

Government of Montenegro

Ministry for Information Society

Questionnaire

Information requested by the European Commission to the Government of Montenegro for the preparation of the Opinion on the application of Montenegro for membership of the European Union

– ADDITIONAL QUESTIONS –

10 Information society and media

Minister:

Vujica Lazovic

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CHAPTERS OF THE ACQUIS – ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

10: Information Society and Media

I. ELECTRONIC COMMUNICATIONS AND INFORMATION

1. Please provide as update a list with all those decisions and rulebooks referred to in the initial replies as being under preparation which have been adopted after finalisation of the initial replies (indicative cut-off date: 1 February 2010).

Provided below is a list of regulations adopted in accordance with the competences laid down in the Law on Electronic Communications (Official Gazette of Montenegro 50/2008):

- List of secondary regulations drafted by the Agency for Electronic Communications and Postal Services and published in the Official Gazette of Montenegro in 2009 and on the Agency's website (cut-off date: 1 February 2010)
- Addition to the Numbering Plan (Official Gazette of Montenegro 65/2009)
- Rulebook on the volume and terms of presentation of data on the capacities of electronic communication infrastructure of common interest (Official Gazette of Montenegro 79/09)
- Rulebook on electronic communication installations for subscribers in residential and business premises (Official Gazette of Montenegro 79/09)
- Rulebook on operators' access and interconnection (Official Gazette of Montenegro 79/09)
- Rulebook on portability of numbers (Official Gazette of Montenegro 89/09)
- List of secondary regulations drafted and published in the Official Gazette of Montenegro in 2009 by the Ministry of Transport, Maritime Affairs and Telecommunications and the Government of Montenegro, on the basis of the technical groundwork for the regulations prepared by the Agency (cut-off date: 1 February 2010)
- Rulebook on the terms, conditions and dynamics of introducing the single European emergency call number 112 and the quality of service provided to incoming calls to that number (Official Gazette of Montenegro 64/09)
- Rulebook on service quality parameters, threshold values and parameter measurement methods for the use of the single European emergency call number 112 (Official Gazette of Montenegro 64/09)
- Rulebook on the terms and conditions for the use of a minimum set of leased lines (Official Gazette of Montenegro 70/09)
- Rulebook on the terms and conditions for the keeping of the register of operators, the register of allocated radio frequencies and the register of assigned numbering and addresses (Official Gazette of Montenegro 70/09)
- Rulebook on the terms of registration of users of public communication networks (Official Gazette of Montenegro 77/09)
- Rulebook on the method of establishing the elements of electronic communication networks and associated infrastructure, the scope of protected areas and the types of radio-corridors within which construction of other facilities is prohibited (Official Gazette of Montenegro 83/09)
- Rulebook amending the Rulebook on the methodology and practice of calculating annual fees for the use of radio-frequencies (Official Gazette of Montenegro 01/10)

The remaining or uncompleted documents are in the stage of additional consultations either with operators or administrative (state) authorities, or waiting for the arrival of international experts through the EU assistance instruments.

2. How many of the rulebooks and decisions by either the Ministry or the Agency for Electronic communications and Postal services have been taken outside, meaning beyond, the deadlines set out in the law? If there are such delays, could you please provide explanations for the delays?

The Ministry of Transport, Maritime Affairs and Telecommunications, i.e. the Section for Electronic Communications and Postal Services has, in addition to working on other draft regulations (**Draft Law on the Switchover from Analogue to Digital Terrestrial Broadcasting Systems, Draft Law on Electronic Media, Draft Decision on Universal Service**), adopted the documents referred to in the previous response within the time limits set by the Law on Electronic Communications, whereas the following documents have not been adopted within the time limit laid down in the Law on Electronic Communications:

- Rulebook on technical terms for import, marketing and use of radio and telecommunications terminal equipment (R&TTE);
- Rulebook on electromagnetic compatibility (EMC);
- Rulebook on radio frequencies and terms under which radio frequencies may be used without authorization for the use of radio frequencies.

The key factor in meeting the responsibility to adopt these rulebooks is the insufficient administrative capacity of the Ministry, as regards legal approximation of proposals for the rulebooks with the applicable provisions of the Law on Electronic Communications, as well as other general laws. As for the last rulebook listed above, the delay is caused by amendments to the Radio Frequencies Allocation Plan.

Agency for Electronic Communications and Postal Services has prepared (in accordance with the Agency's Work Programme for 2009, which is an integral part of the Agency's Financial Plan for 2009 adopted by the Parliament of Montenegro in late December 2009, and the Operational Plan for the implementation of the Work Programme, within the time limits provided by those documents and in compliance with the requirements laid down in the Law on Electronic Communications) the technical groundwork for the documents listed in the response to the previous question, whereas the documents which it adopts on its own accord have been adopted within the time limits required, except for the following documents, for which reasons have been stated:

- 1) A regulation on fees, in accordance with the Rulebook on home installations;

After the adoption of the Rulebook on home installations, there was no longer any need to adopt a regulation on fees, whereas this need existed in the previous version of the aforementioned rulebook which was applicable at the time when the response was sent.

- 2) Rulebook on the highest allowed radiated power of the radio stations in cities and urban areas; Rulebook on the technical and exploitation conditions for the frequency modulated emissions of the broadcasting stations; Rulebook on the technical and exploitation conditions for use of broadcasting stations for broadcasting TV programme in the VHF I and III and UHF IV and V frequency bands;

The Agency's Work Programme for 2010 provides for the adoption of these documents in the first quarter of 2010.

The Rulebook on the highest allowed radiated power of the radio stations in cities and urban areas was adopted by the Agency Council under the name the Rulebook on threshold values of electromagnetic field parameters aimed at limiting the impact of long-term exposure of general population to electromagnetic radiation. This Rulebook was published in the Official Gazette of Montenegro 15/2010.

As for the other two rulebooks (the Rulebook on the technical and exploitation conditions for the frequency modulated emissions of the broadcasting stations and the Rulebook on the technical and exploitation conditions for use of broadcasting stations for broadcasting TV

programme in the VHF I and III and UHF IV and V frequency bands) public consultations have been completed. No objections have been made to draft rulebooks, which will be forwarded to the Council of the Agency for consideration and adoption at the 4th regular session of the Council which is taking place on 8 April 2010. After their adoption by the Council, the rulebooks will be published in the Official Gazette in Montenegro.

- 3) Accounting separation and cost accounting methodology; Rulebook on retail price regulation;

The Agency's Work Programme for 2010 has postponed the adoption of these documents to the second quarter of 2010, as the Agency is currently initiating the public consultations procedure for the draft analysis prepared on 7 relevant markets, which will be followed by the preparation of the aforesaid methodology and the rulebook.

