable distribution system for the first time shall start paying the fee after the period of time stipulated in the license, which shall not be longer than 1 year from the day of license issuing.

Article 67

The Agency may revoke license for the development and use of the cable distribution system provided that:

- 1) the operation of the cable distribution system is not in compliance with technical parameters stipulated in the license;*
- 2) the fee is not paid in compliance with the license*
- 3) the competent Republican authorities determine that there has been a violation of regulations and give the proposal for the license to be revoked;*
- 4) the legal entity that has obtained the right to construct and use cable distribution system fails perform other obligations stipulated in the license.*

Article 68

The cable operator shall not distribute its own programme, except exact time information and information regarding the system operation.

The cable operator shall not have a stake in the legal entity that is the programme broadcaster.

Article 69

The cable operator shall distribute radio and television programmes of broadcasters based on the previously signed contract on mutual rights and obligations, which shall be submitted to the Agency for the purpose of record keeping.

The cable operator may distribute the programmes that may be received through the satellite distribution on the territory of Montenegro, in compliance with the Law.

The cable operator is obliged to distribute programmes of the republican and local public broadcasting services, free of any charge.

Article 70

The broadcaster that has concluded the contract with the cable operator shall not distribute the programming contrary to the provisions of this Law and the Media Law, through the cable distribution system.

The cable operator is obliged to distribute radio and television programmes at the same time, fully and without any changes, in compliance with the obtained license for the development and use of the cable distribution system.

Article 71

The cable operator and the user of the cable distribution system shall stipulate by contract all the rights and obligations regarding the use of the cable distribution system.

The cable operator shall not deprive the user of the cable distribution system of the connection if there are technical possibilities for it.

Satellite Distribution Systems

Article 72

The license for satellite distribution of broadcasting signals shall be issued by the Agency, without public tender, at the request of the terrestrial satellite station owner, if the station owner has met the conditions related to installation, use and maintenance of telecommunication devices determined by this law and the telecommunications law.

Broadcasting programmes intended for satellite distribution shall be subject to the obligation of licensing in all cases when a particular programme that is to be broadcast by means of satellite, does not have the license for the broadcasting by means of other distribution systems.

More detailed conditions, procedure and fees for obtaining the license for satellite distribution of radio and TV signals shall be prescribed by the Agency in accordance with the ratified frequency allotment and the relevant technical and operative parameters, and in compliance with international standards and recommendations.

MMDS Systems

Article 73

The provisions of this law related to the issuance of licenses for the transmission and broadcasting of radio and TV signals and licenses for the development and use of cable distribution systems shall accordingly apply to MMDS systems and more detailed conditions, procedure and fees for obtaining the license for MMDS distribution of radio and TV signals shall be prescribed by the Agency.

V. BROADCASTING SUBSCRIPTION AND TAX

Article 74

Every household and legal entity, with its seat on the territory of the Republic, where technical conditions for reception of at least one radio or television programme have been provided, is obliged to pay monthly broadcasting subscription fee (hereinafter referred to as: subscription).

The Agency shall collect subscription either directly or by signing the contract with another legal entity after the completion of the public tender procedure.

Article 75

The funds from the subscription received by the Agency shall belong to:

- *the Republican public broadcasting services (radio and television) - 75%;*
- *the Agency's fund for the support of the local public broadcasting services (radio and television) - 10%;*
- *the Agency's fund for the support of the commercial broadcasting services (radio and television)- 10%;*
- *the Agency - 5%.*

Article 76

Owners of a motor vehicle in the Republic are obliged, when registering their vehicle, to pay the tax for the use of radio receiver that shall be included in the income for the Agency.

The tax referred to in paragraph 1 of this Article shall be paid to the gyro account of the Agency and shall be distributed in the following percentages:

- *the Republican public broadcasting service (radio) - 75%;*
- *the Agency's fund for the support of the local public broadcasting services (radio) - 10%;*
- *the Agency's fund for the support of the commercial broadcasting services (radio) - 10%;*
- *the Agency - 5%.*

Owners of a motor vehicle into which, according to the technical inspection, it is not possible to install a radio receiver, shall be exempt from paying the tax referred to in paragraph 1 of this Article.

Article 77

The distribution of financial resources from the Agency's funds for the support of the local and commercial broadcasting services shall be carried out by the Agency every six months, on the basis of public tender and in compliance with a separate regulation.

Article 78

Households that own receiving sets shall be exempt from paying the subscription if at least one of members of the household is:

- 1) *a disabled person with 100% of damage to the body;*
- 2) *a disabled person with less than 100% of damage to the body, provided that they have been granted, in compliance with the provisions of separate regulations, the right to allowance for outside help and care;*
- 3) *a person who permanently lost hearing or sight.*

The right to exemption referred to in paragraph 1 of this Article shall be exercised on the basis of a certificate issued by a competent pension and disability insurance institution for the period during which the reason for exemption still exists.

The following subjects shall be exempt from paying subscription and tax for the use of radio receivers:

- 1) *institutions for children's care, schools, hospitals and health centres, nursing homes, pensioners' centres, organizations of disabled persons and their workshops;*
- 2) *diplomatic and consular representative offices, on condition of reciprocity.*

Article 79

The Agency Council shall, after consulting with the Council of Republican Public Broadcasting Services, determine the amount of the subscription and tax for the use of radio receivers in the Republic, considering their financial requirements and general economic situation in the Republic.

VI COMPANY FOR THE TRANSMISSION AND BROADCASTING OF RADIO AND TV SIGNALS

Article 80

In order to create the conditions for free and equal access of broadcasters to the infrastructure for the transmission and broadcasting of radio and TV signals, as an activity of general interest, a public enterprise for the transmission and broadcasting of radio and TV signals shall be founded.

The Republic shall be the founder of the public enterprise for the transmission and broadcasting of radio and TV signals.

The Agency shall exercise the rights of the founder on behalf of the Republic.

The public enterprise for the transmission and broadcasting of radio and TV signals shall operate under the name of "Broadcasting Center" (hereinafter referred to as: BC).

The seat of the Public Enterprise shall be in Podgorica.

Article 81

The activities of the BC shall be the following:

- 1) *construction and maintenance of facilities, devices and equipment intended for the transmission and broadcasting of radio and TV and other telecommunication signals, using contemporary technical and technological equipment for the distribution of radio and TV and other telecommunication signals;*
- 2) *management of the primary network capacities in the cable distribution systems intended for the distribution of broadcasting signals;*
- 3) *technical co-ordination and adjustment of the Republican broadcasting system with broadcasting systems of European countries.*

The BC may perform other activities in compliance with the Law and the Statute of the Enterprise.

Any modification in the activities of public interest performed by the BC, commencement of bankruptcy proceedings or privatisation of the BC shall not be performed without the approval of the Parliament of the Republic of Montenegro.

Operation of the BC shall be public.

Business reports and final statement of accounts of the BC shall be announced in a manner prescribed by the statute and submitted to the Agency.

Article 82

The resources for the foundation and operation of the BC shall be the devices, equipment, facilities and other movable or real estate of the Republican broadcasting system, which is being used or was used by the Telecom of Montenegro, i.e. by their following organizational units:

- "Broadcasting Centre"*
- "Magistralni Kapaciteti" (Transmission Capacities) in the part referring to the transmission of the broadcasting signals.*

Article 83

BC shall acquire funds by means of:

- 1) offering services of transmission and broadcasting of radio and TV signals through terrestrial broadcasting stations;*
- 2) renting primary network in the cable distribution systems intended for the distribution of broadcasting signals;*
- 3) renting the infrastructure to other entities in compliance with law and the BC general regulations;*
- 4) providing technical services related to the primary activity of the company;*
- 5) from other income in compliance with law and Statute.*

The price for BC services shall be determined by special regulation adopted by the BC Managing Board, with the approval of the Agency.

The Budget of the Republic and budgets of local administration units shall provide funds for the payment of the services of transmission and broadcasting of programmes of public broadcasting services founded by them.

The funds referred to in paragraph 3 of this Article shall be include in the income of the BC.

The administration authority in charge of the public information issues, on behalf of the Government of Montenegro, or a competent executive body of the local administration unit, and the BC shall stipulate their mutual rights and obligations with regard to the manner and terms of payment of funds referred to in paragraph 3 of this Article by signing a contract.

Provided that the competent administration authority for public information issues and the companies for transmission and broadcasting of radio and TV signals fail to reach the agreement, a temporary decision on this issue shall be adopted by the Agency.

BC Bodies

Article 84

BC administration body shall be BC Managing Board, consisting of 7 (seven) members.

The BC Managing Board Members shall be appointed and recalled by the Agency Council.

The authorized nominators who propose BC Managing Board Members shall be:

- Government of the Republic of Montenegro (one member);*
- University of Montenegro/Faculty of Electrical Engineering (one member);*
- Republican public broadcasting services (one member);*
- Local public broadcasting services (one member);*
- Commercial radio and television stations (two members: 1-radio, 1-TV stations)*
- BC employees (one member).*

The Managing Board Members shall perform their duty independently, according to their own knowledge and conscience, in compliance with this Law and they shall not represent interests of third parties in their work.

A person shall not be appointed the Managing Board Member if they fail to qualify as the Agency Council Member.

The term of office of the Managing Board Members shall be 5 (five) years and the same person may be appointed to that position maximum two times consecutively.

The election procedure for the BC Managing Board Members shall be accordingly subject to the provisions of this law related to the election of Agency Council Members.

Article 85

A BC Managing Board Member may be recalled before the expiry of their term of office:

- 1) upon their own request,*
- 2) by submitting resignation,*
- 3) if they are unable to perform their duty or attend the Board meetings during a period longer than 3 months,*

- 4) if they violate in the course of they work the law or other regulations related to the execution of the BC activities,
- 5) in other cases determined by law and the Statute.

The Agency shall replace the recalled Board Member by other member who shall complete the remaining term of the recalled member, in a manner prescribed by the BC Statute.

Article 86

The Managing Board shall:

- 1) adopt the Statute with the approval of the Agency Council;
- 2) appoint, after a public tender, and recall the BC Director;
- 3) at the BC Director's proposal, adopt general regulations of the internal organization and job classification scheme of the BC;
- 4) adopt the proposed work plans and reports on operations and performance of the BC, and periodical and annual statement of accounts, and submit them to the Agency;
- 5) adopt the investment plans of the BC;
- 6) give approval to the BC Director's decisions on the basis of which the BC is obliged to effect payments in the total amount higher than the amount determined by the BC Statute;
- 7) implement the Agency's recommendations related to its authorities;
- 8) conclude a labour contract with the Director;
- 9) perform other activities in compliance with the Statute.

Article 87

The BC Director shall be appointed by the BC Managing Board.

A person may be appointed Agency Director if, in addition to general requirements, they meet special requirements:

- 1) citizenship of the Republic with the residence in the Republic,
- 2) minimum University degree,
- 3) minimum five years of work experience.

The Agency Director's term of office shall be four years.

A person who is not qualified for the Agency Council Member, as to the provisions of this Law, shall not be the Director.

The BC Director shall:

- 1) act on behalf of and represent the BC;
- 2) organize and manage the activities of the BC;
- 3) execute the decisions of the BC Managing Board;
- 4) propose to the BC Managing Board general regulations on internal organization and job classification scheme of the BC;
- 5) perform other activities determined by the BC Statute.

Article 88

The BC Statute shall particularly regulate the following:

- 1) principles of the internal organization of the enterprise,
- 2) scope of the bodies of the enterprise,
- 3) funds disposal competences,
- 4) manner of election of the employees' representative for the Managing Board and
- 5) other issues relevant for the operation of the Public Enterprise.

VII CONDITIONS OF DEVELOPMENT, USE AND MAINTENANCE OF BROADCASTING, SATELLITE, MMDS AND CABLE DISTRIBUTION SYSTEMS

Article 89

Broadcasting, satellite, MMDS and cable distribution systems may be developed in compliance with the law and separate regulations of the Agency.

Separate regulations of the Agency shall specify in detail the following issues:

- 1) performance of works in the vicinity of the facilities and equipment of the broadcasting, satellite, MMDS and cable distribution systems;
- 2) measures of observance of electromagnetic compatibility (EMC) during the development, use and maintenance of broadcasting, MMDS, satellite and cable distribution systems;
- 3) manner of protecting people from possible harmful radiation of broadcasting devices;
- 4) manner of protecting the equipment and facilities of the broadcasting, satellite, MMDS and cable distribution systems from damages that could result from their regular use on the land or in the buildings not owned by a broadcaster or signal distributor;
- 5) manner of determining free routes for radio connections (radio corridors) in urban environments;

- 6) *determination of zones of protection in the vicinity of certain facilities of the broadcasting, satellite, MMDS and cable distribution systems in which other facilities that might cause interference shall not be built;*
- 7) *removal of vegetation in the vicinity of the broadcasting, satellite, MMDS and cable distribution systems that might hinder their work;*
- 8) *manner and terms of changing radio frequencies, removal of certain buildings, facilities, devices etc. if it is necessary for the construction or reconstruction of an investment project;*
- 9) *manner and terms of construction and maintenance of technical infrastructure for subscribers' lines for cable distribution systems or common antenna systems in residential, business or other premises.*

Article 90

The BC, broadcaster and distributor of broadcasting signals shall be entitled, subject to the technical possibilities, to use the developed infrastructure of telecommunication facilities owned by other legal entities based on the contract and on condition of the compensation of actual expenses.

Article 91

The cables for distribution of broadcasting signals may be placed along the railways and roads provided that it does not affect the safety of transport and stability of a communication facility, in the manner prescribed by the regulations regulating the transport and road infrastructure.

Article 92

The BC, broadcaster and distributor of broadcasting signals are obliged to provide uninterrupted and safe operation of their systems, facilities and equipment and shall keep orderly records of it.

The records referred to in paragraph 1 of this Article shall include the following: determined interferences, interruptions and defects in the broadcasting of radio and TV signals.

The BC, broadcaster and distributor of broadcasting signals are obliged submit all the data referred to in paragraph 2 of this Article to the Agency on the day of their determination.

VIII THE PUBLIC BROADCASTING SERVICES

Article 93

Public broadcasting service shall produce and broadcast news programmes, cultural, art, educational, scientific, children, entertainment, sports and other programming, that satisfy the rights and interests of citizens and other subjects in the field of information and broadcasting.

Article 94

Legal entities, founded by the Republic or a local administration unit, may operate as public broadcasting service on the territory of the Republic or the local administration unit (hereinafter referred to as: broadcasters of public broadcasting services).

Broadcasters of public broadcasting services shall be involved in the production, transmission and broadcasting of radio and 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 Media Law.

Broadcasters of public broadcasting services shall be founded on the basis of the Law for the territory of the Republic and by the decision of the competent parliament of a relevant local administration unit.

Article 95

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

- 1) *independently 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) *implement quotas for the broadcasting of independent production programmes, in accordance with the regulations of the Agency Council;*
- 9) *mutually co-operate and exchange programming of interest for the citizens of the Republic.*

Article 96

Political propaganda shall not be permitted in the programs of public broadcasting services except during the election campaign.

According to the provisions of this Law, the following activities shall be considered to be political propaganda 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 the Republic, Members of Parliament and City Councillors.

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

Article 97

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.

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 of the Republic of Montenegro or the assemblies of the local administration units.

Article 98

An ordering party of political propaganda shall be clearly indicated.

The 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 Media Law.

A public broadcasting service may refuse to broadcast political propaganda that is not in compliance with law and the adopted rules of presentation of political parties, coalitions and candidates with the accepted election lists.

Article 99

Public broadcasting services shall announce, 15 days after the elections for the President of the Republic of Montenegro or the Parliament of the Republic of Montenegro or parliaments of local administration 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.

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.

Article 100

The broadcasters of public broadcasting services shall acquire their revenues from the subscription and other sources in compliance with law and their charters.

The Budget of the Republic or of the local administration 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:

- *the development of science and education;*
- *the cultural development;*
- *information intended for persons with hearing and sight impairments.*

With the aim to realize the rights referred to in the previous paragraph, the Republic or the local administration unit shall provide a part of the funds for the programming on the native tongues of national and ethnic groups.

Administration authority competent for public information, on behalf of the Government of Montenegro or the competent executive authority in the local administration unit, and the broadcaster of public broadcasting service shall stipulate by contract mutual rights and obligations related to the use of funds referred to in paragraph 2 of this Article.

The Manner and conditions of the fund provision, referred to in paragraphs 2 and 3 of this Article, shall not influence the editorial independence of the broadcaster of the public broadcasting service.

The contract, referred to in the paragraph 3 of this Article, shall be announced in a manner prescribed by the charter of the broadcaster and submitted to the Agency.

Managing Bodies in the Broadcasters of Public Broadcasting Services

Article 101

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

- 1) *Council;*
- 2) *Managing Board and*
- 3) *Director.*

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.

Article 102

The Council of the public broadcasting service shall represent the interests of the citizens of the Republic or the local administration unit on the territory where the program is being broadcast.

The Council of the public broadcasting service shall consist of up to 11 members, provided that the number of the Council Members is odd.

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.).

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

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.

The members of the Council of the public broadcasting service shall be entitled to remuneration prescribed by the Charter.

Article 103

All statements of income and expenditures and statement of accounts of the broadcasters of public broadcasting services shall be subject to annual audit by independent authorized auditor.

Article 104

The broadcasters of public broadcasting service shall acquire the right to produce, transmit and broadcast programmes directly on the basis of this Law.

The broadcasters of public broadcasting service shall be exempt from the obligation to obtain license for the transmission and broadcasting of radio and TV signals.

BC shall provide the broadcasting licences and the licences for the transmission and broadcasting of radio and TV signals by means of distribution systems.

The broadcasters of public broadcasting service shall submit to the Agency, before they start programme broadcasting, the request for technical inspection of their studio and broadcasting equipment.

IX PREVENTING UNAUTHORIZED MEDIA CONCENTRATION

Media Concentration Existence

Article 105

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; or*
- 5) simultaneously broadcasts radio and/or television programme and is involved in news agency activities.*

According to the provisions of this law, Media concentration shall also be present whenever the founders of a broadcaster are natural 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; or*
- 4) spouses or relatives in the straight line regardless of the degree of kinship among the individuals mentioned.*

Article 106

Unauthorized media concentration shall be considered to exist whenever:

- 1) a broadcaster licensed for the transmission and broadcasting of radio and TV signals on the national level of coverage (85% of the population of the Republic) has more than 25% share in the capital assets of another broadcaster with the same license;*
- 2) a broadcaster, except for the broadcasters of public broadcasting service founded by the Republic, broadcasts more than one television and one radio programme in the same area;*
- 3) a broadcaster 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) a broadcaster 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) a broadcaster 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 a broadcaster 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 as a broadcaster on local or regional level of coverage is simultaneously a publisher of a local daily newspaper, in the same or the neighbouring areas.

Article 107

Unauthorized media concentration shall also be considered to exist when, in the cases referred to in the Article 106 of this Law, natural person who is the founder of the broadcaster or the founder, or the persons who are his relatives in the straight line regardless of the 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.

Article 108

The Agency shall not adopt a decision on issuing the license for the transmission and broadcasting of radio and TV signals to the applicants to the public tender if it determines that such issuing would result, according to the provisions of this Law, in unauthorized media concentration. The applicant to the public tender shall, in addition to the application, submit an attested statement that possible issuing of the license for transmission and broadcasting of radio and TV signals shall not result in unauthorized media concentration, according to the provisions of this Law.

Article 109

The broadcaster shall inform the Agency in writing of any change in the ownership structure.

If the Agency Council determines that after the issuance of license for the transmission and broadcasting of radio and TV signals unauthorized media concentration is present, it shall order the broadcaster to conform its status with the provisions of this law relating to unauthorized media concentration within three months.

If the broadcaster fails to act in accordance with the order referred to in paragraph 1 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.

Article 110

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 allowed to participate in the public tender for issuing licenses for the transmission and broadcasting of radio and TV signals.

If a foreign legal entity referred to in paragraph 1 of this Article appears as one of the joint owners of the broadcaster licensed for the transmission and broadcasting of radio and TV signals after the license has been obtained, the provisions of this law related to termination of validity of the license for the transmission and broadcasting of radio and TV signals before its expiry shall be applied.

X ADVERTISING AND SPONSORSHIP

Advertising

Article 111

The advertisements shall be broadcast with financial or other compensation or with the intention of self-advertising.

The advertisements, as to the provisions of this Law, shall not be considered to be:

- free announcements of public works and charity campaigns;
- free presentations of works of art;
- free publicizing of information on producers, organizers, sponsors or donors of works of art, cultural and entertainment events and charity campaigns.

Advertisements shall be clearly recognizable, and separated from other program contents by optic and acoustic means.

Free advertisements must be specifically indicated as such.

Article 112

Any broadcasting of hidden advertising aimed at convincing the audience that a particular advertisement is not actually an advertisement is forbidden.

Both the ordering party and the broadcaster shall bear the responsibility for hidden advertising.

Any hidden advertising shall be assumed to be intentional.

Sponsorship

Article 113

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.

The programming shall not be sponsored by natural and legal persons the basic business of which is the production or sale of products or providing services whose advertisement is forbidden by the Media Law.

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

Article 114

The news or the programme dealing with current affairs shall not be sponsored.

Each sponsored programming (e.g. an article, show, etc.) must be distinctly marked as such by indicating the name or the logo of a sponsor.

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

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

XI SUPERVISION

Article 115

The supervision over the enforcement of this Law shall be performed by the Agency.

The inspection supervision over the performance of broadcasting activity shall be provided by the Agency, by means of its own inspection service as provided by law.

Article 116

In carrying out the supervision, the inspectors may:

- 1) order the deficiencies to be eliminated, if the technical regulations and standards have been incorrectly applied during the development and use of broadcasting, cable, satellite and MMDS systems for distribution of broadcasting and other telecommunication signals or their parts;*
- 2) prohibit the construction of facilities and related infrastructure that interferes with the operation of telecommunication networks and equipment;*
- 3) order the removal of deficiencies on the broadcasting, cable, satellite and MMDS systems for distribution of broadcasting and other telecommunication signals or their parts, interfering with the correct and regular functioning of telecommunicating networks or endanger the health or lives of people, and impose measures to be taken if necessary;*
- 4) order the removal of deficiencies on the electricity plants, facilities and transmission lines that might interfere with the regular functioning of the broadcasting, cable, satellite and MMDS systems for distribution of broadcasting and other telecommunication signals, and suspend the works on electrical facilities, if such works could endanger the health or lives of the persons working with telecommunication equipment;*
- 5) restrict or prohibit the use of electrical devices that, contrary to regulations, cause electromagnetic interference affecting the operation of the broadcasting, cable, satellite and MMDS systems for distribution of broadcasting and other telecommunication signals;*
- 6) prohibit the work of the broadcasting, cable, satellite and MMDS systems for distribution of broadcasting and other telecommunication signals or their parts that are not licensed and impose measures, if necessary, to disable their operation;*
- 7) impose a temporary prohibition of the operation of the broadcasting, cable, satellite and MMDS systems for distribution of broadcasting and other telecommunication signals causing the interferences with the operation of other telecommunication equipment and set the time limit for the removal of deficiencies;*
- 8) prohibit, in accordance with the market inspection, the sale of the equipment for the broadcasting, cable, satellite and MMDS systems for distribution of broadcasting and other telecommunication signals or their parts, that are produced or imported for the domestic market if they do not comply with the technical requirements the standards prescribed.*

XI PENALTY PROVISIONS

Article 117

A fine chargeable in the amount from twenty-fold to fifty-fold minimum salary in the Republic shall be imposed on the broadcaster on the grounds of the infringement of the law if it:

- 1) permanently or temporarily consigns, rents or transfers or alienates in any other way the granted licence for the programme transmission and broadcasting (Article 31, paragraph 4);*
- 2) broadcasts programme without licence or approval of the Agency (Articles 34, 36, 43, 58 of this Law);*
- 3) broadcasts programming not complying with the Media Law (Article 56 of this Law);*

- 4) *broadcasts name, logo or abbreviated identity sign of from its own or taken over broadcasting programme contrary to the provisions of the Article 57 of this Law;*
- 5) *broadcasts the events of great importance for the citizens of the Republic with an exclusive licence for the broadcasting but fails to provide the quality reception of broadcasting programme for at least 85% of the population in the Republic (Article 59, paragraph 1 of this Law);*
- 6) *fails to provide or allow to all interested broadcasters to record and broadcast short reports from the events of importance for the public, for which the broadcaster obtained the exclusive licence for the broadcasting (Article 59, paragraph 4 of this Law);*
- 7) *fails to provide uninterrupted and safe operation of their systems, facilities and equipment and keep orderly records of it or fails to timely submit the required data to the Agency (Article 92 of this Law);*
- 8) *violates the provisions on the unauthorized media concentration (Articles 107 and 108 of this Law);*
- 9) *fails to notify in writing the Agency about the ownership structure change or fails to conform the ownership structure in compliance with the Agency's recommendation (Article 109 of this Law);*
- 10) *broadcasts the advertisements contrary to the Article 111 and 112 of this Law;*
- 11) *broadcasts the sponsored programming contrary to the Article 113 and 114 of this Law;*

Article 118

A fine chargeable in the amount of forty-fold minimum salary in the Republic shall be imposed on the company of the transmission and broadcasting of radio and TV signals on the grounds of the infringement of the law if it fails to provide the access and use of the infrastructure available to a legal entity with the licence for the development and use of the cable distribution system, in compliance with its technical capacities and general acts (Article 65, paragraph 1 of this Law).

Article 119

A fine chargeable in the amount from ten-fold to thirty-fold minimum salary in the Republic shall be imposed on the cable operator on the grounds of the infringement of the law if it:

- 1) *distributes its programmes and has a stake in a legal entity which is the broadcaster of radio and TV programme, contrary to the provisions of the Article 68 of this Law;*
- 2) *fails to distribute programmes of the Republican and local public broadcasting services in compliance with the provisions of the Article 69, paragraph 3 of this Law;*
- 3) *distributes radio and TV programmes contrary to the provisions of the Article 70, paragraph 2 of this Law;*
- 4) *deprives the user of the cable distribution system of the connection if the technical possibilities for it exist (Article 71, paragraph 2 of this Law).*

Article 120

A fine chargeable in the amount from ten-fold to thirty-fold minimum salary in the Republic shall be imposed on a public service broadcaster on the grounds of the infringement of the law if it:

- 1) *broadcasts political propaganda except during the election campaign (Article 96, paragraph 3);*
- 2) *fails to indicate an ordering party in political propaganda (Article 98, paragraph 1);*
- 3) *fails to publicise manner and conditions of presentation of political parties, candidates and their programmes within the deadline referred to in the Article 99, paragraph 1 of this Law;*
- 4) *announces the results of public opinion polls within the period referred to in the Article 99, paragraph 2 of this Law.*

XII TRANSITIONAL AND FINAL PROVISIONS

Article 121

The Speaker of the Parliament of the Republic 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 Agency Council Members to submit their Appointment Acts.

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

The Parliament of the Republic shall decide upon the ratification of the Appointment Acts for the Agency Council Members not later than 30 days from the date of the expiry of the deadline referred to in paragraph 2 of this Article.

Article 122

The initial funds for the work of the Agency shall be provided from the Budget of the Republic.

The Government of the Republic of Montenegro shall provide premises, technical and other conditions for the beginning of the Agency's work, not later than 60 days from the date of coming into effect of this law.

Article 123

The Agency Council shall be constituted not later than 30 days from the ratification date of the appointment of its members. At its constitutional session, the Agency Council shall elect its chairman and adopt the decision on issuing public tender for the appointment of the Agency Director, as well as determine the dynamics of the standing orders adoption.

Article 124

The Agency Council shall appoint the Agency Director not later than 30 days from the expiry of the deadline for the submission of public tender applications.

In case it fails to adopt the decision on the appointment on the basis of the issued public tender, referred to in paragraph 2 of this Article, the Agency Council shall appoint the Acting Director, until the appointment of the Agency Director.

The Council shall adopt the Agency Statute not later than 30 days from the date of its constitution.

The other regulations the Agency Council is authorized to enact, as to the provisions of this Law or the general regulations required for the functioning and work of the Agency, shall be adopted not later than 6 (six) months from the date of the constitution of the Agency Council.

Article 125

Broadcasters with special licenses for the use of broadcasting frequencies, at the time of coming into effect of this law, shall continue to operate in the manner and according to the conditions under which they were entered in the media records kept by the competent Republican authority in charge of information issues and they shall conform their operation with the provisions of this Law not later than 60 days from the date of coming into effect of the general regulations required for the realization of public tender and issuance of licenses.

Not later than 30 days from the date of the Agency registration, on the basis of the documents of regulatory authority in charge of telecommunication issues and the competent Republican authority in charge of information issues, the Agency shall publish in the Official Gazette of the Republic of Montenegro a list of all broadcasters referred to in paragraph 1 of this Article.

The broadcaster referred to in paragraph 1 of this Article that has special license for the use of broadcasting frequencies on the date of coming into effect of this Law, shall continue to pay compensation for the use of such frequencies to the Agency in the amounts specified in their license.

The legal entities that broadcast programme at the time of coming into effect of this law, which are not subject to the provisions of this Article, are obliged to stop broadcasting programmes not later than three months from the date of the constitution of the Agency Council, which shall not prejudice their right to participate in the related public tender for granting licenses for the transmission and broadcasting of radio and TV signals.

Article 126

The Agency Council shall start issuing public tenders for granting the licenses for the transmission and broadcasting of radio and TV signals and licenses for the development and use of distribution systems not later than 15 days from the date of the adoption of the Broadcasting Frequencies Allotment Plan and coming into effect of all the general regulations required for the realization of the public tender and issuance of these licenses.

The broadcasters that, at the time of coming into effect of this law, have special licenses for the use of broadcasting frequencies shall have a preference in the public tender for the allotment of rights for the transmission and broadcasting of radio and TV signals over the natural and legal persons competing for the first time, provided that they meet all the conditions required by the public tender.

Article 127

The takeover of the overall available documentation related to broadcasting that is owned by the Telecommunications Agency on the date of coming into effect of this Law, shall be completed not later than 15 days from the date of the Agency registration.

Article 128

Not later than April 30th 2003, the public enterprise "Radio-difuzni centar" (Broadcasting Centre) shall be separated from Joint Stock Company "Telekom Crne Gore" (Telecom of Montenegro), with the status in the business book of Joint Stock Company "Telekom Crne Gore" on the date of December 31st 2002.

The division balance sheet and the document on the distribution of resources, rights and liabilities on the basis of the separation referred to in paragraph 1 of this Article shall be adopted, upon the proposal of the Director of Joint Stock Company "Telekom Crne Gore", by the competent authority of Joint Stock Company "Telekom Crne Gore", not later than June 30th 2003.

Based on the document on the distribution of resources, rights and obligations, Joint Stock Company "Telekom Crne Gore" shall adopt, not later than December 31st 2002, the separate acts on the ground of which it shall carry out registration of the Public Enterprise "Radio-difuzni centar" in the court registry.

The BC Managing Board shall be constituted not later than within 30 days from the adoption of the BC Statute.

Not later than 15 days from the date of constitution, the BC Board shall issue the public tender for the appointment of the BC Director General.

The employees of the operating units of Joint Stock Company "Telekom Crne Gore" referred to in Article 84 of this Law shall continue their work in the BC after the registration in the competent court.

Article 129

Legal entities that, on the date of coming into effect of this Law, perform the transmission and broadcasting of radio and TV signals by means of radio communications and cable systems, are obliged to conform their operations with the provisions of this law, not later than 6 months from the date of coming into effect of this Law.

Article 130

The broadcasters that continue programme broadcasting even after the expiry of the deadline referred to in Articles 125 and 129 of this Law shall be subject to the provisions of this Law and a separate law regulating the field of telecommunications, and the provisions related to unauthorized use of radio frequencies.

Broadcasting organizations founded by the local authorities (municipality, city) shall continue to operate as radio and/or television stations locally, provided that they comply their operation with the provisions of this Law not later than six months from the date of coming into effect of this Law.

Article 131

The provisions of this Law regulating the issues of unauthorized media concentration shall not apply to the condition found at the time of coming into effect of this law, until the adoption of the decision on the ground of the public tender for issuing the licenses for transmission and broadcasting of radio and TV signals for appropriate service zone.

The applicant to the public tender for issuing licenses for the transmission and broadcasting of radio and TV signals shall observe the provisions related to unauthorized media concentration, in order to make the application eligible for consideration.

Article 132

On the date of coming into effect of this Law, the provisions of any other law and regulation related to the broadcasting field and not complying with this Law shall cease to be valid.

Article 133

This Law shall come into effect eight days after the date of its promulgation in the "Official Gazette of the Republic of Montenegro", and shall be implemented from May 1st 2003.

Broj: 01-2807/2
Podgorica, September 17th 2002

The Broadcasting Law was adopted on September 16th, at the fourth extraordinary session of the Parliament of the Republic of Montenegro in 2002, and publicised in the "Official Gazette of the Republic of Montenegro", No. 51/02.



Republic of Montenegro
BROADCASTING AGENCY

*LAW ON AMENDMENT TO
THE BROADCASTING LAW*

Podgorica, September 2004



Republic of Montenegro
BROADCASTING AGENCY

***LAW ON AMENDMENT TO
THE BROADCASTING LAW***

Article 1

In the Broadcasting Law ("Official Gazette of the Republic of Montenegro", No. 51/02) in the Article 133 words "and shall be implemented from May 1st 2003" shall be deleted.

Article 2

This Law shall come into effect eight days after the date of its publishing in the "Official Gazette of the Republic of Montenegro".

Number: 01-2807/4

Podgorica, November 13th 2002

***The Law on Amendment to the Broadcasting Law was adopted on November 12th
on the third session of the second regular sitting
of the Parliament of the Republic of Montenegro in 2002, and publicised in the
"Official Gazette of the Republic of Montenegro", No. 62/02***

BROADCASTING LAW
THE COMMENT

COMMENT OF THE LAW

I

The right of public informing represents one of the basic constitutional rights of citizens in the Republic of Montenegro. The process of developing of a basically new public broadcasting system in the Republic of Montenegro began back in 1993 by passing the Public Information Law. The Law created the legal basis for regulating this area in accordance with the then obtained level of democratisation, and compatibly with the world practice and experiences. It was only by that Law that was for the first time regulated that any natural or legal person, regardless of the character of the property, may establish a media. Three important roads were thus opened towards European standards: the privatisation of the media, the possibility of foreign investments, and the simplification of the procedure of media founding. The application of the Law resulted in a significant increase of local and private radio stations, private television stations, news agencies and print media. That created a need for a normative regulation of the entire set of issues regarding the work of broadcast media (the assignment of frequencies, the schedule of the frequency spectrum assignment, the work of broadcasters, the manner of issuing licences, etc.), which were regulated by the Government's decisions and regulations.

The Public Information Law of 1998 foresaw a notable share of shortages of the normative regulations of the previous law. In that sense, a basically new manner of dealing with legal persons and the media was adopted, founded by the Republic or the local authorities. For the first time this Law regulated, segment-by-segment, even the area of broadcasting. It is a fact that political parties, while drafting this law, were insufficiently aware that institutions of the civil society ought to be a majority in organs that regulate the media, which would strengthen the controlling mechanism and consequently limit the power of the owner – the state. It is also a fact that in Montenegro, at the time, there was no developed non-governmental sector that could take over such an important role in the information system, especially in the area of broadcasting.

The period of the application of this law is characterised also by the activity of the media professionals and investigators in the openness of the media from the country and from abroad, whose main aim was to deal with the question of free access to the media. As a rule, those questions were brought by those social subjects – political parties, interest groups and others – who did not have a free access to the media or who considered their own presence in them insufficient or inadequate.

The same period saw more manifest the need of the civil society institutions to practice influence on all control points of the media system (managing resources such as radio frequencies and newsprint; control of ownership over media; transformation of media, etc.). Questions regarding codification of professional and moral rights and obligations in the area of information and broadcasting have also been raised. Precisely those segments ensured in the Republic of Montenegro satisfactory mechanisms of the media functioning as a part of the political functioning and other means of communication in democratic societies, and above all within and among three autonomous subjects: authorities, media and citizens.