- 4) The Agency's Decision on the type of information and the method of publication by operators and the type of information published by operators;

According to the Agency's Work Programme for 2010 its adoption is scheduled for the first quarter of 2010. The Decision has been drafted and will be considered at one of the Agency Council's sessions by the middle of April.

- 5) Guidelines on the criteria for assessing the reasonableness of requests and the need to provide certain services within the universal service;

The method of assessing the affordability of service fees, range of services and special packages of the universal service.

The Agency's Work Programme for 2010 provides for the adoption of these documents in the first quarter of 2010, as part of a set of services within the scope of the universal service which are prepared and introduced by the Ministry and the Agency, in consultations with the EBRD.

At the request of operators, the deadline for submitting objections to the draft documents published on the Agency's website and thus the adoption of the Rulebook is set for 15 April 2010, after which a roundtable discussion will be organized between the operators and, if possible, the relevant Ministry and the Agency, before adopting the documents which fall within the competence of the Agency.

II. INFORMATION SOCIETY SERVICES

A. Policy

3. (Ref to Q. 29): Please describe the role of the Parliament in the institutional framework of the sector.

The role of the Parliament in the institutional framework of the sector is to pass laws. There is currently no regulatory body for the information society affairs and the Parliament does not have in its structure a relevant committee in charge of these issues.

4. (Ref to Q. 30): Beside the Ministry for Information Society, which are the other actors involved in information society policies and how is coordination done and ensured?

An institutionally recognized authority, apart from the Ministry, is the State Account Information System Development Council which, in cooperation with the Ministry, coordinates projects which relate to several departments. The Council comprises, apart from government representatives, prominent members of the ICT community and University experts.

The Ministry has also recognized the need to mobilize ICT experts from different sectors and close communication is therefore maintained with the Montenegrin ICT sector which, at the initiative of the Ministry, but also by participating in the work of relevant government bodies, helps formulate a development policy for the information society and other relevant decisions in this area.

5. (Ref to Q. 31): Please provide additional information about the administrative capacity in bodies or institutions other than the relevant Ministry, if there is any.

Within the Ministry of Transport, Maritime Affairs and Telecommunications there is a special division in charge of electronic communications, radio spectrum and postal services, as stated in the response to Question No. 8 of the Questionnaire, where a description of the administrative capacity of the this institution and the regulatory authority is provided.

In the Ministry of Culture, Sports and Media, there are 4 employees, an assistant minister and 3 advisors, working in a division dealing with media issues.

Within the Ministry for European Integration, a special division is dealing with the issues of information society development. In cooperation with the Ministry for Information Society, a special project of the European Integration Information System has been developed, which has strengthened the IT support to each institution involved in the EC Questionnaire, NPI, support to translation services, approximation of legislation to the legislative framework of the EU, etc.

There is a special Office for Information and Communication Technologies at the Ministry of Education, with 7 employees and within the University of Montenegro there is the Information System Centre with 15 staff and 3 associates.

At the Ministry of Finance, there s a special Office for Information Technology, the ICT affairs at the Ministry of Defence are managed by the Office for Information and Communication Systems, whereas the Police Administration has the Operational Communication Centre. Special IT sectors also exist in the following institutions: the Ministry of the Interior, Healthcare Fund, Pension and

Disability Insurance Fund, Customs Administration, Tax Administration and the Real-Estate Administration.

G. Electronic pay-services (conditional access – Directive 98/84/EC)

6. (Ref to Q. 45+46): With reference to the Conditional access directive (Dir. 98/84/EC), please clarify the following points:

- What and where are, under Montenegrin law, the definitions provided for in Article 2 of the Directive: protected services, conditional access, conditional access device, associated service, illicit device?

The definitions provided for in Article 2 of this Directive: protected services, conditional access, conditional access device, associated service, illicit device are not part of any Montenegrin regulation.

At this point, it is important to note that under the Law on Copyright and Related Rights (Official Gazette of Serbia and Montenegro 61/04) and the Law on Application of Legal Acts for Protection of Intellectual Property Rights (Official Gazette of the Republic of Montenegro 45/05) the definitions provided in the Article 2 of the Directive are used for defining the protective measures against unauthorized access to and use of material protected by copyright and related rights.

- The responses to Question 45 and 46 refer to certain provisions of the Copyright Law. Could you please provide an English translation of the relevant articles of the law?

Below are the relevant articles of the Law on Copyright and Related Rights and the Law on Application of Legal Acts for Protection of Intellectual Property Rights.

Law on Copyright and Related Rights (Official Gazette of Serbia and Montenegro 61/04)

Article 180

(1) Any of the following shall be deemed to be an infringement of rights:

- 3) Production, import, marketing, sale, rental, advertising for the purposes of sale or rental or holding for commercial purposes of the devices primarily constructed, produced or adapted for enabling or facilitating the circumvention of any technological measure, which do not have any significant purpose other than the one stated above;
- 4) Circumvention of any technological measure, or supply or advertising of services enabling or facilitating such circumvention;

(2) For the purposes of Paragraph 1 of this Article:

- 1) the term “technological measures” shall mean any technology, device or component constructed in such manner as to prevent or restrict, during the normal course of its operation, the acts regarding the works of authorship or any other protected subject-matter, which are not authorized by the holder of copyright or holder of related rights;
- 2) the term “information on rights” shall mean any information originating from the holder of the right that identifies the work of authorship or the subject matter of related right, the author, and/or the holder of the right, or the information on the conditions of the use of a work or subject-matter of related right, or any number or code representing such information.

Article 181

- (1) Copyright and performers' rights may not be the subject of the judicial enforcement.
- (2) Only specific pecuniary claims stemming from the rights referred to in Paragraph 1 of this Article may be the subject of the judicial enforcement.
- (3) Unfinished works and unpublished manuscripts may not be the subject the judicial enforcement.

Article 182

At the request of a holder of the right who makes it credible that his/her copyright or related right has been infringed on or will be infringed on, the court may order a provisional measure involving the seizure or removal from the market of the object with which the infringement is made and/or a measure involving a prohibition against the acts under way, which could be conducive to infringement.

Article 183

- (1) At the request of the holder of the right who makes it credible that his/her copyright or related right has been infringed, or that such infringement is imminent or that irreparable harm is likely to occur, as well as that there is justified apprehension that the evidence of that will be destroyed or that it will not be possible to obtain it later on, the court may order a measure to secure evidence without giving prior notice to or hearing the person from which evidence is to be collected.
- (2) For the purposes of Paragraph 1 of this Article, the securing of evidence shall mean the inspection of premises, books, documents, databases, etc., as well as the seizure of documents and infringing goods, hearing of witnesses and expert witnesses.
- (3) The court order for measures to secure evidence shall be served to the person from which evidence is to be collected, on the occasion of the collection of evidence, and to an absent person, as soon as that becomes possible.

Article 184

- (1) The measures referred to in Articles 182 and 183 of this Law may be requested even before an action has been filed.
- (2) In the case referred to in Paragraph 1 of this Article, decision establishing a provisional measure shall establish the time limit in which the action has to be filed, which shall not be shorter than 30 days from the date of enforcement of the measure.
- (3) An appeal filed against a decision ordering a provisional measure referred to in Article 182 of this law shall not postpone the execution of the decision.

Article 185

- (1) The court may order the defendant to furnish information about third parties related to the infringement or hand over documents relating to the infringement.
- (2) The person that fails to perform its obligation referred to in Paragraph 1 of this Article shall be liable for the damage thus incurred.

Article 186

In the event of a dispute for the determination of rights of a publisher and/or a person who published a work whose author is unknown (Article 13), the court shall provide for the author's anonymity to be preserved.

Article 187

- (1) A punishment is envisaged for the economic transgression as a pecuniary penalty against business organization or company or any other legal person that:
 - 3) produces, imports, markets, sells, rents, advertises for the purpose of sale or rental, or holds for commercial purposes devices primarily constructed, produced or adapted for enabling or facilitating the circumvention of any technological measure, which do not have

any significant purpose other than the one stated above (Article 180, paragraph. 1 item 3 of this Law);

- 4) circumvents any technological measure, or supplies or advertises the services which enable or facilitate such circumvention (Article 208, paragraph 1, item 4 of this Law);
- 5) removes or alters electronic information on rights, or markets, imports, broadcasts or in any other manner communicates the work of authorship or the subject-matter of related right to the public, from which the electronic information on rights has illegally been removed or altered, while knowing or having reason to know that by doing so it instigates, enables, facilitates or conceals the infringement of a copyright or related right (Article 180, Paragraph 1, Item 5);

The responsible person in the business company or other legal person concerned shall also be punished for economic transgression by a pecuniary penalty for any of the acts referred to in Paragraph 1 of this Article.

Law on Application of Legal Acts for Protection of Intellectual Property Rights (Official Gazette of the Republic of Montenegro 45/05)

Article 1

(1) This Law designates the authorities competent for the enforcement of intellectual property legislation, the procedure for introducing measures by the competent authorities in the event of a suspicion that production, purchase, sale and/or marketing, broadcasting or use of certain goods constitutes a violation of the intellectual property right and establishes the amount of fines for economic transgressions and offences.

Article 2

Production, possession and marketing of goods infringing intellectual property rights established by the law and international treaty shall be prohibited.

Article 4

(1) Certain terms used in this Law shall have the following meaning:

- 3) goods infringing intellectual property rights include in particular pirated works of authorship, counterfeit trade mark goods, goods infringing the rights in design, goods infringing patent-related rights, goods infringing the rights in topography of integrated circuits, as well as goods primarily projected, designed, adapted or intended to enable the circumvention, avoidance, elimination, deactivation or other circumvention of a technological measure, device or component the purpose of which is to prevent or restrict the activities undertaken in relations to the protected subject-matter which are not authorized by the right holder.
- 8) means for circumvention of protection are any means, product, component or part which is used to circumvent protection and which is primarily produced or adjusted for the purpose of enabling the circumvention of an effective technological measure;
- 9) effective technological measure is a technological procedure, means or component which, in the course of its normal operation, controls the access to a protected work, performance of a work, phonogram, broadcasting, transmission or a similar protected subject-matter, or protects copyright or related rights, or enables the disclosure of a counterfeit trade mark or pirated work of authorship;

Article 19

(1) A punishment is envisaged for the economic transgression as a pecuniary penalty in the amount of EUR 3,000 to EUR 30,000 against a company or any other form of business organization that:

- 3) produces, imports, markets, sells, rents, advertises for the purposes of sale or rental, or holds for commercial purposes devices primarily constructed, produced or adjusted for enabling or facilitating the circumvention of any technological measure, which do not have any significant purpose other than the one stated above;
- 4) circumvents any technological measure, or supplies or advertises the services which enable or facilitate such circumvention;

(2) Any responsible person in the company or other business organization concerned shall also be punished for economic transgression referred to in Paragraph 1 of this Article by a pecuniary penalty in the amount of EUR 300 to EUR 3,000.

Objects constituting an economic transgression and objects instrumented or designed for the performance of the economic transgressions referred to in Paragraph 1 of this Article shall be confiscated and all the objects constituting an economic transgression shall be destroyed.

- Do Articles 180 to 187 of the Copyright Law cover all "protected services" covered by the Directive (Article 1), i.e. television and radio broadcasting, information society services as well as provision of conditional access services?

This Law also applies to television and radio broadcasting services, in terms of protection against unauthorized broadcasting of radio or TV programmes constituting a violation of copyright and related rights.

- Is the protection offered by both laws available to services using conditional access devices (television, radio, ISS) and to services providing conditional access? (both laws concern copyright and seem to offer protection only to rightholders)

Yes, the laws also apply to copyright and offers protection to holders of copyright and related rights in relation to radio or TV programmes.

This very question has prompted the decision to include into the Law on Electronic Media, whose preparation is underway, provisions that will define more precisely the protection of services using devices for conditional access to TV and radio programmes.

- The Montenegrin law does not seem to prohibit the "installation, maintenance or replacement for commercial purposes of illicit devices" (Article 4 (b) of the Directive) – is this the case?

Yes, the Montenegrin law does not contain an explicit prohibition against these activities.

This will be regulated by the Law on Electronic Media (see definitions provided for in Article 3, Article 124 (2) and Article 161).

- Are protected services entitled to damages and how are damages calculated?

Yes. The amount of damages is established in judicial proceedings.

- More generally, how is Article 5 of the Directive implemented and, notably, what remedies are available to injured parties?

Not regulated.

This will be regulated by the Draft Law on Electronic Media (see Article 124, paragraphs (5) and (6)).

- Do you consider the protection described in the response to Question No 45 is in conformity with Directive 98/48/EC? Please provide a detailed answer on what is not aligned in case it is not fully in conformity.

The framework described in the response to Question No. 45 does not provide for complete protection in conformity with Directive 98/48/EC.

With the adoption of the Law on Electronic Media the protection of providers of radio and TV services protected by conditional access systems will be regulated more comprehensively.