In order to approach and create the necessary preconditions for equal participation in international organisations and institutions, the Republic of Montenegro is striving to create and develop a social framework in which the realisation and protection of freedom and rights of its citizens, guaranteed by international documents on human rights, would be made possible on the same or the nearest possible level of standard which is being used in democratic societies.

In accordance with the above said, further democratic development in the area of the media implies a whole sequence of initiated changes both in the realm of legislative regulations and institutions of the systems that ensure its high-quality and thorough application, primarily from the part of the executive and legal authority, as well as from other institutions of the civil society.

In all that, determining the attitudes of citizens with regards to the control over media is the most important element for perceiving their overall relation towards the realm of media. Thus, the state of Montenegro in this phase of development of the public information is all in favour of the citizens' rights in their relation to the media system, which leaves no room for any state or party monopoly whatsoever in the media.

The necessity of changes, as a prerequisite for creating and developing co-operation with the countries from the region and the world, has become clear both to the organs of the state government and to media and the media professionals in the Republic of Montenegro. It is precisely the readiness to start an overall process of adapting of the existing legislative regulations and developing new ones, as well as creating a new institutional framework, which has encountered understanding with the international community and foreign donors.

Having in mind the important role of the media, especially the broadcast ones, in the societies in transition, where they function as a basic mechanism of intensifying democratic processes inside of them, an active dialogue between authorised state organs, representatives of the media community and non-governmental sector has been established in the Republic of Montenegro in order to set up new media regulations in accordance with European standards. In July 2001 a Working group for drafting the Broadcasting Law and the Media Law was formed in order to propose a thorough and attainable reform of the media system in the Republic of Montenegro.

The working group, which was in charge of drafting the media regulations, established an active co-operation with the Council of Europe, the European Agency for Reconstruction, the European Institute for the Media, the "Article XIX" Organisation, and other international institutions interested in this ongoing process in the Republic of Montenegro. The activities of the Working group were regularly presented to the public (through press conferences, interviews, announcements for the public, the web site of the Republic Secretariat of Information – www.rsi.cg.yu),

and the remarks, suggestions and opinions presented by the interested subjects from the country and from abroad were considered in detail in order to reach the most acceptable normative solutions that could be effectively implemented in Montenegro.

In order to support the adopted aims and the methodology of the Working group and the reform of the media regulations in the Republic of Montenegro, the Council of Europe and the European Agency for Reconstruction in August 2001 adopted the Common initiative for providing help for conducting activities in this area. The goal of the above mentioned initiative is the formulation and implementation of the legislative regulations in accordance with the Article 10 of the European Convention of Human Rights and Fundamental Freedoms, and in accordance with the practice of the European Court of Human Rights. The starting basis of the adopted initiative is that the Council of Europe, in direct co-operation with other international institutions and organisations, primarily with the European Commission and the OSCE, is observing and offering expert help to the overall process, while giving opinion on the co-ordination of the legislative texts with the European standards that deal with the freedom of media.

Bearing in mind the complexity of the subject material, which was to be legislatively regulated, the Working group prepared three legislative texts that fundamentally determined the media system: the Media Law, the Broadcasting Law, and the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro". In the process of drafting the legislative texts, the most suitable solutions for the extremely complex problems that broadcast media in Montenegro have to face in the present have been accepted. The solutions proposed by the Broadcasting Law are mainly based on the currently reached level of democratisation of the media realm and on European standards.

This legislative text ought to be considered bearing in mind the solutions brought by the Media Law and the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro", because they as a whole give an answer to the question of the position and of rights of individual subjects in the media system, and particularly the broadcasting system, of the Republic of Montenegro. Furthermore, the Working group considers that with these draft laws, along with the need of passing a special Law on free access to the media, the system of informing in the Republic of Montenegro is being made whole, and also better conditions for its further development are being created. Foreign experts, who were engaged by the Council of Europe and the European Institute for the Media, in two expert missions, confirmed the fact that normative solutions of the Broadcasting Law represented an important act of democratisation of the relations in this area.

The starting basis of those who proposed the Law was that the broadcasting activity in the Republic of Montenegro was regulated in accordance with the Media Law and on the same level of standard contained in the international documents on human rights and freedoms (the United Nations, the OSCE, the Council of Europe, the EU, etc.). Thus, the essence of the proposed legislative solutions can be understood through insight into the accompanying documentation containing the European convention for protecting the human rights and basic freedoms, the legal practice of the European Court of Human Rights, and current resolutions and references of the Council of Europe in the realm of media.

II

With regard to the Constitution of the Republic of Montenegro, which guarantees the freedom of press and other forms of public information, as well as the right of citizens to express and publicise their opinions in media along with the right to publish newspapers and be informed by other media, the Broadcasting Law gives the concept and methodology of development of these fundamental constitutional principles, with a special emphasis placed on broadcasting and broadcast media as a specific form of realising the right of freedom of expressing and being informed. In accordance with that, the Broadcasting Law follows the logic of establishing a framework of clearly regulated mutual rights and duties of all subjects in this system according to the European standards in this area.

The starting basis in drafting this law were principles contained in the international documents and human rights, such as, primarily:

- The International Convention on citizens' and political rights (Article 19);
- The European Convention on Human Rights and Fundamental Freedoms;
- Declaration of The Council of Europe on freedom of expression and information;
- Directive of the European Union "Television without Frontiers";
- Convention on Transfrontier Television of the Council of Europe;
- Recommendations of the Council of Europe, such as:
 - R (2000) 23 on independence and functioning of regulative organs in the broadcasting;
 - R (2000) 7 on journalists' right not to reveal their source of information;
 - R (97) 21 on media and promoting cultural tolerance;
 - R (99) 15 on measures regarding the media coverage of the election campaigns;
 - R (99) 1 on measures for promoting pluralism of media;
 - R (97) 20 on "hate speech";
 - R (96) 10 on guaranties for the independence of public broadcasting etc.

These documents emphasise the importance of a wider range of independent and autonomous means of communication for a democratic society, which makes possible expressing of a variety of ideas and opinions. In reaching that goal, the establishment of special independent regulating organs for the broadcasting area, with expert knowledge of the area, ought to play a special role in legislatively determined frameworks. Also, technical and economic development that causes expansion and further increase of the complexity of this area, influences the role of these organs and creates the need for further adjustment of regulations, apart from the self-regulatory measures adopted by the broadcast media themselves.

Section **I BASIC PROVISIONS** (Article 1 through 4) defines concepts and manner of organising the broadcasting activity in the Republic of Montenegro in accordance with the Media Law on the same level of standards contained in the international documents on human rights and freedoms (the European Union, OSCE, the Council of Europe, the European Union, etc.).

This law determines the rules and obligations in the broadcasting realm, especially the establishment of an independent regulating organ; issuing licences for transmission and broadcasting, and licences for building and using cable, satellite and Multipoint Multichannel Distribution

Systems (MMDS) for distribution of broadcasting and other telecommunication signals; broadcasting subscriptions and taxes; establishing transmission and broadcasting companies; building and using broadcasting stations, cable, satellite and MMDS distribution systems; the rights and positions of public broadcasting services; hindering illicit media concentration; supervision over the implementation of this law as well as other questions of importance to the broadcasting area.

The law establishes the broadcasting area on principles of: freedom, professionalism and independence of broadcast media, and their equal development; prohibition of any form of censure or illicit interfering in the work of broadcast media; equal development of public and commercial broadcasters, rational and efficient use of broadcasting range of frequencies; free and equal access of broadcasters to telecommunication infrastructure for the purposes of broadcasting; development of competition and pluralism in the broadcasting area; application of international standards and principles dealing with the broadcasting realm; objectivity, as well as non-discrimination and public procedure for issuing licences to broadcasters.

Section **II BROADCASTING AGENCY** (Article 5 through 29) determines the establishment, jurisdiction, organs and manners of financing of the Broadcasting Agency as an independent regulative organ, legally separated from, and independent of, state organs and all legal and natural persons who are engaged with the activity of producing, transmission and broadcasting radio and television programmes or with the activities related to them.

The Agency and the independent regulative organ in charge of telecommunication are bound by the Law, in accordance with this law and a special law that deals with the realm of telecommunications, to mutually co-operate and co-ordinate their work in order to provide rational and efficient use of broadcasting spectrum of frequencies and apply regulations regarding building and using cable, satellite and MMDS system for distribution of broadcasting and other telecommunication signals. In the course of its almost one-year work, the Working group for drafting the Media Law and the Broadcasting Law, have on several occasions reminded of discord of the solutions proposed by the Telecommunications Law with European standards regarding broadcasting. Since it occurred as necessary to make changes and amendments to the Telecommunication Law in order to ensure a thorough and rational regulation of this area and in order to efficiently realise the rights and duties of broadcasters, the Working group wished, therefore, without trying to prejudice the solutions that are going to be adopted, to issue the obligation of co-operation of the two regulative organs (for the broadcasting and the telecommunication areas) so that the legislative framework for the broadcasting system would enable the realisation of the rights and duties of broadcasters issued in international documents.

Within its basic authorities, the Agency passes the Strategy of broadcasting development and the Plan of broadcasting frequencies allocation; it provides an efficient use of the broadcasting frequencies spectrum; it issues licences for transmission and broadcasting; it determines fines to broadcasters; it supervises the application of this law and brings closer regulations for its implementation; it co-ordinates and reports broadcasting frequencies to the international broadcasting and telecommunication organisations through the authorised state organ.

The Law decided to give the Agency the public authority, for the sake of conducting this Law and the broadcasting Strategy, to pass explanatory acts (instructions), to supervise the work of broadcasters and companies for transmission and broadcasting, and to discuss objections of natural or legal persons to their work. It is the Agency's duty to conduct all its activities and pass all its decisions in a transparent way. The Agency has to give any person whose rights or duties are being discussed the right to express him/herself, and in case he/she is not satisfied with the decision reached, he/she has the right to review it in the court.

The Agency's organs are the Council and the Director.

Respecting European standards in this area the Law established a detailed procedure of nomination and of the rights and duties of the members of the Agency Council, as its central body.

Members of the Agency Council are chosen from the realm of distinguished experts from the areas important to performing broadcasting activities (telecommunication, media, law, economy, etc.). The law proscribes in detail conditions and ways of nomination (Article 11 through 17) in order to ensure the nominees' independence from any sort of political, economic or other entangling or interests in the work of the Agency Council.

In order to ensure independence from any state body, both in the process of nomination of members and in the way of the Agency's financing, it has been regulated that the Agency Council Members are nominated by the authorised nominators, and their decisions about nominations, reached in accordance with this Law, are confirmed by the Parliament of the Republic of Montenegro. On the other hand, in case of the cessation mandate of a council member, according to legislatively determined conditions, the decision about it is to be brought by the subject who had nominated the member.

To secure independence in performing their work, either of separate members or the Agency Council as a whole, the Article 17 of the Law specifies that the Agency Council Member does not represent the authorised nominator, but performs its duty independently, according to its own knowledge and conscience. Therefore, having as a basis the Constitution, this Law, and adopted strategic and other documents in the broadcasting are, the Agency Council has to perform its role in such a manner to make possible the realisation of principles defined by Article 3 of this Law.

The authorised nominators, each one member, of the Agency Council are The Government of the Republic of Montenegro; the University of Montenegro/ Electro-technical Faculty; associations of broadcasters in Montenegro – with the exception of associations of public broadcasters; non-governmental organisations from the broadcasting area. The Article 14 of the Law prescribes in detail under what conditions a certain person cannot be appointed an Agency Council member. A thorough and detailed list is created in order to avoid possibilities of a formal influence of certain centres of political and economic power on the work of the Agency's Council. The issue of the conflict of interests that might occur after the end of term of a member of the Council of the Agency has also been regulated (Article 15).

The independence and autonomy of work of the Council of the Agency is also ensured by strictly determined conditions and procedures, which have to be obeyed in case of ending of members' mandate, with a special accent placed on cases of dismissal of the Agency Council Members (Articles 18 and 19). This also is a way of eliminating possibilities of using the dismissal of a member as a means of putting pressure on his work.

Within authorities, regulated by Article 21 of the Law, the Agency Council: adopts the Strategy of broadcasting development and the Plan of distribution of broadcasting frequencies; issues licences for transmission and broadcasting and licences for building and using distribution

systems, and, on that basis, determines the compensation; it pronounces sanctions to broadcasters in accordance with the Law, it considers objections of legal and natural persons regarding the work of broadcasters and companies for transmission and broadcasting; it determines minimal quotas to public broadcasters for transmitting programmes of independent productions, as well as quotas for transmissions of advertisements, in accordance with European standards; it nominates and dismisses the Agency Director and Managing Board for transmitting and broadcasting.

Articles 25 and 26 of the Law regulate the terms and the manner of electing the Agency Director, as well as his rights and duties. Just like in electing members for the Agency Council, the candidates for the place of the Director of the Agency must meet all the requirements regulated by the Law.

In order to provide financial independence of the Broadcasting Agency, the Law issues a clear and completed system of financing, which is supposed to enable it to perform its legislatively established duties autonomously, promptly and efficiently. Thus, the Article 28 of the Law states that the Agency collects the means from compensations for registration of broadcasters; from compensations for licences for transmission and broadcasting; from permissions for building and using the distribution system; from the share of the broadcasting subscription; from taxes for radio transmitters; from income of companies for transmitting and broadcasting, as well as from other sources in accordance with the Law.

The drafter believes that such a framework would be enough to cover the expenses of the Agency. The Law regulates the obligation of the Agency to use all possible extra profits (over expenses) solely for fulfilling legislative duties of performing the function of an independent and regulative organ in the broadcasting area. In order to ensure free approach of the public to the work of the Agency, and the transparency of the Agency's doing business, the Law established that all Agency's accounts of profit and expenses are subject to an annual revision performed by an independent authorised auditor, hired by the Agency Council. Furthermore, the Agency is expected, within assigned terms, to publish in its Operation Bulletin, the annual report on its work and the report of the authorised auditor, as well as to make them appropriately available to any interested person.

Section **III LICENCE FOR THE TRANSMISSION AND BROADCASTING** (Article 30 through 59) establishes a procedure of issuing licences for transmission and broadcasting, as one of the basic assignments of any independent regulative body in the broadcasting area. European standards, which must be respected in this area, imply that regulations which deal with the process of issuing licences must be clear and precise, and must be applied in an open, transparent and impartial manner, in a procedure that implies public notice of free broadcasting frequencies, administered, in the name of the Republic, by the Broadcasting Agency, and which can be assigned for a use to broadcasters under clearly specified conditions.

Existing legal acts that are currently used to regulate this area imply an unnecessarily complicated procedure for obtaining a broadcasting licence, which, for its part, implies previous acquiring of various documents from many different authorities. That is why the Drafter of the Law has decided to apply, in accordance with European standards in this area, the "one-stop-shop" (OSS) principle. This principle implies that broadcasters of broadcasting programmes will be able to obtain all the documentation (licences, etc.) for broadcasting in one place, in the shortest period of time and in the most efficient way, i.e. through an independent regulative body in charge of the broadcasting area. Therefore, by obtaining the licence for transmission and broadcasting, the broadcaster acquires the right of broadcasting, directly or through distribution centre.

In accordance with that, paragraph 3 of the Article 31 establishes that licences for transmission and broadcasting are made up of licences for radio-stations and licences for transmission of broadcasting signals through distribution systems, and those licences are issued by the Agency in co-operation with the authorised organ. Thus, the broadcaster, who had previously, in an open competition, obtained the right to broadcast a programme, is enabled to get in one place and in a short time a unique licence which would consist of a whole set of licences, permissions, and similar, all of which was until now possible to obtain only through an unnecessarily long and complicated procedure and from many different authorised state bodies.

The Law establishes that the owner of the licence for transmission of broadcasting signals can be either native or foreign, legal or natural person, registered for production, transmission and broadcasting radio and/or television programmes, and with a residence or a seat on the territory of Montenegro. On the other hand, it is not allowed that a foreign legal or natural person participates in the basic capital of legal persons who perform duties of public broadcasters, nor that a legal person whose establisher is a political party, an organisation or a coalition has the licence for transmission and broadcasting. Religious communities, i.e. other religious organisations and legal persons who are their establishers, are allowed to have the licence for broadcasting radio programme on a local level (Articles 32 and 33).

The Law distinguishes three categories of broadcast media: Republican public broadcasters, local public broadcasters and commercial broadcasters. This simple classification comes from the intention to make a general division of the broadcasting area, in accordance with international standards, into public and commercial broadcasting, with all its particularities in the way of financing, programme schemes, etc. During drafting the law, the Working Group considered various ways of transformation of state broadcast media. On that occasion many options were taken into consideration:

- privatisation,
- establishment of strong republic public services that would use some of personnel, technical and other potentials of local broadcast media,
- transformation of all state broadcast media, on the republic and local level, into public broadcasters.

In which direction will the transformation of these media go will be decided by their founders, but the law also established a six-month term for co-ordinating their work and their organisation with this Law.

The Law establishes clearly and meticulously every phase of the procedure of issuing the licence for transmission and broadcasting. Thus, Article 37 of the Law regulates the manner of announcement, the content and the terms of the Broadcasting Agency's open competition for issuing new licences for transmission and broadcasting, all of that in accordance with the Strategy of broadcasting development, and based on the Plan of allocation of broadcasting frequencies. The licence for transmission and broadcasting programmes is issued for a period of 10 years with the possibility of an extension. The Agency keeps a public register of issued licences for transmission and broadcasting and a register of licences for building and using distribution systems, according to a procedure established by the Agency through a special act. It is also established that the

Agency, in accordance with the Media Law, informs the state body competent for the information issues on the data for registration in Media Records that refer to the media founder – the broadcaster, which has obtained the licence for transmission and broadcasting.

Article 46 of the Law regulates the cases when the licence for transmission and broadcasting may cease to be valid before the expiration of the period of time for which it was issued.

Special attention is paid to regulating one of basic functions - supervision over broadcasters' work and their observance of the conditions established by the law, as well as over issued licences for transmission and broadcasting (Articles 47 through 52). Thus, in cases of violation of the law, or by-law acts based on the law, or issued licences, the Agency is authorised to impose upon the broadcaster some of the penalties prescribed by the law (a warning, a fine, suspension of a licence, taking away of a licence).

All decisions about pronouncing penalties to broadcasters are brought by the Agency only after a conducted procedure that left the broadcaster the possibility to defend its case. The decisions are then published in the Agency Operation Bulletin or in another form according to this law and the Statute of the Agency. Bearing in mind the principle that all stated penalties ought to be open for discussion by authorised court bodies, this law gives the broadcaster the possibility to start an administrative procedure against any decision of the Agency regarding pronouncement of penalties.

The law establishes that the broadcaster with a granted licence for transmission and broadcasting pays only two kinds of compensations: a single compensation for registration and the annual compensation for the issued licence (Articles 53 through 55).

All broadcasters are responsible for the content of the programmes they broadcast in accordance with this Law and with the Media Law. Special rights and duty of broadcasters of broadcast programmes have been established, as well as specific forms of informing and expressing (Articles 56 through 59). Those rights and duties include:

- the duty to inform the public truthfully, thoroughly, objectively and promptly about events from the country and abroad that are of the public's interest; the duty to respect and promote fundamental human rights and freedoms, democratic values and institutions, pluralism of ideas; the duty to promote the culture of a public dialogue and respecting the language standards, the privacy and the dignity of citizens;
- the duty to possess and broadcast its own unique identifications logo;
- the right to make a network of more broadcasters for the purpose of simultaneous broadcasting of a programme;
- the rights and duties that deal with obtaining and using of exclusive right for broadcasting of an event of high importance for the citizens.

Respecting the right of the public to be informed of the events of a special interest to them that can be an object of exclusive rights, the Law establishes that broadcasters cannot obtain the right of exclusive broadcasting of events of high importance to the citizens in the Republic unless they provide a high-quality reception of the broadcast programme for at least 85% of the citizens in the Republic. In accordance with European standards, the duty of the Agency Council is to prepare a list of all events important for the citizens of Montenegro in a clear and transparent way.

Section IV CABLE, SATELLITE AND MMDS DISTRIBUTION SYSTEMS (Articles 63 through 73) establish a procedure of building distribution systems based on modern solutions for wide-range networks, leaving out the digitalisation in broadcasting and technological convergence in the realm of telecommunications, and in accordance with international standards and recommendations. This section of the Law regulates the area which was until now established by the Decision of the Government of the Republic of Montenegro about the ways and terms of building and using cable distribution systems ("Official Gazette of the Republic of Montenegro", Number 41/2000) and was not appropriately regulated by the Telecommunication Law. Since the distribution of broadcasting signals through cable distribution systems represents an important condition for a sustainable and high-quality development of broadcasting in Montenegro, the drafter estimated as very important to regulate this area in a thorough way.

This Law establishes that the Agency, in co-operation with units of local self-government on whose territory a cable distribution system is being built, according to a previously announced open competition, issues a licence which ensures the right to build and use the cable distribution system. The licence to build and use a cable distribution system is issued for the period of 10 years to a legal person who, in accordance with the terms of the open competition, had proved to have the best conditions. Establishing regulations concerning all closer technical terms regarding building, using, activating and technical inspection of the built cable distribution system will be done by the Agency in co-operation with regulative organ authorised for the broadcasting area. The draft law also establishes the obligation of the Transmission and Broadcasting Company to enable the access to and the use of the available infrastructure to the legal person who obtained the licence for building and using the cable distribution system (cable operator), according to its technical possibilities and general acts, which is regulated by a separate contract.

In order to establish the principle of equal presence of all broadcasters to the infrastructure for transmission, broadcasting and distribution, the Law prescribes for Transmission and Broadcasting Companies to, in accordance with the Company's Statute, publicly present a general act on the prices of its services regarding using the available infrastructure (Article 65). The draft Law also prescribes the cable operator's obligation to pay a fee for building and using the cable distribution system. The fee is divided fifty-fifty, between the Agency and the unit of local self-management on whose territory the cable distribution system is being built.

The Law also prescribes the terms and the procedure by which the issued licence for building and using a cable distribution system can be taken away (Article 67), as well as a set of rights and duties of the cable operator:

- prohibition of participating in the basic capital of the legal person who is the broadcaster of a broadcasting programme;
- prohibition of distributing of own programmes, except for the data regarding the exact time and the data regarding the functioning of the system;
- obligation to distribute the programme of the Republican and local public broadcasters, without compensation.

As special aspects of the distribution of broadcasting signals, the Agency also establishes issuing of licences for satellite distribution and for distribution through MMDS system (Multipoint Multichannel Distribution System: a multichannel wireless system for distribution of broadcasting signals). The licences for satellite distribution are issued without announcing any open competition and at the request of the owner of the earth satellite station, in case he met all conditions established by this law, which regulates the area of telecommunication. As for issuing licences for

MMDS distribution of broadcasting signals, regulations of this law which deal with issuing licences for transmission and broadcasting and with issuing licences for building and using cable distribution systems are applied. More detailed terms, the very procedure and fees for obtaining the licence for satellite distribution and MMDS distribution system are prescribed by the Agency.

Section **V BROADCASTING SUBSCRIPTION** (Articles 74 through 79) regulate the way of collecting broadcasting subscriptions as one of important condition for functioning of the broadcasting system, and especially of the republic public broadcasters. It is prescribed that broadcasting subscription is paid by every household and every legal person that has a seat on the territory of Montenegro, where the technical conditions are provided for reception of at least one radio and television programme. The payment is collected directly by the Agency or by making a contract with other legal persons, chosen on the basis of a public tender. In accordance with the draft of Law the means from the subscription belong to:

- 75% to the republic public broadcasters (radio and television),
- 10% to the fund of the Agency for helping local public broadcasters (radio and television),
- 10% to the fund of the Agency for helping commercial broadcasters (radio and television), and
- 5% to the Agency.

The Drafter of the Law considers that the resources obtained through a uniform broadcasting subscription for the territory of the Republic of Montenegro should be used to establish, at the Agency, the funds for helping local public broadcasters and commercial broadcasters. Also, in order to ensure undisturbed functioning of the Agency, a part of the resources is assigned as its income. The resources from the two above-mentioned funds, the Agency assigns through open competitions, which are announced every six months, under the terms and in the way established by the Agency.

As opposed to the current legislative act, a novelty is introduced, which says that every owner of a motor vehicle in the Republic is required to pay a tax for using radio receiving sets, and the tax represents the income of the Agency. The tax is paid to the giro account of the Agency, and is distributed as follows:

- 75% to the Republic public broadcaster (radio),
- 10% to the fund of the Agency for helping local public broadcasters (radio),
- 10% to the fund of the Agency for helping commercial broadcasters (radio), and
- 5% to the Agency.

Exempts from paying this tax are the owners of vehicles that have been estimated in a technical inspection as not having the possibility of installing radio receiving sets.

The same rules for using resources from radio receiving sets are applied for using resources from broadcasting subscription.

The Law establishes the terms under which certain legal and natural persons can be exempt from paying broadcasting subscription.

Section **VI TRANSMISSION AND BROADCASTING COMPANY** (Article 80 through 88) regulates the details regarding the establishment, authority, bodies and manners of obtaining funds of this Company. The founder of the new public transmission and broadcasting company (which until recently was a part of the "Telecom of Montenegro" stock company) is the Republic, and the founder's rights are performed by the Broadcasting Agency in the name of the Republic. All reports done according to this basis have proved that the Broadcasting centre can do business autonomously and profitably even after separating from "Telecom of Montenegro". The unsettled question is whether the property of the Broadcasting centre enters the property of "Telecom of Montenegro", which is in favour of privatisation. Another unsettled question is how much the ownership capital of the state in the "Telecom of Montenegro" would be reduced if the property of the Broadcasting centre were transferred in a separate public firm. The European experiences and recommendations are backing the idea of forming an autonomous transmission and broadcasting company. There is no such case in the comparative practice of a 100% private property in this segment, which is also logical, because that would create a monopoly position of one subject over the work of broadcasters.

In order to create conditions for a free and equal access of broadcasters to the broadcasting infrastructure, which is of universal interest, some of the Broadcasting centre authorities established by the law are the following:

- building, using and maintaining of the object and the equipment for transmission of broadcasting and other telecommunication signals;
- management over the capacities of the primary network in cable distribution systems for broadcasting;
- technical co-ordination and adjustment of the broadcasting system of the Republic with broadcasting systems of other European countries.

Due to the importance of the work performed by this company, the bankruptcy procedure or the privatisation of the Broadcasting centre cannot be done without the approval of the Parliament of the Republic of Montenegro.

In accordance with the Law, the means for the establishment and the work of the Broadcasting centre are the devices, equipment, objects and other property or real estate of the broadcasting system of the Republic, used currently or in the past by the Stock Company "Telecom of Montenegro" business unit "Broadcasting centre" and "Major capacities" in the section dealing with broadcasting.

The Broadcasting Centre bodies are the Board and the Director (Article 84 through 88). The law establishes the procedure of their nomination, their rights and their duties in detail. The Managing Board of the Broadcasting centre is nominated and dissolved by the Council of the University of Montenegro / Electro-technical Faculty (one member); republic public broadcasters (one member); local public broadcasters (one member); Commercial radio and television stations (two members: 1 – radio, 1 – TV stations); the employed in Broadcasting centre (one member).

Section **VII TERMS OF BUILDING, USING AND MAINTAINING OF BROADCASTING, SATELLITE, MMDS AND CABLE DISTRIBUTION SYSTEMS** (Article 89 through 92) establishes the terms of building and using of these systems. This law obligates the Broadcasting centre, the

broadcaster, and the distributor of broadcasting signals, to ensure continuous and secure work of their systems, structures and equipment and to keep the record. It is also established that all special acts, on that basis, are established by the Agency.

Section **VIII PUBLIC BROADCASTERS** (Article 93 through 104) establishes general principles to be followed during the process of establishment and work of the broadcasters of broadcasting services.

Considering the complete and unlimited right of freedom of expression and information, established by Article 10 of the European Convention on Human Rights and Fundamental Freedoms, which imply the presence of free, independent and different media, there occurs the necessity of existing of a media that would, as a public broadcaster, present the media picture of the society. In accordance with European standards, the main obligation of public broadcasters is to provide a wide range of programmes that present the society on the whole. In accordance with that, they are expected to contribute to a free expressing of opinions with a guarantee of independence of the programme broadcasting from any political or economic influence or any other pressure. The editorial independence of a public broadcaster implies that public broadcast media determine the content of their programmes freely and without external influences that violate legitimate rights and interests. Public broadcast media, therefore, eventually have to be directly responsible to the public.

The law prescribes that legal persons, whose founder is Republic or units of local self-management (i.e. broadcasters of broadcasting signals), perform their activity by transmitting and broadcasting programmes as public broadcaster on the territory of the Republic or on the territory of the units of local self-government, and that they have special duties in realising the common interest through the area of informing in accordance with this Law and the Media Law (Article 95). It is also prescribed that broadcasters of public broadcasters are founded according to the law on the territory of Republic and by the decision of an authorised assembly for the territory of the unit of local self-government.

The law prohibits broadcasting of political propaganda in public broadcasters, as well as religious propaganda, except in the period of the election campaign. The contents of political propaganda during the election campaign must have clearly indicated the name of the purchaser of the programme contents, who will be held responsible for the authenticity and accuracy of the contents of political propaganda, and the one held responsible for their co-ordination with regulations of this and the Media Law will be the broadcaster of public broadcaster (Articles 97 through 99).

In accordance with recommendations regarding financing of public broadcast media, the Law establishes that the State takes over the obligation of regulating and establishing a corresponding, secure and public financial framework that guarantees public broadcasters the necessary resources for performing their tasks.

The Law obligates the state to guarantee independence of public broadcasters from any kind of influences. Since public broadcasters work in the interest of citizens/public and are responsible exclusively to them, the Law establishes that, on that basis, the State provides restricted financial funds. The Law establishes that broadcasters of public broadcasters collect income from subscription and other sources in accordance with the Law and the founder act, as well as that Republican Budget, that is the budget of a unit of local self-government, provide a share of financial resources for the realisation of constitutionally and legislatively guaranteed citizens' rights to be informed, without discrimination, on the basis of programme contents of importance for the development of science and education, the development of culture and informing of persons with damaged hearing or sight. It is also prescribed that Republic, that is a unit of local self-government, is responsible for providing financial resources for the above mentioned programme contents in the native languages of national and ethnic groups. The authorised administration organ for public informing affairs, in the name of the Government of Montenegro, i.e. the authorised organ of executive power in the unit of local self-management and the broadcaster of public broadcaster establish by a contract mutual rights and duties regarding using the above mentioned resources, but the ways and terms of providing resources must not influence editorial independence and broadcaster's autonomy. For, in accordance with the European recommendations, the state is supposed to guarantee that it would support, and where necessary establish the corresponding and secure financial framework, which would guarantee to public broadcasters the necessary resources for performing the functions and assignments for which they exist.

Furthermore, in accordance with recommendations and instructions, the Law prescribes that public broadcasters ought to have an obvious editorial independence from any organ. With regards to management, which is also dealt with in this section, broadcasters of public broadcasters, in accordance with the law (Articles 101 through 104), consist of the following organs: the Council, the Administrative Committee and the Director. The Law or the decision of founding a public broadcaster establishes the manner of nomination, choices, decisions and authorities of organs, and other questions relevant to the work of broadcasters of public broadcasters. The Council of the public broadcaster represents the interests of the citizens of the Republic, that is the unit of local self-management on whose territory its programme is broadcast, and can consist of 11 members from the realm of distinguished experts in the areas relevant for performing functions of public broadcaster (journalists, sociologists, lawyers, economists, engineers, media analysts, marketing experts, etc.). The Council of the public broadcaster needs to be functionally independent of any state organ, as well as of all legal and natural persons engaged with the activity of production or transmission of a broadcasting programme, or with some related activities.

As opposed to commercial broadcasters, broadcasters of public broadcasters are exempt from the obligation of acquiring a licence for transmission and broadcasting, and all licences for radio-stations and licences for transmitting their signals through distribution systems are provided by the Broadcasting Centre.

Section **IX PREVENTING ILLICIT MEDIA CONCENTRATION** (Articles 105 through 110) regulates the questions related to the presence and preventing of illicit media concentration. The purpose of these regulations is to create conditions for presenting different opinions, ideas and attitudes through a variety of media. The Working group has considered several methods used for surveying and preventing media concentration (market participation, television/radio public, crossing ownership), and eventually decided to use the method of crossing ownership, having in mind the attained level of development and the size of total, and especially media market in Montenegro.

In accordance with the law, illicit media concentration can serve as a basis for taking away the licence for transmission and broadcasting, in case the broadcaster, even after being warned by the Agency, does not co-ordinate its ownership structure with this law and proceeds with illicit media concentration.

Section **X ADVERTISING AND SPONSORSHIP** (Articles 111 through 114) establishes the way and terms of broadcasting advertising and sponsored programme contents. Even though the European standards for this area contain very specific and concrete parameters related to

allowed structure and volume of advertising messages in broadcaster's programmes, and especially in public broadcasters, the drafter decided to choose the solution which gives the Agency, as independent regulative organ for the broadcasting area, the authority to assign, in accordance with European standards, quotas for advertising and sponsored programme contents.

The law prescribes that advertisements are broadcast in turn of a financial or some other compensation or with the aim of self-advertising. Advertisements have to be recognisable as well as audibly and visually separate from other programme contents, and advertisements that are broadcast free of charge have to be separately marked as such.

Section **XI SUPERVISION** (Articles 115 and 116) regulates the questions related to inspection supervision done by the Broadcasting Agency through its own inspection service, in a manner prescribed by the law. The law stipulates the authorities of inspectors in controlling legality of performing broadcasting activity.

Section **XII PENAL REGULATIONS** (Articles 117 through 120) tightens the penal policy and defines broadcasters' responsibilities for violations in broadcasters, in all cases when they act contrary to the regulations of this law and issued licences.

Section **XIII TRANSITIONAL AND FINAL REGULATIONS** (Articles 121 through 133) regulate the usual questions regarding transitional legal regime. What should especially be emphasised is the fact that by these regulations precise terms for the implementation of the Broadcasting Law are established, and particularly for constituting the Broadcasting Agency as an independent regulative organ, for providing initial resources for its work, the terms of nominating the Council and the Director of the Agency, the terms for separating the Broadcasting Centre from the Stock Company "Telecom of Montenegro", etc.

III

The implementation of this law will require providing of funds in the Budget of the Republic purposed for establishment and work of an independent regulative organ – the Broadcasting Agency. The proposer of the Law was not able to foresee the minimal necessary resources for the beginning of the work of the Agency. Since the Joint initiative of the Council of Europe and European Agency for Reconstruction predicts providing help in stage of the implementation of media laws, it is realistic to expect expert help in recognising the organisation, personnel, technical and other conditions for the beginning and the high-quality work of this body with public authorities, as well as certain financial assistance.

This law does not have a return effect and it takes effect on the eighth day from publishing in the "Official Gazette of the Republic of Montenegro".

BROADCASTING AGENCY	
Competencies of the Agency	
<p>The Broadcasting Agency shall be an independent regulatory body, which exercises public authorities in compliance with this Law.</p> <p>The Agency shall be legally separated and independent from the state authorities and all legal and natural persons involved in production, transmission and broadcasting of radio and television programmes or related activities</p>	<ul style="list-style-type: none"> - adopt the Broadcasting Development Strategy; - adopt the Plan for allocation broadcasting frequencies; - give opinion on the proposed plan of allotment of radio frequencies; - provide efficient use of broadcasting frequency spectrum; - issue licenses for the transmission and broadcasting of radio and TV signals; - issue licenses for the development and use of distribution systems; - determine the amount of compensations for issuing and use of licenses for transmission and broadcasting of radio and TV signals and licenses for the development and use of distribution systems; - keep register of broadcasters and issued licenses for the transmission and broadcasting of radio and TV signals; - keep register of legal entities that have been issued the license for the transmission and broadcasting of radio and TV signals and license for the development and use of distribution systems; - appoint and revoke the members of the Managing Board and give approval of the Statute and other general acts related to providing services of the Enterprise for the Transmission and Broadcasting of Radio and TV Signals; - decide upon complaints of natural and legal persons related to the activities of a broadcasters which are not in accordance with the issued license for the transmission and broadcasting of radio and TV signals; - decide upon complaints and objections of natural and legal persons in relation to the activities of the companies for transmission and broadcasting of radio and TV signals; - impose sanctions against broadcasters in accordance with this Law; - supervise the enforcement of provisions of this Law and adopt more detailed regulations for its implementation; - co-ordinate and report the broadcasting frequencies to the international broadcasting and telecommunication organizations through the competent state authority; - regularly publish bulletin on its activities in printed or electronic form, at least once in three months; - perform other activities in compliance with this Law and the Agency Statute.