The following issues are not regulated:

- Definitions: protected services, measures of conditional access, associated service for conditional access, illicit device (Article 2 of the Directive).
- Infringing activities (Article 4 of the Directive).
- Sanctions and remedies (Article 5 of the Directive).

H. Electronic signature

7. (Ref to Q. 47): Please provide an update as regards the envisaged adoption of the amended Law on electronic signature.

Government approved the text of a Proposal for the Law on Amendments to the Law on Electronic Signature on 1 April 2010.

8. (Ref to Q. 47): The reply to this question refers to several texts/secondary legislation related to electronic signature; please provide English translations of these texts if available:

The regulations listed below have been appended.

- Law on Electronic Signature (Official Gazette 55/03 and 31/05).

- (Draft) Law on Amendments to the Law on Electronic Signature (planned for first quarter of 2010).

- Rulebook on records, register and compulsory insurance of certification service providers (Official Gazette 53/04 and 32/05),

- **Rulebook on measures and procedures for use and protection of electronic signature and certification system (Official Gazette 25/05),**

- **Rulebook on technical rules and requisites for connecting electronic signature certification systems (Official Gazette 25/05).**

- **Strategy for National Certification Body Establishing (July 2009).**
- **Law on Electronic Signature (Official Gazette 55/03 and 31/05).**

- **(Draft) Law on Amendments to the Law on Electronic Signature (planned for first quarter of 2010).**

- **Rulebook on records, register and compulsory insurance of certification service providers (Official Gazette 53/04 and 32/05),**

- **Rulebook on measures and procedures for use and protection of electronic signature and certification system (Official Gazette 25/05),**

- **Rulebook on technical rules and requisites for connecting electronic signature certification systems (Official Gazette 25/05).**

- **Strategy for National Certification Body Establishing (July 2009).**

I. Accountability and cooperation

9. (Ref to Q. 48): The last paragraph on page 72 of the response to question 48 states: "The Strategy not only defines the establishing of the Certification Authority within the Ministry for Information Society, but it also provides a recommendation stating that for introducing public electronic Internet services in a country, minimum one public certification body is enough for issuing digital certificates, although existence of at least two public bodies is advisable so that users can choose one for acquiring, i.e. buying and using a digital certificate." Does this mean that only state owned Certification Service Providers (a synonymous of Certification Authority) are authorised to operate in Montenegro?

No it does not. As stated in the response to Question No. 40, there is a company named "E-mon" (<http://www.emonca.com>) which is a certification authority in Montenegro dealing with the affairs of electronic signatures certification for legal persons using e-banking services.

Pursuant to Article 16 of the Law on Electronic Signature (Official Gazette of the Republic of Montenegro 55/03, 31/05) the Government of Montenegro has adopted the Decree on the scope, content and provider of electronic signature certification services for public administration authorities. Under this decree, the affairs of electronic signature certification serving the needs of public administration authorities have been entrusted to the Ministry for Information Society which manages the public key infrastructure.

In addition to E-mon company, the Ministry for Information Society also creates the necessary conditions for the application of electronic signature, i.e. the establishment and use of an electronic signature certification system in state bodies.

III. AUDIOVISUAL POLICY

A. General framework

10. (Ref to Q. 53): Please provide an updated timetable on the adoption procedure of the draft Law on Electronic Media. Depending on the status of the draft Law you may consider updating your replies to the questions of this section, notably: 54, 55 a),b),c), d),e), 56,61,63,66,67,68,69,70 and 71.

The Government's Work Programme for this year envisages the adoption of the **Proposal for the Law on Electronic Media in the second quarter of the year, concurrently with the Proposal for the Law on Amendments to the Law on Electronic Communications.**

The text of the Proposal for the Law on Electronic Media (the English translation is provided in the appendix) has been drafted and, in accordance with the Government Rules of Procedure, interdepartmental consultations are underway, after which it will be forwarded to the Government to adopt the final version of the Proposal for the Law in a standard procedure and present it to the Parliament.

The text was presented to the European Commission's Delegation in Montenegro and the Council of Europe for expert opinion and was given a positive opinion on 4 March 2010.

NOTE: In view of the fact that this legal text still does not have the status of a proposal for a law adopted by the Government of Montenegro, we are unable to update our response to questions 54, 55 a), b) c), d), e), 56, 61, 63, 66, 67, 68, 69, 70 and 71.

B. Audiovisual Media Services Directive

11. (Ref to Q. 55.a): Please provide an update how the recommendations of the experts from the Council of Europe, the OSCE and the European Commission have been taken into consideration into the new draft Law on Electronic Media.

The Government's Work Programme for this year envisages the adoption of the **Proposal for the Law on Electronic Media in the second quarter of the year, concurrently with the Proposal for the Law on Amendments to the Law on Electronic Communications.**

The text of the Proposal for the Law on Electronic Media (the English translation is provided in the appendix) has been drafted and, in accordance with the Government Rules of Procedure, interdepartmental consultations are underway, after which it will be forwarded to the Government to adopt the final version of the Proposal for the Law in a standard procedure and present it to the Parliament.

The text was presented to the European Commission's Delegation in Montenegro and the Council of Europe for expert opinion and received a positive opinion on 4 March 2010.

The draft version of the Proposal for the Law on Electronic Media complies with:

- Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities (Audiovisual Media Services Directive)

- Directive 97/36/EEC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989.
- Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC of 3 October 1989.
- Directive 98/84/EC of the European Parliament and of the Council on the legal protection of services based on, or consisting of, conditional access.

The draft version of the Proposal for the Law on Electronic Media complies with the **European Convention on Transfrontier Television, as amended by Protocol (ETS No. 171)**.

During the preparation of the draft version of the Proposal for the Law on Electronic Media the following recommendations were observed:

- A recommendation of the Council of Europe and OSCE experts, in particular the Recommendation of the Committee of Ministers to Member states of the Council of Europe Rec (2000) 23 on the independence and functions of regulatory authorities for the broadcasting sector and its Appendix containing guidelines concerning the independence and functions of regulatory authorities for the broadcasting sector, which provide for the institutional, political and financial independence of the future Agency for Electronic Media;
- Recommendation Rec (2001) 7 on measures to protect copyright and related rights and combat piracy, especially in the digital environment;
- Recommendation Rec (2000) 7 on the right of journalists not to disclose their sources of information
- Recommendation Rec (99) 15 on measures concerning media coverage of election campaigns
- Recommendation Rec (99) 14 on universal community service concerning new communication and information services
- Recommendation Rec (99) 1 on measures to promote media pluralism.