AGENCY COUNCIL	
Agency Council Members	The Agency Council shall:
<p>The Agency Council shall consist of 5 (five) members that shall be elected from among the prominent professionals in the fields relevant for the broadcasting activities (telecommunication, media, law, economy, etc.).</p> <p style="text-align: center;">Appointment of the Agency Council</p> <p>The Parliament of the Republic of Montenegro shall ratify the appointment of the Agency Council members.</p> <p>The authorized nominators for members of the Agency Council shall be:</p> <ul style="list-style-type: none"> - Government of the Republic of Montenegro; - University of Montenegro; - Broadcasters associations in Montenegro, excluding associations of public broadcasting services; - Non-governmental organizations and citizens' associations involved in the protection of human rights and freedoms; - Non-governmental organizations in the media sphere. <p>The Agency Council members may not be:</p> <ul style="list-style-type: none"> - Members of Parliament and city council members; - elected, appointed and assigned persons in the Government of the Republic of Montenegro (Ministers, their deputies, assistants, as well as heads of separate organizational units under the direct control of the Government of the Republic of Montenegro and other officials); - officials of political parties (parties' chairmen, members of presidencies, their deputies, members of executive and main boards, as well as other party officials); - persons which, as stake holders, shareholders, members of managing bodies, employees, persons under contract, etc. have an interest in legal entities involved in the production and/or broadcasting of radio and/or television programmes and in other related activities (advertising, telecommunications, etc.), in a way that the membership of such person in the Agency Council may result in the conflict of interests; - persons sentenced by final and binding decision for the offence of violation of official duty, offence of corruption, fraud or theft, regardless of the sentence imposed, or that were sentenced for other offences to imprisonment for longer than 6 (six) months, during the period of legal consequences of the sentence; - persons who are spouses of the persons stated in the previous indented lines 1 to 4 of this paragraph or who are related to them in straight line regardless of the degree of kinship. 	<ul style="list-style-type: none"> - adopt the broadcasting development strategy; - adopt the Broadcasting Frequencies Allotment Plan; - give opinion on the proposed Broadcasting Frequencies Allotment Plan; - adopt the decision on the issuing public tender for granting licenses for the transmission and broadcasting of radio and TV signals; - adopt the decision on the issuing of public tender for granting licenses for the development and use of cable and MMDS distribution systems; - grant licenses for the transmission and broadcasting of radio and TV signals and licenses for the development and use of distribution systems; - adopt the rules on the amount, manner of determination and payment of fees for licenses for the transmission and broadcasting of radio and TV signals and the rules on the amount, manner of determination and payment of fees for the development and use of distribution systems; - prescribe the forms of licenses for the transmission and broadcasting of radio and TV signals and licenses for the development and use of distribution systems; - adopt more specific rules on the procedure of imposing penalties and shall impose penalties on broadcasters in compliance with this Law; - address the complaints of natural and legal persons related to the activities of broadcasters not complying with the license for transmission and broadcasting of radio and TV signals; - address the complaints of natural and legal persons related to the activities of companies for transmission and broadcasting of radio and TV signals; - determine minimum quotas for both its own and European programme production; - determine minimum quotas to public broadcasting services for broadcasting independent production programmes, in compliance with European standards; - determine terms and quotas for the broadcasting of advertisements, in compliance with European standards; - adopt the Statute, investment plans and other general acts of the Agency; - appoint and recall the Director of the Agency; - adopt and publicize operating reports and interim and annual statement of accounts of the Agency; - give consent to decisions of the Agency Director regarding payments exceeding the amount determined by the Agency Statute; - appoint and recall the Managing Board of the company for the transmission and broadcasting of radio and TV signals; - give consent to the Statute of the company for the transmission and broadcasting of radio and TV signals and give consent to other general

<p style="text-align: center;">Decision-making of the Agency Council</p> <p>The Agency Council shall adopt valid decisions provided that the majority of the total number of members is present at the session.</p> <p>Decisions shall be adopted by majority vote of the total number of the Agency Council Members.</p> <p>The Agency Council Chairman shall be elected and recalled by the majority vote of the total number of members.</p> <p>The Agency Council Member's term of office shall be terminated:</p> <ul style="list-style-type: none"> - with the expiry of the period of their appointment; - if they are recalled because of reasons prescribed by this Law; - if they submit written resignation to the authorized nominator, about which they shall inform the Agency Council and the Parliament of the Republic of Montenegro within 8 days; <ul style="list-style-type: none"> - in case of death 	<p>documents related to the conditions for the provision of services;</p> <ul style="list-style-type: none"> - appoint authorized auditor for periodical and annual accounts of the Agency and the company for the transmission and broadcasting of radio and TV signals; - adopt the standing orders; - adopt the regulations for enforcement of this Law - conduct other activities in accordance with the Law and the Statute of the Agency.
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Tabular overview of the Broadcasting Law

AGENCY DIRECTOR	
Appointment of the Agency Director	Competencies of the Agency Director
<p>The Agency Council shall appoint the Agency Director, on the basis of the public tender.</p> <p>The appointed Agency Director may be a person who, in addition to the general conditions, meets the following special conditions:</p> <ul style="list-style-type: none"> - citizenship of the Republic of Montenegro and residence in the Republic; - minimum University Degree; - at least 5 years of work experience. <p>The term of office for the Agency Director shall be 4 (four) years.</p>	<ul style="list-style-type: none"> - represent and act on behalf of the Agency; - organize and manage the Agency's activities; - execute decisions of the Agency Council; - be accountable for the execution of the broadcasting systems development strategy and the implementation of the Broadcasting Frequencies Allotment Plan; - propose to the Agency Council business plans and operating reports, interim and annual statements of accounts and investment plans of the Agency; - perform other duties prescribed by the Agency Statute.

Funding of the Agency	
<ul style="list-style-type: none"> - fees for the registration of broadcasters; - fees for the registration of legal entities that have been issued license for the development and use of distribution systems (hereinafter referred to as: signal distributors); - fees paid for the license for transmission and broadcasting of radio and TV signals; - fees paid for the license for the development and use of distribution system; - a part of the broadcasting subscriptions; - a part of tax on radio receivers; - a part of revenues of the company for the transmission and broadcasting of radio and TV signals, in accordance with the decision of the Agency Council; - other sources in compliance with law 	

LICENSE FOR TRANSMISSION AND BROADCASTING OF RADIO AND TV SIGNALS	
<p>The Agency shall issue the license for the transmission and broadcasting of radio and TV signals, in the procedure and according to the criteria prescribed by this Law.</p> <p>A holder of the license for the transmission and broadcasting of radio and TV signals shall acquire the right to broadcast, directly or through distribution systems, radio and TV signals intended for indefinite number of users.</p> <p>The broadcaster may be involved in the production, transmission and broadcasting of radio and/or television programme in the capacity of:</p> <ul style="list-style-type: none"> - Republican public broadcasting service; - local public broadcasting service; - commercial broadcasting service. <p>Public tender for acquiring license for the transmission and broadcasting of radio and TV signals shall include the following:</p>	<p>The license for the transmission and broadcasting of radio and TV signals shall include the information about:</p> <ul style="list-style-type: none"> - the holder of the right to use the license; - the allocated broadcasting frequencies; - service zones, locations of equipment, radiated strength of the transmitter; - manner of the broadcasting signal transmission; - terms related to the impartial, objective and measurable criteria prescribed by a public tender in compliance with the Article 37; - identifying symbol of the broadcast programme; - the license validity period; - amount of fees and conditions of payment. <p>The integral part of the license for transmission and broadcasting of radio and TV signals shall be the license for radio stations and license for the transmission of radio and TV signals by means of distribution systems, which shall be issued by the Agency in cooperation with competent authority.</p> <p>Following entities shall not be holders of the license for the transmission and broadcasting of radio and TV signals:</p> <ul style="list-style-type: none"> - religious community or another religious organization or legal entity founded by it, except when the license for radio programme broadcasting on local level is concerned; - political party, organization or coalition, or a legal entity founded by the political party, organization or coalition.

<ul style="list-style-type: none"> - desired service zone area; - belonging broadcasting frequencies; - allowed radiated strength and locations; - basic technical requirements for production, transmission and broadcasting of programme; - the amount of the prescribed fees; - deadline for submission of applications; - deadline for adopting decisions; - non-discriminatory, objective and measurable criteria of decision-making (program structure, percentage of the population in the desired service zone that has to be provided with quality reception of radio and/or television programme, presence of programmes in languages of minorities, etc.). 	<p>The applicant to the public tender shall submit the following documentation:</p> <ul style="list-style-type: none"> - if it is a legal entity, the registration document for broadcasting activities; - proof of the fulfilment of public tender requirements; - data related to programme structure; - data on technical and technological conception of the transmission and broadcasting of radio and TV signal; - data on the status of legal entity, if the legal entity is in question, the owner of capital and the manner of financing; - statement that there are no obstacles in terms of provisions of this Law referring to unauthorized media concentration. <p style="text-align: center;">The measures imposed by the Agency</p> <ul style="list-style-type: none"> - warning, - fine to a broadcaster <p>- temporarily or permanently revoke of the license for the transmission and broadcasting of radio and TV signals</p>
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Tabular overview of the Broadcasting Law

CABLE DISTRIBUTION SYSTEMS	
Public tender for granting rights for the development and use of CDS	With the tender application, legal entity or entrepreneur shall submit:
<p>The Agency, in co-operation with the units of local administration on whose territory the cable distribution system is being built, shall announce a tender for granting rights for the development and use of cable distribution system.</p> <p>The tender shall include:</p> <ul style="list-style-type: none"> - data on the area in which the cable distribution system is constructed with the planned number of connections; - technical parameters for the development and use of the cable distribution system; - period of time for which the right for development and use of the cable distribution system is granted; - the lowest annual fee amount for development and use of cable distribution system; - deadline for submitting the application. 	<ul style="list-style-type: none"> - proof of registration into the court register, - necessary technical documentation and - the fee amount quotations for the development and use of the cable distribution system. <p>Technical documentation shall include:</p> <ul style="list-style-type: none"> - data on organisation of the cable distribution system, planned capacities, technical characteristics and the capacity of devices and equipment; - deadlines and dynamics of the cable distribution system development.
The license for development and use of the cable distribution system shall be allocated for the period of 10 (ten) years.	The license revoke
<p>The right to construct and use the cable distribution system shall be granted by issuing a license to the legal entity that has offered the best conditions according to the tender requirements.</p> <p>The license for development and use of the cable distribution system shall contain the following:</p> <ul style="list-style-type: none"> - technical parameters of the cable distribution system; - amount and terms of payment of the fee for the development and use of the cable distribution system; - period of the license validity; - other rights and duties of the license holder. 	<p>The Agency may revoke license for the development and use of the cable distribution system provided that:</p> <ul style="list-style-type: none"> - the operation of the cable distribution system is not in compliance with technical parameters stipulated in the license; - the fee is not paid in compliance with the license - the competent Republican authorities determine that there has been a violation of regulations and give the proposal for the license to be revoked; - the legal entity that has obtained the right to construct and use cable distribution system fails perform other obligations stipulated in the license.

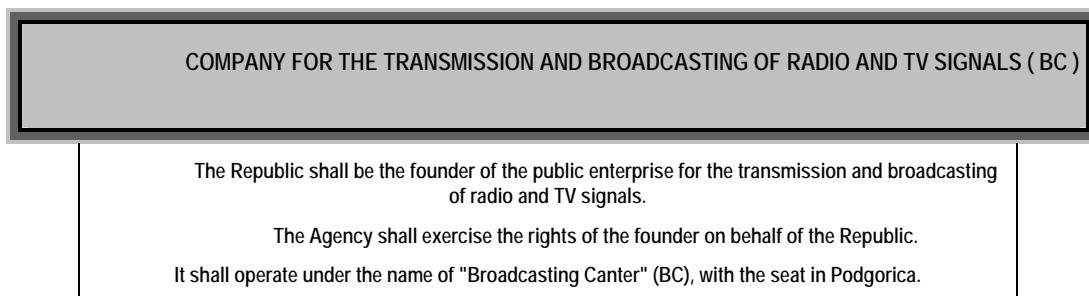
The cable operator shall not distribute its own programme, except exact time information and information regarding the system operation.

The cable operator shall not have a stake in the legal entity that is the programme broadcaster.

BROADCASTING SUBSCRIPTION

<p>The funds from the subscription received by the Agency shall belong to:</p>	<p>Households that own receiving sets shall be exempt from paying the subscription if at least one of members of the household is</p>	<p>The following subjects shall be exempt from paying subscription and tax for the use of radio receivers:</p>
<ul style="list-style-type: none"> - the Republican public broadcasting services (radio and television) - 75%; - the Agency's fund for the support of the local public broadcasting services (radio and television) - 10%; - the Agency's fund for the support of the commercial broadcasting services (radio and television)- 10%; - the Agency - 5%. 	<ul style="list-style-type: none"> - a disabled person with 100% of damage to the body; - a disabled person with less than 100% of damage to the body, provided that they have been granted, in compliance with the provisions of separate regulations, the right to allowance for outside help and care; - a person who permanently lost hearing or sight. 	<ul style="list-style-type: none"> - institutions for children's care, schools, hospitals and health centres, nursing homes, pensioners' centres, organisations of disabled persons and their workshops; - diplomatic and consular representative offices, on condition of reciprocity.

Tabular overview of the Broadcasting Law



<p>The BC activities</p>	<p>BC shall acquire funds by means of:</p>
<ul style="list-style-type: none"> - construction and maintenance of facilities, devices and equipment intended for the transmission and broadcasting of radio and TV and other telecommunication signals, using contemporary technical and technological equipment for the distribution of radio and TV and other telecommunication signals; - management of the primary network capacities in the cable distribution systems intended for the distribution of broadcasting signals; <ul style="list-style-type: none"> - technical co-ordination and adjustment of the Republican broadcasting system with broadcasting systems of European countries. 	<ul style="list-style-type: none"> - offering services of transmission and broadcasting of radio and TV signals through terrestrial broadcasting stations; - renting primary network in the cable distribution systems intended for the distribution of broadcasting signals; - renting the infrastructure to other entities in compliance with law and the BC general regulations; - providing technical services related to the primary activity of the company; - from other income in compliance with law and Statute.
<p>Any modification in the activities of public interest performed by the BC, commencement of bankruptcy proceedings or privatisation of the BC shall not be performed without the approval of the Parliament of the Republic of Montenegro.</p> <p>Operation of the BC shall be public.</p>	

The BC Managing Board

BC administration body shall be BC Managing Board, consisting of 7 (seven) members.
The BC Managing Board Members shall be appointed and recalled by the Agency Council.

<p>The authorised nominators who propose BC Managing Board Members shall be:</p> <ul style="list-style-type: none"> - Government of the Republic of Montenegro (one member); - University of Montenegro/Faculty of Electrical Engineering (one member); - Republican public broadcasting services (one member); - Local public broadcasting services (one member); - Commercial radio and television stations (two members: 1-radio, 1-TV stations) - BC employees (one member). <p style="padding-left: 40px;">The Managing Board Members shall perform their duty independently, according to their own knowledge and conscience, in compliance with this Law and they shall not represent interests of third parties in their work.</p> <p>A person shall not be appointed the Managing Board Member if they fail to qualify as the Agency Council Member. The term of office of the Managing Board Members shall be 5 (five) years and the same person may be appointed to that position maximum two times consecutively.</p> <p style="text-align: center;">Recall of a Managing Board Member</p> <p>A Managing Board Member may be recalled before the expiry of their term of office:</p> <ul style="list-style-type: none"> - upon their own request, - by submitting resignation, - if they are unable to perform their duty or attend the Board meetings during a period longer than 3 months, - if they violate in the course of they work the law or other regulations related to the execution of the BC activities, - in other cases determined by law and the Statute. 	<p>The managing Board competencies</p> <p>The Managing Board shall:</p> <ul style="list-style-type: none"> - adopt the Statute with the approval of the Agency Council; - appoint, after a public tender, and recall the BC Director; - at the BC Director's proposal, adopt general regulations of the internal organisation and job classification scheme of the BC; - adopt the proposed work plans and reports on operations and performance of the BC, and periodical and annual statement of accounts, and submit them to the Agency; - adopt the investment plans of the BC; - give approval to the BC Director's decisions on the basis of which the BC is obliged to effect payments in the total amount higher than the amount determined by the BC Statute; - implement the Agency's recommendations related to its authorities; - conclude a labour contract with the Director; - perform other activities in compliance with the Statute.
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The BC Director

<p style="text-align: center;">Conditions for the BC Director appointment</p> <p>A person may be appointed Agency Director if, in addition to general requirements, they meet special requirements:</p> <ul style="list-style-type: none"> - citizenship of the Republic with the residence in the Republic, - minimum University degree, - minimum 5 years of work experience. <p>The Agency Director's term of office shall be 4 (four) years. A person who is not qualified for the Agency Council Member, as to the provisions of this Law, shall not be the Director</p>	<p style="text-align: center;">The BC Director competencies</p> <p>The BC Director shall:</p> <ul style="list-style-type: none"> - act on behalf of and represent the BC; - organise and manage the activities of the BC; - execute the decisions of the BC Managing Board; - propose to the BC Managing Board general regulations on internal organisation and job classification scheme of the BC; - perform other activities determined by the BC Statute.
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Tabular overview of the Broadcasting Law

PREVENTING UNAUTHORIZED MEDIA CONCENTRATION

Unauthorised media concentration shall be present whenever the broadcaster:

Media concentration shall be present whenever the broadcaster:

- 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;
- simultaneously holds several licenses for the transmission and broadcasting of radio and TV signals;
- simultaneously broadcasts both radio and television programmes;
- 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; or
- simultaneously broadcasts radio and/or television programme and is involved in news agency activities.

According to the provisions of this law, Media concentration shall also be present whenever the founders of a broadcaster are natural and legal persons, which are at the same time:

- founders of another broadcaster;
- founders of a company publishing a daily newspaper distributed in the area where these radio and/or television programmes are being broadcast;
- founders of a news agency; or
- spouses or relatives in the straight line regardless of the degree of kinship among the individuals mentioned.

Unauthorised media concentration shall be considered to exist whenever:

- a broadcaster licensed for the transmission and broadcasting of radio and TV signals on the national level of coverage (85% of the population of the Republic) has more than 25% share in the capital assets of another broadcaster with the same license;
- a broadcaster, except for the broadcasters of public broadcasting service founded by the Republic, broadcasts more than one television and one radio programme in the same area;
- a broadcaster 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;
- a broadcaster 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;
- a broadcaster 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;
- a radio or television station as a broadcaster 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;
- a radio or television station as a broadcaster on local or regional level of coverage is simultaneously a publisher of a local daily newspaper, in the same or the neighbouring areas.

SUPERVISION

The supervision over the enforcement of this Law shall be performed by the Agency.
The inspection supervision over the performance of broadcasting activity shall be provided by the Agency, by means of its own inspection service as provided by law.



BROADCASTING AGENCY

Republic of Montenegro

*LAW ON PUBLIC BROADCASTING SERVICES
"RADIO OF MONTENEGRO" AND "TELEVISION OF MONTENEGRO"*

Podgorica, September 2004



Republic of Montenegro

BROADCASTING AGENCY

LAW ON PUBLIC BROADCASTING SERVICES "RADIO OF MONTENEGRO" AND "TELEVISION OF MONTENEGRO"

I. RTCG STATUS

Article 1

Public Enterprise "Radio and Television of Montenegro" shall perform the activity of the public broadcasting services of the Republic in compliance with the provisions of the Media Law, Broadcasting Law and this Law.

The founder of the Public Enterprise "Radio and Television of Montenegro" shall be the Republic of Montenegro (hereinafter referred to as: the Republic).

The rights of the founder on behalf of the Republic shall be exercised by the Council of the "Radio and Television of Montenegro" in compliance with law.

Article 2

The name of the Public Enterprise shall be "Radio and Television of Montenegro".

The abbreviation of the Public Enterprise shall be RTCG.

The seat of RTCG shall be in Podgorica.

II. ACTIVITY OF RTCG

Article 3

The main activity of RTCG shall be the production and broadcasting of radio and television programmes of importance to the citizens of Montenegro.

RTCG shall perform its main activity through the production and broadcasting of two programmes of the "Public Broadcasting Service Radio of Montenegro" (hereinafter referred to as: "Radio of Montenegro") via two independent FM and one independent ST radio networks on the national level, two programmes of the "Public Broadcasting Service Television of Montenegro" (hereinafter referred to as: "Television of Montenegro") via two independent television networks on the national level and one television programme broadcast via satellite.

The reception of RTCG programmes, within every radio or television network, shall be provided on the territory of the Republic populated by at least 85% of the citizens.

RTCG may broadcast Radio of Montenegro and Television of Montenegro programmes via Internet.

RTCG may be involved in other activities, in compliance with law, which contribute to more complete use of the enterprise capacities and creation of conditions for providing more efficient public broadcasting services of interest to the citizens.

Neither the main activity change nor privatisation of RTCG shall be performed without the consent of the Parliament of the Republic of Montenegro.

Article 4

For the need of individual public broadcasting services, RTCG may establish regional radio and television studios, specifically obliged to produce and broadcast regional programmes and programmes in languages of national and ethnic groups in that area.

Article 5

RTCG shall regulate its internal organisation and manner of work, in compliance with law and its Statute.

RTCG shall have two business and organisational units: "Radio of Montenegro" and "Television of Montenegro".

The authorisations of the organisational units in legal circulation shall be established by the RTCG Statute, in compliance with law.

III. RTCG ACCOUNTABILITY

Article 6

RTCG shall be accountable to the public.

The accountability of RTCG to the public shall be realised through:

- 1) The procedure of appointment of the RTCG Council, its public work and duty to represent and protect citizens' interests in the field of information;*
- 2) Informing the public about the RTCG activities by means of publicising the Operation Bulletin in print or/and electronic form;*
- 3) Prescribing and implementing the procedures that enable the listeners and viewers to submit the petitions and complaints concerning the RTCG work.*

IV. RTCG OBLIGATIONS

Article 7

In their programmes, RTCG shall satisfy public interests both on the national and local level and make sure that news, cultural, educational, sports and entertainment programmes are represented equally.

With the aim to achieve common interest in the field of information, RTCG shall observe the obligations prescribed by this Law, Media Law and Broadcasting Law.

RTCG shall independently, in compliance with law, decide upon the contents of its programmes, time of their broadcasting and manner of transmission.

RTCG employees shall exercise their rights and obligations in compliance with valid laws regulating the field of labour and employment.

Article 8

RTCG shall respect professional standards and programme-related rules adopted by the RTCG Council and it shall:

- 1) Keep the public truthfully, completely, impartially and timely informed about events and issues of public interest both in the country and abroad;*
- 2) Contribute to the observance and promotion of basic human rights and freedoms, democratic values and institutions, pluralism of ideas, improve culture of public dialogue and respect linguistic standards;*
- 3) Respect privacy and dignity of citizens,*

V. RTCG FUNDING

Article 9

RTCG shall be funded from:

- 1) a part of radio-television subscription,*
- 2) a part of the tax for the use of radio receivers in motor vehicles registered in the Republic,*
- 3) production and broadcasting of advertisements;*
- 4) production and sale of audio-visual works (shows, films, series, etc.) and of sound and picture repositories of public interest;*
- 5) sponsorship of programmes,*
- 6) organisation of concerts and other manifestations;*
- 7) the Budget of the Republic of Montenegro,*
- 8) other sources in compliance with law.*

The surplus income over the expenses shall be used exclusively for the programme quality improvement of the public broadcasting services.

Broadcasting subscription funds shall be used to finance programme production of "Radio of Montenegro" and of "Television Montenegro", in the proportion and manner as prescribed by the RTCG Statute.

The funds from the tax on radio receivers in motor vehicles registered in the Republic shall be used to finance the programme production of "Radio of Montenegro".

Article 10

The Budget of the Republic of Montenegro shall provide a part of funds for the realisation of the citizens' rights to be informed granted by the Constitution and Law, on the basis of Radio of Montenegro and Television of Montenegro programming important for:

- 1) science and education development;*
- 2) development of culture,*
- 3) information intended for persons with eyesight and hearing impairments.*

With the aim to realise the rights referred to in paragraph 1 of this Article, the Republic shall provide a part of funds for programmes in Albanian and languages of other national and ethnic minorities.

The funds referred to in paragraphs 1 and 2 of this Article shall be used for the production of the aforementioned programmes only.

If the funds provided from the Budget of the Republic are not sufficient for the realisation of duties of Radio of Montenegro and Television of Montenegro referred to in paragraph 2 of this Article, the deficient funds shall be provided from the Budget of the Republic, provided that the deficit is not caused by the unspecified and irrational use of the allocated funds.

Article 11

On behalf of the Government of the Republic of Montenegro, the competent administrative authority in charge of public information activities and RTCG shall contractually regulate mutual rights and liabilities related to the use of the funds referred to in the Article 10 of this Law, not later than 30 days from the date of coming into effect of the Law on the Budget of the Republic of Montenegro for the year.

The manner and conditions of providing the funds from the Budget of the Republic shall not influence the editorial independence and autonomy of the public service broadcaster.

In compliance with the provisions of the Law on Budget, payment of the funds from the Budget of the Republic shall be done in four equal instalments.

The contract referred to in paragraph 1 of this Article shall be published in the RTCG Operation Bulletin and submitted to the independent regulatory authority.

Article 12

The Budget of the Republic of Montenegro shall provide the funds for covering the costs of the services of transmitting and broadcasting of RTCG programmes, offered by the company for the transmission and broadcasting of radio and TV signals.

On behalf of the Government of Montenegro, the competent authority in charge of public information activities and the company for the transmission and broadcasting of radio and TV signals shall contractually regulate their mutual rights and liabilities with regard to the manner and conditions of payment of funds referred to in paragraph 1 of this Article. not later than 30 days from the date of coming into effect of the Law on the Budget of the Republic of Montenegro for the year.

Provided that it is not possible to reach the agreement with regard to the contract between the competent authority in charge of public information activities and the company for

the transmission and broadcasting of radio and TV signals, a temporary decision based upon this issue shall be adopted by the independent regulatory authority for the field of broadcasting.

VI. RTCG BODIES

Article 13

The RTCG bodies shall be:

- 1) RTCG Council,*
- 2) RTCG Managing Board,*
- 3) RTCG Director General,*

RTCG Council

Article 14

The Council of RTCG shall represent interests of citizens of the Republic.

The RTCG Council shall have 11 members, who shall be the citizens of the Republic with the residence in the Republic and elected among respectable experts from the fields relevant to the performance of RTCG activities (journalists, sociologists, lawyers, economists, engineers, media analysts, experts in marketing, broadcasting, etc.) and who are in favour of the respect of democratic principles and the rule of law, development and promotion of the constitutional order, protection of human rights and freedoms as well as freedom of speech protection.

The RTCG Council shall be independent of any state authority, as well as of all organisations and persons involved in the activity of production and broadcasting of radio and television programmes or related activities.

The RTCG Council Members shall be entitled to monthly financial remuneration for their work, the amount of which shall be equal to one half of the monthly remuneration of a Supreme Court Judge in the Republic of Montenegro.

Article 15

The RTCG Council shall:

- 1) Adopt the RTCG Statute;*
- 2) Appoint the chairman and deputy chairman from among the Council Members in a manner and according to the procedure regulated by the RTCG Council's Standing Orders;*
- 3) Appoint and recall the RTCG Managing Board;*
- 4) Give previous approval of the appointment and recall of the RTCG Director General, Director of Radio of Montenegro and Director of Television of Montenegro, as persons with special rights and liabilities;*
- 5) Adopt general acts regulating the issues related to programme and professional standards in RTCG;*
- 6) Adopt programme-related documents of Radio of Montenegro and Television of Montenegro;*
- 7) Appoint the authorised auditor of periodic and annual statements of account of RTCG and publicise his finding in the RTCG Operation Bulletin;*
- 8) Give his consent for the contract with the administrative authority in charge of the public information issues for the provision of the funds allocated, in compliance with Law, from the Budget of the Republic of Montenegro for the production of programmes;*
- 9) Analyse and decide upon violation of the programme principles prescribed by the provisions of the Media Law, Broadcasting Law, this Law and programme-related documents and propose appropriate measures to the Director of Radio of Montenegro or Director of Television of Montenegro, after hearing their opinion;*
- 10) Adopt the act on minimum work process which is to be satisfied during the strike of the employees, in compliance with the provisions of a separate strike law, this Law and the RTCG Statute;*
- 11) Approve the decisions of the Managing Board that obligate RTCG to pay a total amount exceeding the amount determined by the RTCG Statute;*
- 12) Approve the decisions of the Managing Board regarding the purchase, sale and mortgaging of property;*

- 13) *Appoint and recall the Commission for Programming in Albanian and Languages of Other National and Ethnic Groups;*
- 14) *Appoint and recall the Commission for Petitions and Complaints of the listeners and viewers of RTCG programmes, in compliance with the RTCG Statute;*
- 15) *Publicise on regular basis, at least three times a year, the RTCG Operation Bulletin in print and/or electronic form;*
- 16) *Enact the Standing Orders;*
- 17) *Perform other duties in compliance with the law and the Statute.*

The Commission for Programming in Albanian and Languages of Other National and Ethnic Groups shall consider the realisation of this programming, give its opinion and initiatives to the RTCG Council and perform other duties in accordance with the RTCG Statute.

Persons who, in accordance with the Article 23 of this Law, cannot be the RTCG Council Members shall not be appointed the Members of the Commission for Petitions and Complaints of the listeners and viewers and the Commission for Programming in Albanian and Languages of Other National and Ethnic Groups.

The work of the commissions shall be public.

Article 16

The Parliament of the Republic of Montenegro shall verify the appointment of the RTCG Council Members.

Authorised nominators of the RTCG Council Members of shall be:

- 18) University of Montenegro;***
- 19) Montenegrin Academy of Science and Art;***
- 20) Montenegrin National Theatre, "Museums of Montenegro", "Montenegrin Film Library" and professional associations of theatre artists and music composers;***
- 21) Montenegrin Media Institute;***
- 22) Professional Associations of Journalists;***
- 23) Montenegrin Chamber of Commerce and other employers' associations;***
- 24) Trade Union organisations in Montenegro;***
- 25) "Matica crnogorska", Montenegrin Helsinki Committee, and non-governmental organisations for the protection of human rights;***
- 26) Montenegrin Olympic Committee and non-governmental organisations from the field of sports, tourism and ecology;***
- 27) Non-governmental organisations for protection of children, youth and family rights, education, health and social care;***
- 28) Non-governmental organisations involved in the promotion of rights of the members of national and ethnic groups;***

It is not obligatory for a person appointed for the RTCG Council Member to be from the authorised nominator.

Article 17

Authorised nominators of the RTCG Council Members shall independently adopt the Appointment Act.

The Appointment Act shall be signed and attested by the authorised nominator of the RTCG Council Member and it shall include the name, residential data and short biography of the member appointed.

Enclosed with the Appointment Act, the following documents shall be submitted: written consent of the appointed RTCG Council Member confirming the acceptance of the nomination

and his statement that there are no obstacles, referred to in the Article 23 of this Law, for his appointment.

Provided that, pursuant to the Article 16, there are several nominators authorised for the appointment of the RTCG Council Member, the Appointment Act shall be adopted by mutual consent, by means of mutual co-ordination.

If the authorised nominators appoint more than one nominee, the Parliament of the Republic of Montenegro shall verify the appointment of the nominee whose nomination is supported by the majority of the registered non-governmental associations.

The competent administrative authority in charge of keeping the register of non-governmental organisations shall submit to the Parliament of the Republic the data on non-governmental associations and organisations registered.

Article 18

If the Appointment Act is submitted contrary to the provisions of this Law, the Parliament of the Republic shall invite the authorised nominator for the appointment of the RTCG Council Member to conform it with the provisions of this Law not later than within 15 days.

Provided that the Parliament of the Republic is not able to determine which Appointment Act is valid, it shall invite the authorised nominators referred to in the Article 16 of this Law to submit to the Parliament the co-ordinated Appointment Act not later than within 15 days.

Council of RTCG shall be considered constituted, when two thirds of total number of members is appointed.

Article 19

RTCG Council Members shall not represent the institutions or organisations that nominated them, but they shall perform their duties independently, according to their knowledge and conscience, in compliance with the provisions of this Law.

Nobody has the right to influence, in any way, the work of the RTCG Council Members, and they are not obliged to observe anybody's instructions with regard to their work, except the decisions of a competent Court.

The term of office of the RTCG Council Member shall start with the day of the appointment confirmation and last for five years, with a possibility of re-election.

While appointing the first composition of the RTCG Council, four members shall be elected for five, four of them for four and three of them for three-year term of office.

The Parliament Speaker shall determine the term of office duration for the first composition of the RTCG Council by drawing lots, in the presence of the authorised nominators.

Article 20

The Parliament Speaker of the Republic of Montenegro shall commence the appointment procedure of the RTCG Council Members by sending a public invitation not later than three months before the expiry of their term of office.

The invitation shall be sent to the authorised nominators of the RTCG Council Members by means of public announcement in the "Official Gazette of the Republic of Montenegro" and at least one daily newspaper in the Republic.

Authorised nominators of the RTCG Council Members are obliged, not later than 30 days from the date of sending the public invitation, to submit to the Parliament of the Republic the Appointment Acts for the RTCG Council Members.

The Parliament of the Republic shall verify the appointment of new Council Members before the terms of the former members expire.

In case of termination of the term before the expiry of the period of time for which a RTCG Council Member has been appointed, the authorised nominator is obliged, without any delay, and not later than within 30 days from the date of the verification of the term of office termination, to deliver to the Parliament of the Republic the Appointment Act for new RTCG Council Member.

The Parliament of the Republic is obliged to verify the appointment of a new RTCG Council Member, not later than 30 days from date of the Appointment Act reception.

The verification of appointment shall be valid for the period until the expiry of the term of the member, whose term has ended.

Until the verification of the appointment of the new member, the RTCG Council shall adopt valid decisions as an incomplete entity, but if the number of members, due to the termination of the term of office for certain members, is less than seven, the RTCG Council shall not adopt valid decisions.

Article 21

The term of office of a RTCG Council Member shall be terminated following the procedure prescribed by the provisions of this Law and due to the following reasons only:

- 1) upon the expiry of the period, for which the member of the Council has been appointed;*
- 2) by recall, due to the reasons prescribed by the provisions of this Law;*
- 3) by submission of written resignation to the authorised nominator, about which the both RTCG Council and the Parliament of the Republic of Montenegro shall be informed not later than within eight days;*
- 4) upon the death of the member.*

Article 22

The RTCG Council Members shall not be recalled during their term of office.

As an exception to the paragraph 1 of this Article, and based on the decision of the authorised nominator of the RTCG Council Member, the Parliament of the Republic shall confirm the recall of the member and appointment of another member, who shall finish the remaining term of the recalled member provided that:

- 1) he is not able to perform duties of the RTCG Council Member over a period longer than six months, due to illness according to findings of competent medical institution;*
- 2) he fails attend the RTCG Council meetings for the period longer than six months;*
- 3) it is established that he has given untrue data about himself or has failed to state data on circumstances important for the appointment;*
- 4) during his term of office, any of the circumstances referred to in the Article 23 of this Law occurred;*

The decision on recall may be adopted on the basis of the explained RTCG Council's proposal only, after the procedure has been completed, establishing all relevant circumstances and offering the possibility to a RTCG Council Member, against whom the procedure has been brought, to give statement with regard to all circumstances.

The RTCG Council may, by two-third-majority vote of the total number of its members, adopt the decision to recall a Council Member until the Parliament of the Republic verifies the decision on recall.