The draft version of the Proposal for the Law is also in conformity with: **Declaration (2007E)** of the Committee of Ministers on protecting the role of media in democracy in the context of media concentration and **Declaration (2008E)** of the Committee of Ministers on the independence and functions of regulatory authorities for the broadcasting sector.

The draft version of the Proposal for the Law also incorporates the recommendations and suggestions made by the European Union's Delegation in Montenegro, Council of Europe and the OSCE, as well as the suggestions received through three roundtables, which discussed the provisions laid down in the Draft Law on Electronic Media, as adopted by the Government of Montenegro on 29 May 2009.

The draft version of the Proposal for the Law on Electronic Media implements the provisions of Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC of 3 October 1989 - **Audiovisual Media Services Directive in the following manner:**

The draft version of the Proposal for the Law also provides for the cases when providers of audiovisual media services operating in member states of the European Union or third countries shall be deemed to be under the jurisdiction of Montenegro, within the competence of its authorities and under Montenegrin law. This provision complies with Article 2 of the Audiovisual Media Services Directive.

Article 6 of the draft version of the Proposal for the Law **prescribes that** Montenegro shall provide for the freedom of reception and re-transmission of audio and audiovisual media services from other countries, which Montenegro is required to ensure under **Article 2a of the Audiovisual Media Services Directive**, with the possibility of introducing restrictions in cases laid down in this Law, which have been replicated from **Article 2a paragraphs 2 and 4 of the Audiovisual Media**

Services Directive and explicitly provided for. It is provided that Montenegro shall ensure the freedom of reception and retransmission of services from member states of the European Union and other European countries signatories to **the European Convention on Transfrontier Television and the European Convention on Transfrontier Audiovisual Media Services**, and may, in exceptional cases, restrict the freedom of transmission of the aforesaid services, only in accordance with international treaties and the provisions of this Law.

Paragraphs (2) to (8) of this Article provide that, exceptionally, the Council of the Agency for Electronic Media may temporarily restrict the freedom of transmission of audiovisual media services from other countries, if the programme from another member state incites hatred on grounds of race, sex, religion, nationality and other grounds, contains pornographic material, violates human dignity, incites to violence and crime, etc., but the Council is required to notify in writing the provider of the audiovisual media service and the European Commission of the established violations and consult with the member state concerned in case the violations continue. Measures are deemed necessary if they have been introduced for the purpose of protecting minors, fighting against hatred, for reasons of national security or public health, provided that Montenegro previously asked the member state concerned to take relevant measures, which may only be derogated from in the case of urgency. Provisions are made for conditions under which the freedom of transmission and provision of on-demand audiovisual media services may be restricted. **These provisions comply with Article 2a of the Audiovisual Media Services Directive.**

Providers of audiovisual media services are required to make easily, directly and permanently accessible to the recipients of a service at least the following information: the name of the media service provider; the address at which the media service provider is established or where it has its registered office; the details of the media service provider, including his electronic mail address or website, which allow him to be contacted rapidly in a direct and effective manner; and the competent regulatory and/or supervisory bodies, **which is in accordance with Article 3a of the Audiovisual Media Services Directive.**

It is prohibited for audio and/or audiovisual services to incite and spread hatred or discrimination on the basis of race or ethnic affiliation or skin colour, sex, language, faith, political or other conviction, national or social origin, property status, membership in a , trade union, education, social position, marital or family status, age, health status, disability, genetic heritage, gender identity, expression or sexual orientation, which is **in conformity with Article 3b of the Audiovisual Media Services Directive.**

A provider of audiovisual media services is prohibited from transmitting cinematographic works outside the periods agreed with the right holder, which is in conformity with **Article 3d of the Audiovisual Media Services Directive.**

The Electronic Media Council is required to encourage providers of audiovisual media services to make their services gradually accessible to people with hearing or visual disability, in accordance with **Article 3c of the Audiovisual Media Services Directive.**

Provisions are made for audiovisual commercial communications, which may take the following forms: radio and television advertising, teleshopping and product placement, as well as for the requirements which sponsored audiovisual media services and programmes must meet, **in accordance with Article 3f of the Audiovisual Media Services Directive.** Namely, their content and, in the case of television broadcasting, their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider, which is **in accordance with Article 3f, paragraph 1, item (a) of the Audiovisual Media Services Directive.**

In addition, **Article 59 paragraph (1) provides that** sponsored audiovisual media services and programmes shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services, **in accordance with Article 3f item (b) of the Directive.**

Article 59 paragraph (1) item 3 provides that in sponsored audiovisual media services and programmes viewers must be clearly informed of the existence of a sponsorship agreement and sponsored programmes must be clearly identified as such by name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in an appropriate way for programmes at the beginning, during and/or the end of the programmes, in accordance with **Article 3f paragraph 1 item (g) of the Audiovisual Media Services Directive**.

It is provided that audiovisual media services or programmes must not be sponsored by legal or natural persons whose principal activity is the manufacture or sale of cigarettes and other tobacco products, which is in conformity with **Article 3f paragraph 2 of the Audiovisual Media Services Directive**.

In cases when audiovisual media services or programmes are sponsored by legal or natural persons whose activities include the manufacture or sale of medicinal products and medical treatment, they may promote the name or the image of the legal or natural person providing the sponsorship, but shall not promote specific medicinal products or medical treatments available only on prescription, **in accordance with Article 3f paragraph (3) of the Audiovisual Media Services Directive**.

News and current affairs programmes must not be sponsored, which is **in accordance with paragraph (4) of Article 3f of the said Directive**. In addition, the showing of a sponsorship logo during children's programmes and religious programmes is prohibited, which also **complies with Article 3f paragraph (4) of Directive 2007/65/EC on Audiovisual Media Services**.

The draft version of the Proposal for the Law, **in accordance with Article 3g paragraph (1) of the Audiovisual Media Services Directive**, prohibits product placement. It is explicitly stated that product placement is, exceptionally, permissible in cinematographic works, films and series made for audiovisual media services, sports programmes and light entertainment programmes, with the exception of children's programmes, which is also in accordance with Article 3g of the said Directive. **It is provided that** every sponsored programme must be clearly identified as such by the name or logo of the sponsor. When an entire programme or a section of a programme are sponsored it must be clearly identified as such by making references to the sponsor at the beginning, during or end of the programme.

In addition, it is identified what is to be considered European works, within the meaning of this Law, which is **in conformity with Article 1 of the Audiovisual Media Services Directive**.

The proportion of independently-produced audiovisual works in the annual programme of television broadcasters must be at least 10%. The broadcaster which fails to achieve the proportion of independently-produced audiovisual works stated above is required to increase the share of those works each year in accordance with the criteria and terms laid down in a document adopted by the Council. At least half of these works must be produced in the past five years. The annual transmission time does not include the time appointed to news, sports events, advertising, teletext services and teleshopping. **The provisions of this Article comply with Article 5 of the Audiovisual Media Services Directive**.