Article 23

The RTCG Council Members shall not be:

- 1) Members of Parliament and city council members;*
- 2) Employees of RTCG;*
- 3) Persons elected, appointed and nominated in the Government of the Republic of Montenegro (ministers, their deputies, assistants, as well as heads of special organisational units under direct control of the Government or other officials);*
- 4) Officials of political parties (chairmen of parties, members of presidency, their deputies, members of executive and main boards, as well as other party officials);*
- 5) Persons, who as stake holders, shareholders, members of managing bodies, members of supervisory bodies, employees, etc. have the interest in legal entities that produce radio and television programmes, so that the membership of such person in the RTCG Council could result in the conflict of interest;*
- 6) Persons that are sentenced by final and binding decision, for criminal offence against official duty, criminal offence of corruption, fraud, theft or any other criminal offence which makes them unworthy of performing public duty regardless of the sentence imposed or if those persons are sentenced, by final and binding decision, for other criminal offence to prison term longer than 6 (six) months in jail, during the period when the sentence consequences are still lasting;*
- 7) Persons who are spouses of the persons mentioned in this Article or are related to them in the straight line, regardless of the level of kinship.*

Article 24

The regular session of the RTCG Council shall be held every 3 months.

RTCG Council may hold extraordinary session upon the request of at least five of its members.

The decisions of the RTCG Council shall be valid if more than a half out of total number of members is present at the session.

Decisions shall be reached by majority vote of the RTCG Council Members present, if it is not regulated differently by the Statute or this Law.

The RTCG Council sessions shall be open to the public, unless decided differently by two-third majority out of the total number of members.

Article 25

Chairman of the Managing Board, Director General and Directors of Radio of Montenegro and Television of Montenegro, shall have the right to take part in the RTCG Council sessions, without the decision-making right.

Due to certain reasons, the RTCG Council may decide, by two-third majority out of the total number of members, to exclude from its work the persons referred to in paragraph 1 of this Article.

The participation of other persons in the RTCG Council's work shall be regulated by the RTCG Council Standing Orders.

RTCG Managing Board

Article 26

RTCG Managing Board shall have five members, appointed and recalled by the RTCG Council.

The Managing Board Members shall be appointed from among the recognised media, management, law, financial and other experts.

One member of the Managing Board shall be proposed by the enterprise employees, following the procedure and in the manner prescribed by the RTCG Statute.

The members of the Managing Board shall perform their duties independently, according to their own knowledge and conscience, in compliance with this Law and they shall not represent interests of third parties in their work.

A person who is not qualified not become a member of the RTCG Council shall not be appointed a member of the Managing Board.

As an exception, the provisions of the Article 23, paragraph 1, indented line 2 of this Article shall not refer to the Managing Board Member proposed by the enterprise employees.

The term of office for the Managing Board Members shall be four years, with the possibility of re-election.

Article 27

A member of the Managing Board may be relieved before the expiry of his term:

- 1) upon submitting the resignation,*
- 2) if he is not able to perform duties of the Managing Board Member over a period longer than three months, due to illness according to findings of the competent medical institution;***
- 3) if he fails to attend the Managing Board meetings over a period longer than three months;*
- 4) if it is established that he has given untrue data about himself or has failed to state data on circumstances important for the appointment;***
- 5) if it is established that during his term of office, any of the circumstances referred to in the Article 23 of this Law occurred;***
- 6) if his action violates the law and other regulations related to performance of the RTCG activities,*

Article 28

Managing Board shall:

- 1) adopt the operating plans and operating reports and periodic and annual statements of account for the entire RTCG, as well as for the Radio of Montenegro and Television of Montenegro and make them available to the RTCG Council and the general public in a manner prescribed by the RTCG Statute;*
- 2) appoint and relieve the RTCG Director General, by the majority of the total number of employees, provided that the decision on appointment follows public announcement and that it is reached by secret vote for one among several candidates;*
- 3) adopt the general act on internal organisation and job classification in RTCG, proposed by the Director General in co-operation with the Director of Radio of Montenegro and Director of Television of Montenegro;*
- 4) adopt investment and financial plans of RTCG;*
- 5) sign labour contract with Director General;*
- 6) decide on the purchase, sale or mortgaging of the assets;*
- 7) decide on taking bank loans or issuing financial guarantees;*
- 8) approve signing investment contracts if the overall amount to be paid by RTCG exceeds the amount determined in the RTCG Statute;*
- 9) approve the change of the budget allocations;*
- 10) adopt its Standing Orders;*
- 11) perform other duties in compliance with the Statute.*

The members of the Managing Board shall be entitled to remuneration for their work in compliance with the RTCG Statute.

RTCG Director General

Article 29

RTCG Director General shall be a person who is a citizen of the Republic with the residence in the Republic, has a university degree minimum, and at least five years of professional experience.

Director General shall:

- 1) *act for and represent RTCG;*
- 2) *organise and control the process of work and manage operations of RTCG;*
- 3) *carry out the decisions of the Managing Board;*
- 4) *appoint and recall Director of Radio of Montenegro and Director of Television of Montenegro, provided that the appointment decision is preceded by public announcements and approval of the RTCG Council;*
- 5) *sign labour contract with the Director of Radio of Montenegro and Director of Television of Montenegro;*
- 6) *prepare general act on internal organisation and job classification in RTCG in co-operation with Director of Radio of Montenegro and Director of Television of Montenegro and propose it to the Managing Board;*
- 7) *perform other duties regulated by the RTCG Statute.*

The term of office of the Director General shall be four years and the same person shall not be appointed Director General more than two times consecutively.

A person who is not qualified to be the RTCG Council Member, as by provisions set out herein, shall not be appointed Director General.

The Article 23, paragraph 1, indented line 2 of this Law shall not be applied to the candidates for the appointment of the Director General.

Radio of Montenegro and Television of Montenegro Directors

Article 30

Director of Radio of Montenegro and Director of Television of Montenegro shall be appointed and recalled by the RTCG Director General, with previous consent of the RTCG Council.

A person who is the citizen of the Republic with the residence in the Republic, has a university degree minimum, and at least five years of experience in the field of media may be appointed Director of Radio of Montenegro and Director of Television of Montenegro.

A person who is not qualified to be the RTCG Council Member, as by provisions set out herein, shall not be appointed Director of Radio of Montenegro or Director of Television of Montenegro.

Director of Radio of Montenegro and Director of Television of Montenegro shall be appointed for the term of 4 (four) years, with the possibility of re-election.

Persons, who are not qualified to be the RTCG Council Member, as by provisions set out herein, shall not be appointed Director of Radio of Montenegro or Director of Television of Montenegro.

The Article 23, paragraph 1, indented line 2 of this Law shall not be applied to the candidates for the appointment of the Director of Radio of Montenegro or Director of Television of Montenegro.

Article 31

Director of Radio of Montenegro, or Director of Television of Montenegro, shall:

- 1) *act for and represent Radio of Montenegro or Television of Montenegro, respectively within the authorisations given;*
- 2) *propose the programme orientation of Radio of Montenegro or Television of Montenegro, respectively and shall be accountable for its implementation to the RTCG Council, in compliance with law and RTCG Statute;*
- 3) *enforce adopted operating plans of Radio of Montenegro or Television of Montenegro, respectively;*
- 4) *implement the provisions of this Law which regulate the programming;*
- 5) *appoint and recall Programme Editors in Radio of Montenegro or Television of Montenegro, respectively;*
- 6) *propose to the Director General the internal organisation and job classification in Radio of Montenegro or Television of Montenegro, respectively;*
- 7) *sign the labour contracts with the employees of the Radio of Montenegro and Television of Montenegro, respectively in compliance with the RTCG Council Statute and the act on internal organisation and job classification;*
- 8) *carry out the decisions of the Commission for Petitions and Complaints;*
- 9) *perform other duties as provided by the RTCG Statute.*

Article 32

RTCG Director General, Director of Radio of Montenegro and Director of Television of Montenegro may be recalled before the expiry of their term:

- 1) *upon a personal request,*
- 2) *if they fail to act in compliance with the provisions of law and general acts of RTCG,*
- 3) *if their negligent and irregular conduct leads to significant damage to RTCG,*

Before adopting a decision on recall, RTCG Director General, Director of Radio of Montenegro and/or Director of Television of Montenegro shall be given chance to advance explanations concerning the reasons for being recalled.

RTCG Director General, Director of Radio of Montenegro and Director of Television of Montenegro shall have the right to start an administrative proceeding against the decision on the recall, in compliance with a separate law.

Article 33

The RTCG Statute shall contain the provision with regard to:

- 1) *RTCG seat;*
- 2) *internal organisation of RTCG;*
- 3) *manner of work, decision-making and competencies of the administrative body of the RTCG and a person with special authorisation;*
- 4) *decision-making procedure with regard to the petitions and complaints of listeners and viewers concerning the RTCG activities;*
- 5) *manner of publicising of the RTCG Operating Bulletin, financial plans, income and expenditure statements and other documents and information RTCG is obliged, as by the provisions set out herein, to present to the public;*
- 6) *manner of establishing the amount and allocation of the funds by the individual organisational units within the RTCG;*

The RTCG Statute shall also contain the provisions with regard to other issues in compliance with law.

VIII. RTCG ASSETS

Article 34

The RTCG assets, which shall consist of the ownership rights over movable assets and real estate, financial resources, securities and other property rights shall be owned by the state.

RTCG shall be liable for its commitments with all of its assets.

The Republic of Montenegro shall have joint, several and unlimited liability for the commitments of RTCG.

RTCG shall not burden or sell, without the consent of the RTCG Council, any real estate or other assets with a value exceeding the value determined by the RTCG Statute.

IX. TRANSITIONAL AND FINAL PROVISIONS

Article 35

On the day of coming into effect of this Law, the Public Enterprise "Radio-Television of Montenegro", established on the basis of the Decision on Organising Public Enterprise "Radio-Television of Montenegro" (Official Gazette of Montenegro, Nos. 41/98 and 26/99), shall continue its work under the name of the Public Enterprise "Radio and Television of Montenegro", with the rights and obligations prescribed by the provisions of the Media Law, Broadcasting Law and this law.

The RTCG funds and assets shall consist of the funds and assets of the Public Enterprise "Radio-Television of Montenegro", as per the balance sheet from December 31st 2002.

Article 36

At least in one daily newspaper and in the "Official Gazette of the Republic of Montenegro" and not later than eight days from the date of coming this Law into effect, the Speaker of the Parliament of the Republic shall issue a public invitation to the authorised nominators to submit the Appointment Acts for the RTCG Council Members;

The deadline for submitting the Appointment Acts for the RTCG Council Members shall be 30 days from the date of issuing the public invitation referred to in paragraph 1 of this Article;

The Parliament of the Republic is obliged to verify the appointment of the RTCG Council Members, not later than 30 days from the expiry of the deadline referred to in paragraph 2 of this Article;

Provided that the Appointment Act submitted is not in compliance with the provisions of this law, the Parliament of the Republic of Montenegro shall invite the authorised nominator for the Appointment of the RTCG Council Member to conform the aforementioned document with the provisions of this Law not later than 15 days from the date of receiving the invitation.

The first session of the RTCG Council shall be convened by the Parliament Speaker of the Republic, not later than 15 days after the Parliament of the Republic has verified the appointment of at least two-thirds of the Council Members.

Article 37

The RTCG Statute shall be adopted not later than 60 days from the date of the RTCG Council constitution.

The RTCG Managing Board shall be constituted not later than 30 days from the date of the RTCG Statute adoption.

The Managing Board shall issue a public competition for the election of the RTCG Director General, not later than 15 days after its constitution.

Article 38

The Director General, Programme, Managing and Supervisory Boards and editors-in-chief in the Public Enterprise "Radio-Television of Montenegro" shall continue to work until the appointment of the RTCG management bodies in compliance with the provisions of this Law.

Article 39

On the date of coming this Law into effect, the following provisions shall no longer be valid:

- *the Decision on Organising Public Enterprise "Radio-Television of Montenegro" (Official Gazette of the Republic of Montenegro, Nos. 41/98 and 26/99);*
- *the Decision on the Appointment of Programme Committee of Radio of Montenegro (Official Gazette of the Republic of Montenegro, No. 54/01);*
- *the Decision on the Appointment of Programme Committee of Television of Montenegro (Official Gazette of the Republic of Montenegro, No. 54/01);*
- *the Decision on the Appointment of Members of Managing Board of Public Enterprise "Radio-Television of Montenegro" (Official Gazette of the Republic of Montenegro, No. 42/98);*
- *the Decision on the Appointment of Members of Supervisory Board of Public Enterprise "Radio-Television of Montenegro" (Official Gazette of the Republic of Montenegro, No. 42/98).*

Article 40

This Law shall come into effect eight days after the date of its promulgation in the "Official Gazette of the Republic of Montenegro", and shall be implemented from May 1st 2003.

No: 01-2806/2

Podgorica, September 17 2002

The Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro" was adopted on September 16th, at the fourth extraordinary session of the Parliament of the Republic of Montenegro in 2002, and publicised in the "Official Gazette of the Republic of Montenegro", No. 51/02.



Republic of Montenegro
BROADCASTING AGENCY

*LAW ON AMENDMENTS TO
THE LAW ON PUBLIC BROADCASTING SERVICES
"RADIO OF MONTENEGRO" AND "TELEVISION OF MONTENEGRO"*



Republic of Montenegro
BROADCASTING AGENCY

**LAW ON AMENDMENTS TO
THE LAW ON PUBLIC BROADCASTING SERVICES
"RADIO OF MONTENEGRO" AND "TELEVISION OF MONTENEGRO"**

Article 1

In the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro" ("Official Gazette of the Republic of Montenegro", No. 51/02) in the Article 36, paragraph 2 the number "30" shall be replaced by "15".

Article 2

The Article 38 shall be amended to:

"The term of office of the Director General, Programme, Managing and Supervisory Boards and editors-in-chief in the Public Enterprise "Radio-Television of Montenegro" shall end with the day of the RTCG Council constitution.

The RTCG Council is obliged to appoint acting Director General, acting Director of "Television of Montenegro" and acting Director of "Radio of Montenegro".

Article 3

In the Article 40, the words "and shall be implemented from May 1st 2003" shall be deleted.

Article 4

On the day of enactment of this Law, the following regulations shall no longer be valid:

- *The Decision on Appointment of Programme Board of Television of Montenegro ("Official Gazette of the Republic of Montenegro", No. 48/02);*
- *The Decision on Appointment of Programme Board of Radio of Montenegro ("Official Gazette of the Republic of Montenegro", No. 48/02);*
- *The Decision on Appointment of Programme Board of daily newspaper "Pobjeda" ("Official Gazette of the Republic of Montenegro", No. 48/02);*
- *The Decision on Appointment of Programme Board of the public medium Weekly in Albanian language "Koha javore" ("Official Gazette of the Republic of Montenegro", No. 48/02);*

Article 5

This Law shall come into effect eight days after the date of its publishing in the "Official Gazette of the Republic of Montenegro".

Number: 01-2806/4
Podgorica, November 13th 2002

The Law on Amendment to the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro" was adopted on November 12th on the third session of the second regular sitting of the Parliament of the Republic of Montenegro in 2002, and publicised in the "Official Gazette of the Republic of Montenegro", No. 62/02

*THE LAW ON PUBLIC BROADCASTING SERVICES
"RADIO OF MONTENEGRO" AND "TELEVISION OF MONTENEGRO"
THE COMMENT*

The constitutional basis for the adoption of the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro", is contained in the Article 12, item 1 of the Constitution of the Republic of Montenegro and in the Article 94, paragraph 3 of the Broadcasting Law.

II REASONS FOR THE LAW ADOPTION

The freedom of expression and information represents the basic element of protection of democratic principles and observance of human rights guaranteed by the international documents – the United Nation's Universal Declaration of Human Rights and European Convention on Human Rights and Fundamental Freedoms, adopted by the member states of the Council of Europe. These principles are contained in the very Constitution of the Republic of Montenegro.

Having accepted the Media Freedom Charter, adopted on June 8th 2000 at the regional table of the Stability Pact for South East Europe in Thessaloniki, the state authorities of the Republic of Montenegro committed themselves to taking initiative to guarantee and promote the media freedom, support the development of professional journalism and providing comprehensive transformation of the broadcast media in the Republic in compliance with the international standards, with the aim to protect these freedoms and create suitable climate for the undisturbed media development. Given that the media independence is of essential importance for functioning of any democratic society, the state authorities are obliged to observe editorial independence of all media, including media founded by themselves. In order to achieve that, it is necessary to conduct a thorough and comprehensive transformation of national broadcasting organisations into public broadcasting services of citizens in compliance with current European standards.

National broadcasting organisations have constituted a vital component of the broadcasting sector in a number of states. Therefore, the reasons for further existence of such organisations in securing public interests in the sphere of information are still very strong. However, these media must accept a new organisational form of public broadcasting services with the production, transmission and broadcasting of radio and/or television programmes of public interest financed and controlled by the public as their basic activity. However, there are two essential problems for the realisation of this objective, representing the threat for the survival and development of the broadcasting organisations financed by the public in many countries in transition. The first one is the attempt of the public authorities to control such organisations by threatening their independence and programme quality. The other is a constant desire of governments to cut their own budgets, thus increasing the pressure on the amount of funds allocated for the broadcasting organisations from the state budgets and directing them to seek alternative financial sources. The Law on Public Broadcasting services "Radio of Montenegro" and "Television of Montenegro" has recognised these fundamental issues, so that the suggested model includes normative solutions which avoid the traps mentioned and offer efficient and fast transformations of Public Enterprise "Radio-Television of Montenegro" into a public broadcasting service in compliance with the European standards for this field.

Considering all this, primarily the essential role of the media, especially broadcast media, in the societies in transition as a basic mechanism of intensifying democratic processes in them, an active dialogue has been established between competent state authorities, media community representatives and non-governmental sector in the Republic of Montenegro with the aim to develop new media legislation conformed with the European standards in this field. In July 2001, the Secretariat of Information of the Republic of Montenegro established the Working Group for Drafting the Broadcasting Law and the Media Law aiming at the development of legal framework for the complete and feasible media system reform. Its unavoidable part is the transformation of present Public Enterprise "Radio-Television of Montenegro".

The Working Group has established an active co-operation with the Council of Europe, European Agency for Reconstruction, European Media Institute, "Article XIX" organisation, and other international institutions interested in this process in the Republic of Montenegro. The Working Group activities have been presented to the public on regular basis, by publishing working versions of these laws, as well as by organising public debates followed by thorough discussion on the objections, suggestions and opinions of the interested parties in the Republic of Montenegro in order to obtain the most acceptable normative solutions.

Having supported the adopted objectives and methodology of the Working Group and with the aim to support the media legislation reforms, in August 2001, the Council of Europe and the European Agency for Reconstruction adopted the Joined Initiative for providing support for the implementation of activities in this field in the Republic of Montenegro.

The aim of the aforementioned Initiative is the formulation and implementation of the legislation in compliance with the Article 10 of the European Convention on Human Rights and Fundamental Freedoms and with the practice of the European Human Rights Court. The cornerstone of the adopted Initiative is to enable the Council of Europe to monitor and provide professional assistance and opinions on the compliance of legal documents with the European standards related to the media freedom, in direct co-operation with other international institutions and organisations, especially with the European Commission and OSCE.

The complexity of the material, which was to be legally formulated, required drafting three laws regulating the media system: the Media Law, the Broadcasting Law, and the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro".

During the process of drafting the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro", the Working Group has analysed in detail the present normative solutions regulating legal position of the Public Enterprise "Radio-Television of

Montenegro", and their application has been re-evaluated in order to avoid the previous model's deficiencies in the development of new system. Namely, the existing manner of managing the Public Enterprise "Radio-Television of Montenegro", established by the Public Information Law from 1998, adopted as a compromise between the political parties which wanted to ensure the greatest possible influence on the RTCG editorial policy, apart from being unacceptable from the aspect of the European recommendations and standards in this field, was proven to be unsustainable model which failed to provide the efficient work of RTCG. The only indisputable success of this model is the termination of one political party domination.

The fact that the Montenegrin information domain, apart from the continuous attempts of comprehensive reforms, is still at the beginning of creating clear foundations for its future position in the European surroundings, served as a motive for the Working Group to try to establish the firm basis for the development of this system, having in mind that the crush of the former ideology alone in Eastern Europe did not provide the liberation of media from totalitarian dependency on the power institutions, and accordingly their transformation into democratic institutions. The most important message from the transition period of those countries, which expected the media to have the leading role in the process of creating democratic infrastructure in the post-Communist societies, is the underrated ability of structural and functional mimicry of the totalitarian system. It is especially reflected in the attempt of the estate to be "the only and main guarantor" of media freedom in the conditions of increasing pluralism, which often led to the media control.

The main objective to be achieved by this Law is to prevent RTCG from the involvement in political processes as an instrument for winning over the citizens in inter-party and other conflicts. The politics as a destiny is inevitable for media, so the media democratisation does not and cannot include the complete separation of media and politics but the strengthening media independence in relation to the politics and power. Considering all this, the Working Group made sure that democratic changes in the media sphere in our country include, first of all, a comprehensive change in the state-owned media course, which had to step out the party sphere and play the role of public services of the citizens. The fact that all ruling parties in this region wish to obtain the dominant position on all control points of the media system is new not even to much more developed countries. Thus, it has been proved that the formal change in political and economic system does not necessarily mean either the change in the functioning of individual institutions or citizens' positions. With regard to the entire issue, the most important element for comprehending the overall attitude of citizens towards media sphere is the determination of their positions related to the media control. The cornerstone of this, third media reform in the Republic of Montenegro must be favouring of the citizens' rights related to the media system, which will completely prevent any state or party monopoly over media.

The new media legislation enables the broadcast media to withdraw from the political disputes and dedicate themselves to infinitely difficult and important task of creating conditions for strong confrontation of opinions as an important precondition for the democratic society development, and this Law puts the Republican broadcasting services in the position to implement this very important process.

However, the issue of readiness of the political parties and other segments of society to support fast and efficient transformation of the media sphere, especially the state-owned media, remained open for the Working Group. The success of further legal development of the existing laws and other media system legislation will depend on this determination.

II

On the basis of the Constitution of the Republic of Montenegro, which guarantees the freedom of press and other forms of public information, as well as the rights of citizens to express and publicise their opinions in the public information outlets, the Law on Public Broadcasting Services "Radio of Montenegro and "Television of Montenegro" gives the concept and methodology of these fundamental constitutional starting points in compliance with the principles defined in the Media Law and the Broadcasting Law. In that respect, the Bill follows the logic of creating the legal environment with clearly regulated rights and liabilities of national public broadcasting services in the Republican media system in compliance with the European recommendations in this domain.

The starting point in drafting this law were the principles contained in the international documents on human rights, especially the following:

- International Convention on Civil and Political Rights (Article 19);
- European Convention on Human Rights and Fundamental Freedoms;
- Council of Europe Declaration on the Freedom of Speech and Information;
- European Union Directive "Trans-frontier Television";
- Council of Europe Convention on the Trans-frontier Television;
- Council of Europe recommendations, viz.:
 - R (2000) 23 on independence and functioning of regulatory bodies in the broadcasting field;
 - R (2000) 7 on the rights of journalists not to reveal their sources of information;
 - R (97) 21 on media and promoting the culture of tolerance;
 - R (99) 15 on the measures related to the media coverage of the election campaigns;
 - R (99) 1 on the measures of promoting the media pluralism;
 - R (97) 20 on "hate speech";
 - R (96) 10 on guaranteeing the independence of public broadcasting etc;

These documents emphasise the importance of the wide range of independent means of communication for the society, which provides the variety of ideas and opinions. In the system of media diversity, the Republican public broadcasting services must find their own space as broadcasters that produce the programme observing the highest professional standards in this field.

The acceptance of these standards enables us to be up to date with contemporary European flows. The delay, postponement, dilemmas or insisting on perfect conditions or solutions will make the transformation of state-owned media into public services absurd, because the dynamics of their change is important for the overall transformation of the society and therefore the media system. The Working Group believes that no one has the right to do that and that it is our duty to formulate normatively, and by means of fast implementation, develop contemporary information system and public broadcasting services within.

The chapter I STATUS (Articles 1 and 2) defines the legal position of Public Enterprise "Radio-Television of Montenegro", the main activity of which is the provision of the Republican public broadcasting services. The founder of this Enterprise is the Republic of Montenegro, and the RTCG Council exercises the founder's rights on behalf of the Republic. In that way, the readiness of the Republic of Montenegro to provide full independence of this enterprise in relation to all public authorities of the Republic is emphasised.

With regard to this issue, the Working Group has tried to find a solution for one more significant problem related to the legal position of the Public Enterprise RTCG alone, and that is the legal framework according to which this enterprise should be projected with reference to positive legal solutions in our current system. Namely, newly adopted Law on Companies ("Official Gazette of the Republic of Montenegro" No. 2/2002) does not foresee a public enterprise as a separate form of company, and valid Law on Public Enterprises ("Official Gazette of the Republic of Montenegro" No. 6/91) has still not been conformed with the Constitution of the Republic of Montenegro. Therefore, the clearer positive legal distinction between the Law on Companies and the Law on Public Enterprises is necessary (whether it is a matter of relation between general and separate law or the general law abolishes the separate one – the Law on Public Enterprises). The Law on Companies prescribes that a founder may be only one person in the case of a limited liability company – in this case the State. Therefore, the Drafter has chosen the concept of public enterprise primarily for the reason of the realisation of the public interest through the activities of this enterprise. However, the legal dilemmas related to the existing unconformity of the Law on Companies with the Law on Public Enterprises still remain as well as the dilemma concerning the definition of the status of legal entity the existing Public Enterprise "RTVCG" is being transformed to. However, it could not be expected from the Working Group to clear out all ambiguities in this field but to offer solution applicable to this specific case. The public authorities of the Republic of Montenegro, on the other hand, must initiate the process of systematic legal regulation in the field of public enterprise and social activities aiming at the removal of the existing legal gaps and collisions and accordingly provide the success of a model suggested by this Law.

The chapter II RTCG ACTIVITY (Article 3 - 5) defines the main activity of RTCG as the production and broadcasting of two programmes of the Radio of Montenegro and Television of Montenegro, by means of two independent networks on the national level of coverage (85% of population) and broadcasting of one radio and one television programme respectively by means of satellite. The Law provides for RTCG to perform other activities in compliance with law, provided that they contribute to more complete use of the company capacities and creating conditions for the provision of quality public broadcasting services. However, with the aim to realise better protection of public interests, the Law prescribes that the change of the main activity and privatisation of RTCG may not be performed without the consent of the Parliament of the Republic of Montenegro. The Law also prescribes, in compliance with the Article 67 of the Constitution of the Republic of Montenegro guaranteeing the members of national and ethnic groups the rights to be informed in their own language, that RTCG may found the regional studios with special obligation to produce and broadcast regional programmes and programmes in the languages of national and ethnic groups living in these areas.

In the process of drafting this Law, the Working Group has initiated the issue whether the Public Enterprise RTCG should be transformed into two legal entities. Individual suggestions failed to answer the questions related to the need of forming one or two councils and managing boards, the appointment of the Director and the Directors of separate units; manner and sources of financing of separate legal entities; adoption of internal documents, development of studies on feasibility of division and economic and media sustainability, etc. In accordance with the need of rational use of personnel, technical and organisational resources and having in mind the recommendations of several consultants, this draft law proposes the transformation into a single legal entity, provided that the Public Enterprise Statute more closely regulates all issues of mutual relations between the Radio of Montenegro and the Television of Montenegro. However, the Working Group has concluded that it was necessary to determine by the Law alone a sufficient level of autonomy of the two organisational units operating within the Public Enterprise "Radio of Montenegro and Television of Montenegro". It can be recognised in the Article 5 of this Law, which prescribes that the RTCG Statute in compliance with law shall establish the competencies of the organisational units in legal operations.

The chapter III PUBLIC ACCOUNTABILITY (Article 6) provides for its realisation through several levels: through the appointment procedure of the RTCG Council Members, as a central supervisory body of the public broadcasting service, publicising the RTCG Operating Bulletin which includes information about the RTCG activities as well as though the possibility of submitting the petitions and complaints of viewers and listeners on the RTCG work. These provisions are in compliance with the European standards related, in addition to the guaranteed editorial and management independence and autonomy, to the accountability for the manner of managing their activities and using the resources provided by the public for that purpose. Therefore, the valid principle was that public broadcasting services must be directly accountable to the regulatory body for the broadcasting field, to the courts in compliance with law, but also to the overall public in a way prescribed in the Article 6 of this Law.

In Compliance with the Broadcasting Law, the chapter IV RTCG OBLIGATIONS (Articles 7 and 8), establishes the obligation of Republican public broadcasting services to produce and broadcast different programming (news, cultural, art, educational, scientific, children, entertainment, sports and other) and make sure that they are equally represented, with the obligation to satisfy the public interests at both national and local level. The editorial independence of RTCG is guaranteed by explicit prescribing that it alone decides about its programming, its airtime and manner or transmission. Radio of Montenegro and Television of Montenegro, as two main public broadcasting services within RTCG are obliged to observe professional standards and programme rules adopted by the RTCG Council, and like all other media they are obliged keep the public truthfully, completely, impartially and timely informed about events and issues of public interest both in the country and abroad; contribute to

the observance and promotion of basic human rights and freedoms, democratic values and institutions, pluralism of ideas, improve culture of public dialogue and respect linguistic standards and privacy and dignity of citizens.

The chapter **V RTCG FUNDING** (Article 9 - 12) defines the manner and sources of RTCG funding, as one of the main factors for the realisation of editorial and management independence of the public service broadcasters, given that the source and range of their financial resources can essentially determine free space for the implementation and realisation of their tasks. The Law prescribes encircled and efficient financial framework, which should provide RTCG with enough funding to perform its legally prescribed functions as public broadcasting service. Taking into account the aforementioned principles, the Working Group has proposed by this Law a wide range of financial sources for the RTCG, which include: a part of broadcasting subscription and broadcasting tax for the use of radio receivers in motor vehicles, revenues from the production and broadcasting of advertisements, production and sale of audio-visual works, sponsorship and other sources in compliance with the Media Law. The Law prescribes the procedure of acquiring the funds from the Budget of the Republic on the basis of creating the conditions for the fulfilment of the Republic's obligations related to the realisation of the guaranteed citizens' rights to be informed on the basis of programming important for science and education development, development of culture, information intended for persons with eyesight and hearing impairments. Furthermore, the Law foresees that RTCG may acquire a part of funding from the Budget of the Republic of Montenegro on the basis of programming in Albanian and languages and alphabets of other national and ethnic groups related to the science and education development, development of culture, information intended for persons with eyesight and hearing impairments, in compliance with the Article 68 of the Constitution of the Republic. The Law explicitly prescribes that the manner and conditions of providing funds from the Budget of the Republic must not influence the editorial independence and autonomy of RTCG. The publicising of a contract stipulating mutual rights concluded between the administration authority in charge of the information issues and RTCG in the RTCG Operating Bulletin (Article 11) is foreseen as additional protection with regard to that issue. The obligation of the Republic to provide the funds from the Budget for payment of services of transmission and broadcasting of RTCG programme provided by the Company for the transmission and broadcasting or radio and TV signals (Broadcasting Centre) is also a novelty. Thus, the undisturbed and continuous process of production and broadcasting of public broadcasting service programmes is additionally ensured (Article 12).

The Chapter **VI RTCG BODIES** (Article 13 - 25) takes central position in the Law given the importance of the internal organisation of the enterprise for the overall transformation process of present Public Enterprise "Radio-Television of Montenegro" into a new enterprise involved in the activity of the Republican public broadcasting services. Prior to the drafting new management system of RTCG, the Working Group was informed in detail about the situation in this biggest media company in the Republic. The data available have shown that comprehensive re-organisation of state-owned media may be completed only upon creating the conditions for the appointment and beginning of work of new management and supervisory bodies that will provide the efficient work of these media within precisely defined competencies. The analyses have shown that one of the pressing issues of the Public Enterprise "Radio-Television of Montenegro" is disproportional number of employees that must be considerably reduced so that this enterprise could survive and begin realising the objectives of every public broadcasting service – production and broadcasting of programmes of public interest. However, the analyses have shown that the management teams in the state-owned media are neither ready nor able to begin with the independent operation because the present inefficient financial system relies primarily on the revenues from the state budget.

The comparative experiences show that in order to achieve the success in the project of the state-owned media transformation into public broadcasting services it is necessary to previously adopt the legal framework of their transformation, setting up the foundations for the internal re-organisation of a certain media company, relying on the valid European principles and standards in this field. With the view of the entire situation and after a number of consultations and a public debate, the Working Group has tried to project, in the proposed normative solutions, the efficient and sustainable management model for the public broadcasting services. This management model of the Public Enterprise "Radio and Television of Montenegro" can be more clearly understood from the scheme attached to this Comment of the Law.

The Law foresees the RTCG Council to represent the citizen's interests. Its members will be elected among prominent experts from among journalists, sociologists, lawyers, economists, engineers, media analysts, experts in marketing, broadcasting, etc. who are in favour of observance of democratic principles and the rule of law, development and promotion of constitutional order, protection of human rights and freedoms and protection of freedom of speech.

The RTCG Council should be independent of any state authority, as well as of all organisations and persons involved in the activity of production and broadcasting of radio and TV programmes or the related activities. In accordance with the recommendations, the Law prescribes that the RTCG Council Members are entitled to monthly remuneration for their work. Having in mind the overall financial situation but also the importance of the activities RTCG Council will perform, the Drafter considers that the remuneration must not be lower than half of the remuneration of the Supreme Court Judge in the Republic of Montenegro.

The appointment and recall procedure of the RTCG Council Members (Articles 15 - 23), observing the principles of publicity and impartiality prevents any political or other influence on the member election, in compliance with the valid European standards. In that way, editorial and management independence of the Republican public broadcasting services is protected. It should be emphasised that the RTCG Council Members do not represent the institutions or organisations which appointed them, but perform their duties independently, according to their knowledge and conscience without obligation to observe anybody's instructions related to their work, except the decisions of the competent court. The Article 21 prescribes the termination of the RTCG Council Member's term of office (upon the expiry of the term, by recall, resignation or upon the death).

The Article 21 provides the reasons for the termination of the RTCG Council Member's term of office (upon the expiry of the term, by recall, resignation or upon the death), and the reasons for the recall are clearly defined by the Article 22 of this Law.

It is important to emphasise that, pursuant to the Article 23 of this Law, the persons who might, according to their functions or positions, show the conflict of interests with regard to the RTCG work may not be appointed the RTCG Council Members, the RTCG Managing Board

Members, as well as the Director General and Directors of Radio of Montenegro and Television of Montenegro. Therefore, the members of these bodies shall not be: Members of Parliament and city council members, RTCG employees, Government officials, officials of political parties, persons with a stake in the assets of other broadcasters or persons that are sentenced by final and binding decision for certain criminal offences.

The chapter **VII RTCG ASSETS** (Article 34 and 35) defines that the assets are owned by the state and that the Republic shall have joint, several and unlimited liability for the commitments of RTCG in legal operations.

The chapter **VIII TRANSITIONAL AND FINAL PROVISIONS** (Article 36 - 41) states that on the day of coming into effect of this Law, the Public Enterprise "Radio-Television of Montenegro" continues its work in compliance with this Law, Media Law and Broadcasting Law. The Article 37 prescribes the deadlines for the election and appointment of the first bodies of RTCG until the election of which the existing bodies of the Public Enterprise "Radio-Television of Montenegro" continue their work in compliance with the provisions of this Law.

III

The implementation of this Law will require the provision of the funds in the Budget of the Republic allocated for the programming important for science and education development, development of culture, information intended for persons with eyesight and hearing impairments, as well as the funds intended for the programming in Albanian and languages of other national and ethnic groups.

In addition to the costs of the Public Enterprise "Radio-Television of Montenegro" restructuring that are to be stated in the Management Transformation Programme for this enterprise, the Republic of Montenegro as a founder of this enterprise, will have to provide the funds for covering a part of losses ensuing from the long delay of comprehensive changes in this medium. The readiness of the international community to provide the assistance in the transformation process of these state-owned media into public broadcasting services was made conditional upon the prior adoption of legislation and consequent readiness of management and editorial structure to commence the comprehensive transformation.