Article 77 of the Proposal for the Law **provides that** the requirement to publish European works does not apply to providers of audiovisual media services that have the authorization to broadcast at a local or regional level and are not connected with regional or national networks and to non-profit broadcasters.

The manufacture, import, distribution, sale, rental, advertising or possession for commercial purposes of devices or software that are principally designed, produced or adapted to enable or facilitate the circumvention of any measure of conditional access to a protected services and which do not have any other significant purpose apart from the aforesaid is prohibited. The installation, maintenance or replacement for commercial purposes of the devices referred to in paragraph 1 of this Article is prohibited. The circumvention of any measures of conditional access or provision of services which enable or facilitate such circumvention is prohibited. The transmission/distribution of any form of commercial audiovisual communications on the activities or services referred in paragraph 3 of this Article is prohibited. **This provision is in conformity with Article 4 of the**

Directive 98/84/EC on the legal protection of services based on, or consisting of, conditional access.

Before deciding to issue an authorization for the provision an audiovisual media service, the Council may exchange information on media service providers with regulatory authorities of other member states of the European Union if the broadcasting of the radio or television programme or provision of other audiovisual media services also concerns other member states of the European Union, which is **in accordance with Article 23b of the Directive 2007/65/EC on Audiovisual Media Services (Chapter VIb).**

On-demand audiovisual media services which may cause serious detriment to physical, mental or moral development of minors shall be accessible only in such a way that ensures that minors will not, under normal circumstances, hear or see such services, **which is in conformity with Article 3h of the Audiovisual Media Services Directive.** The Council shall prescribe the terms of operation for providers of on-demand media services.

12. (Ref to Q. 55.c+72): Please provide some information on the funding arrangements of the Broadcasting agency, the regulatory authority.

Since the entry into force of the Law on Electronic Communications (Official Gazette of Montenegro 50/08) and the Law on Public Broadcasting Services (Official Gazette of Montenegro 79/08), i.e. since 1 January 2009, the funding of the Broadcasting Agency has been based on formerly accumulated funds.

The adoption of the Law on Electronic Media and amendments to the Law on Electronic Communications (the Government's Work Programme for 2010 provides for the adoption of a Proposal for the Law amending the Law on Electronic Communication) will round off the scope of competences of the broadcasting regulatory authority, which the Agency for Electronic Media will continue to perform. At the same time, the structure of sources of finance for the regulator's activities will be redefined, which will once again enable the collection of revenues provided for by the law.

See response to Question No.10 (Ref to Q. 53) and Question No. 11 (Ref to Q. 55.a).

13. (Ref to Q. 58): Please provide more detailed information concerning the content of the rulebooks listed in the reply to Question No. 58.

With reference to Question No. 58: "What are the arrangements as regards technical broadcast standards?", please note that the following documents adopted by the Broadcasting Agency were in effect in 2009:

1. Rulebook on the highest allowed radiated power of the radio stations in cities and urban areas (March 2005),
2. Rulebook on the technical and exploitation conditions for the frequency modulated emissions of the broadcasting stations (June 2005);
3. Rulebook on the technical and exploitation conditions for use of broadcasting stations for broadcasting TV programme in the VHF I and III and UHF IV and V frequency bands (June 2005).

The harmonization of the applicable regulatory framework in Montenegro in the sector of electronic communications with the Law on Electronic Communications has resulted in the revocation of a number of secondary regulations adopted by the line Ministry or the Agency in compliance with the Law on Telecommunications, or by the Agency in compliance with the Broadcasting Law, as provided by Article 148 of the Law on Electronic Communications.

In view of the aforesaid, the Agency for Electronic Communications and Postal Services has adopted a rulebook and drafted new subordinate legislation, as follows:

1. Rulebook on threshold values of electromagnetic field parameters aimed at limiting the impact of long-term exposure of general population to electromagnetic radiation. This rulebook has been adopted and published in the Official Gazette of Montenegro 15/10.
2. Draft Rulebook on the technical and exploitation conditions for the frequency modulated emissions of the broadcasting stations. This rulebook entered the procedure of public consultations on 26 February 2010. The process of public consultations continued until 28 March 2010, after which the Agency is required to adopt the final text of the rulebook by the middle of April.
3. Rulebook on the technical and exploitation conditions for use of broadcasting stations for broadcasting TV programme in the VHF I and III and UHF IV and V frequency bands. This rulebook entered the process of public consultations on 26 February 2010, after which the Agency is required to adopt the final text of the rulebook by the middle of April.

What follows is an explanation of the legal grounds for the adoption of new rulebooks, level of harmonisation with the European Union regulations, reasons for adoption and an explication of the proposed provisions:

Clarifications in relation to the Rulebook on threshold values of electromagnetic field parameters aimed at limiting the impact of long-term exposure of general population to electromagnetic radiation

Pursuant to Article 8 paragraph 1 and 2, Article 62 paragraph 3 and Article 76 paragraph 3 of the Law on Electronic Communications, the Agency for Electronic Communications and Postal Services adopted the Rulebook on threshold values of electromagnetic field parameters aimed at limiting the impact of long-term exposure of general population to electromagnetic radiation.

Considering that this Rulebook relates to the question of environmental impact and that by restricting the occurrences associated with electromagnetic fields this Rulebook seeks to create conditions for a healthy environment, the grounds for adopting a document of this kind are principally enshrined in the Constitution of Montenegro. Namely, Article 19 of the section on rights and freedoms provides that everyone shall have the right to enjoy a healthy environment.

The Rulebook on threshold values of electromagnetic field parameters aimed at limiting the impact of long-term exposure of general population complies with Directive 1999/5/EC of the European Parliament and of the Council (Directive on radio equipment and telecommunications terminal equipment) R&TTE Directive, which establishes the essential requirements for the protection of general population and marketing of equipment.

Furthermore, the Draft Rulebook is in conformity with Article 5 of Directive 2002/21/EC of the European Parliament (Framework Directive), which requires the member states to encourage the application of standards and/or specifications provided by the European standards organizations (CEN, CENELEC, ETSI) or, in the absence of such standards, to encourage the application of international standards and recommendations (ITU, ISO, IEC). A list of harmonized standards is annexed to the Rulebook, whereas ICNIRP 1998 Guidelines and ICNIRP 2009 Statement on the Guidelines were used during the drafting of this document, given that these documents were used as a basis for the drafting of the Council Recommendation 1999/519/EC.

The main reason for adopting the Rulebook is to protect the health of the people living and working in the areas where electromagnetic fields are active and exist as a necessary element of various electronic communication services. Furthermore, Article 62 paragraph 3 of the Law provides that the Agency should manage, monitor and control the use of the frequency spectrum. Article 76 of the Law defines in more detail the requirements for the use of authorized radio-frequencies, and paragraph 3, in particular, requires the identification of essential technical requirements for the protection of general population from electromagnetic radiation. In addition, Article 134 paragraph 1 item 5 of the Law identifies relevant competences, whereas paragraph 2 of the same Article establishes the powers conferred on supervisory officers in the event of violations of the Law and regulations deriving from the Law.

The harmonization of the applicable regulatory framework in the Montenegrin electronic communications sector with the Law on Electronic Communications has resulted in the revocation of a number of secondary regulations adopted by the line Ministry or the Agency in accordance with the Law on Telecommunications, or by the Agency in accordance with the Broadcasting Law, due to which this Rulebook repeals the Rulebook on the highest allowed radiated power of the radio stations in cities and urban areas (Official Gazette of the Republic of Montenegro 21/05).

In view of the aforesaid, the Agency has prepared and adopted this Rulebook which, to the greatest extent possible, meets the requirements applicable to radio stations that are being imported, marketed or used in Montenegro.

Explanation of the provisions laid down in the Rulebook on threshold values of electromagnetic field parameters aimed at limiting long-term exposure of the general population to electromagnetic radiation

Article 1 establishes the subject-matter of the Rulebook, by providing that this Rulebook establishes the threshold values of electromagnetic field parameters aimed at protecting human health.

Article 2 defines of the most important terms used in the Rulebook, which are not defined by the Law on Electronic Communications.

Article 3 provides for the application of this Rulebook to relevant types of equipment.

Article 4 provides a tabular list of values of basic parameters prescribing limitations for general public and occupational exposure to different frequency bands.

Article 5 provides a tabular list of values of reference levels for general public and occupational exposure to different frequency bands.

Article 6 lays down additional requirements that must be met if the limitations referred to in Article 5 have been complied with. The additional requirements have been identified for cases of exposure to multiple radiation sources (cumulative effect). Namely, compliance with the limitations laid down in Article 5 does not eliminate certain effects that could be caused by a cumulative effect of multiple sources (thermal effects, electrical stimulation effects, etc.)

Article 7 lays down provisions referring to the party performing the measurement of the identified parameters, as well as possible methods for initiating the measurement procedure.

Article 8 repeals the Rulebook on the highest allowed radiated power of the radio stations in cities and urban areas (Official Gazette of the Republic of Montenegro 21/05).

Article 9 provides that this Rulebook shall enter into force on the eight day following that of its publication in the Official Gazette of Montenegro.

Annex 1 to the Rulebook provides the following list of guidelines, regulations and standards used during the drafting of this document:

1. Council Recommendation 1999/519/EC on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)
2. ICNIRP 1998 – Guidelines for limiting exposure to time-varying electric, magnetic, and electromagnetic fields (up to 300 GHz)
3. ICNIRP Statement to ICNIRP 1998 Guidelines (September 2009)
4. EN 50364:2001 – Limitation of human exposure to electromagnetic fields from devices operating in the frequency range 0 Hz to 10 GHz, used in Electronic Article Surveillance (EAS), Radio Frequency Identification (RFID) and similar applications
5. EN 50360:2001 – Product Standard to Demonstrate the Compliance of Mobile Phones with the Basic Restrictions Related to Human Exposure to Electromagnetic Fields (300 MHz - 3 GHz)
6. EN 50371:2002 – Generic standard to demonstrate the compliance of low power electronic and electrical apparatus with the basic restrictions related to human exposure to electromagnetic fields (10 MHz - 300 GHz).

7. EN 50385:2002 – Product standard to demonstrate the compliance of radio base stations and fixed terminal stations for wireless telecommunication systems with the basic restrictions or the reference levels related to human exposure to radio frequency electromagnetic fields (110 MHz - 40 GHz)

Clarifications in relation to the Draft Rulebook on the technical and exploitation conditions for the frequency modulated emissions of the broadcasting stations and the Draft Rulebook on the technical and exploitation conditions for use of broadcasting stations for broadcasting TV programme in the VHF I and III and UHF IV and V frequency bands

In accordance with its competences laid down in Article 8 paragraph 1 item 7, Article 62, paragraph 2 items 2 and 3 and Article 134 paragraph 1 item 2 of the Law on Electronic Communications (Official Gazette of Montenegro 0/08, 70/09), the Agency for Electronic Communications and Postal Services has prepared the following:

1. Draft Rulebook on the technical and exploitation conditions for the frequency modulated emissions of the broadcasting stations.
This Draft Rulebook establishes the technical characteristics of radio stations for VHF sound broadcasting in the range from 87.5 to 108 MHz, with frequency modulation, prescribes standards for uninterrupted operation, transmission of programme to end users and effective use of radio frequency spectrum.
2. Draft Rulebook on the technical and exploitation conditions for use of broadcasting stations for broadcasting TV programme in the VHF I and III and UHF IV and V frequency bands.
This draft rulebook prescribes the types of broadcasts and technical characteristics of radio stations for television broadcasting in the VHF I and III (47-68 MHz and 174-230 MHz) and UHF IV and V (470-862 MHz) frequency bands through analogue transmitters and transposers for these broadcasts, with the object of providing for uninterrupted reception of television broadcasts, other radio services and effective use of the radio frequency spectrum.

These draft rulebooks comply with Directive 1999/5/EC of the European Parliament and of the Council on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity, as they provide that all radio stations to which these rulebooks apply must be tested for conformity with relevant standards and carry the CE mark.

These rulebooks are also in conformity with Article 5 of the Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, which requires the member states to encourage the application of standards and/or specifications laid down by the European standards organizations (CEN, CENELEC, ETSI) or, in the absence of such standards, to encourage the application of international standards and recommendations (ITU, ISO, IEC). In view of the above, the draft rulebooks comply with the regulations of the European Community, as these draft rulebooks provide for relevant CENELEC standards (EN standards), ETSI and IEC standards, as well as relevant ITU-R recommendations.

The harmonization of the applicable regulatory framework in the Montenegrin electronic communications sector with the Law on Electronic Communications has resulted in the revocation of a number of secondary regulations adopted by the line Ministry or the Agency in accordance with the Law on Telecommunications, or by the Agency in accordance with the Broadcasting Law.

Pursuant to Article 62 paragraph 2 of the Law on Electronic Communications, competent state bodies, in accordance with the international regulations applicable in Montenegro, provide for efficient and uninterrupted use of the radio frequency spectrum, whereas the Agency, acting in the field of electronic communications in accordance with Article 8 of the Law, monitors the performance of operators in the electronic communications industry, in terms of their adherence to the law, secondary legislation and applicable technical regulations and standards.

In view of the aforesaid, it is necessary to perform the harmonization of the following documents:

- Rulebook on the technical and exploitation conditions for the frequency modulated emissions of the broadcasting stations (Official Gazette of the Republic of Montenegro 40/05, 42/06, 01/07, 16/07, 45/07) and

- Rulebook on the technical and exploitation conditions for use of broadcasting stations for broadcasting TV programme in the VHF I and III and UHF IV and V frequency bands (Official Gazette of the Republic of Montenegro 40/05, 42/06, 01/07, 16/07, 45/07),

with the new regulatory framework, on the basis of which the Agency will discharge its competences, particularly in terms of laying down the requirements for efficient use of the radio frequency spectrum, prescribing the technical and operational requirements necessary for avoiding harmful interference in accordance with Article 76 paragraph 1 items 2 and 3 of the Law, as well as supervising the operation of legal and natural persons transmitting broadcasting signals of frequency modulated emissions in the range from 87.5 to 108 MHz and television signals in the VHF I and II and UHF IV and V frequency bands, in conformity with the Agency's competences laid down in Article 134 paragraph 1 item 2 of the Law.

In accordance with the provision of Article 8 item 22 of the Law on Electronic Communications, which requires the Agency to conduct consultation procedures, enabling all interested parties to provide their objections and comments on drafted, proposed or adopted documents, the Agency introduced a public consultation procedure with the object of adopting the aforesaid rulebooks by decisions No. 0506 -702/1 of 26 February 2010 and No. 0506 – 703/1 of 26 February 2010.

To this end, all interested parties were able provide any objections, proposals or suggestions to the proposed texts of the draft rulebooks by 28 March 2010 at the latest, by mail or through the Agency's email ekip@ ekip.me, after which all the objections and suggestions received were supposed to be considered and the final text of these rulebooks established. No objections were made to the texts of these draft rulebooks.

We would like to underline that the provisions proposed in these draft rulebooks from the technical aspect fully correspond to the provisions laid down in relevant rulebooks adopted by the Broadcasting Agency in 2005, which are now being revoked, given that the principal objective of adopting the new rulebooks is to enable the Agency for Electronic Communications and Postal Services to perform its competences in conformity with the Law. What follows is a clarification of the provisions contained in the aforesaid rulebooks.

A. Explanation of the provisions proposed by the Draft Rulebook on the technical and exploitation conditions for the frequency modulated emissions of the broadcasting stations

Article 1 establishes the subject-matter of the Rulebook, by providing that this Rulebook establishes the technical characteristics of radio stations for VHF sound broadcasting in the range from 87.5 to 108 MHz, with frequency modulation and prescribes standards for uninterrupted operation, transmission of programme to end users and efficient use of the radio frequency spectrum.

Article 2 provides that radio stations referred to in Article 1 of this Rulebook may only be used if they comply with the requirements laid down in this Rulebook, that the provisions of the Rulebook also apply to producers and importers of the transmitters designed for that type of transmission, as well as for the requirement to perform tests for conformity with relevant standards and apply the CE mark.

Article 3 identifies relevant international regulations on the basis of which this Rulebook has been drafted and which the stations referred to in the Rulebook must comply with, as well as the standards for measurement methods, namely the following international regulations:

- ITU-R Recommendation BS.450-3 - "Transmission standards for FM sound broadcasting at VHF"

- ITU-R Recommendation BS.468-4 - "Measurement of audio-frequency noise voltage level in sound broadcasting"

- ETSI ETS 300 384 - "Radio broadcasting systems; Very high frequency (VHF), frequency modulated, sound broadcasting transmitters"
- ETSI EN 302 018-2 Electromagnetic Compatibility and Radio Spectrum Matters (ERM); Transmitting Equipment for the Frequency Modulated (FM) Sound Broadcasting Service; Part 2: Harmonized EN Under Article 3.2 of the R&TTE Directive.
- EN 60244-1:2000 - Methods of measurement for radio transmitters - Part 1: General characteristics for broadcast transmitters
- IEC 60244-2 Ed.1.0 b:1969; IEC 60244-2A Ed.1.0 b:1969; IEC 60244-2B Ed.1.0 b:1969; IEC 60244-2A Amd.1 Ed.1.0 b:1973; IEC 60244-2 Amd.1 Ed.1.0 b:1974; - Methods of measurement for radio transmitters. Part 2: Bandwidth, out-of-band power and power of non-essential oscillations
- EN 60244-13:1993 - Methods of measurement for radio transmitters - Part 13: Performance characteristics for FM sound broadcasting.
- IEC 62106 Ed. 2.0 EN 2009 - "Specification of the Radio Data System (RDS) for VHF/FM sound broadcasting in the frequency range from 87,5 MHz to 108,0 MHz".

Article 4 identifies the meanings of certain terms used in this Rulebook.

Article 5 establishes the standards for FM radio broadcasting in the VHF frequency band, for monophonic, stereophonic transmission and basic band signal in the event of an additional signal transmission.

Article 6 establishes the technical characteristics for FM transmitters.

Article 7 establishes the technical characteristics for stereo coders.

Article 8 establishes the technical characteristics for FM transmitters which are subject to testing.

Article 9 establishes the content of the necessary documentation on the transmitters to which this Rulebook applies.

Article 10, as part of transitional and final provisions, provides that if radio stations referred to in Article 1 of this Rulebook fail to comply with the requirements laid down in this Rulebook, their technical characteristics must be brought into conformity with this Rulebook, in accordance with the provisions of the Law on Electronic Communications.

Article 11 provides that the Rulebook on the technical and exploitation conditions for the frequency modulated emissions of the broadcasting stations (Official Gazette of the Republic of Montenegro 40/05, 42/06, 01/07, 16/07, 45/07) shall cease to have effect as from the date of entry into force of this Rulebook.

Article 12 provides that that this Rulebook shall enter into force on the eight day following that of its publication in the Official Gazette of Montenegro.

Appendix I is an integral part of the Draft Rulebook, which establishes the requirements, illustrated with graphs, which should be met when measuring the RF spectrum with the object of discovering the excessive damage caused by inadequate levels of AF input signals, as well as the measurement procedure.

B. Explanation of the provisions proposed by the Draft Rulebook on the technical and exploitation conditions for use of broadcasting stations for broadcasting TV programme in the VHF I and III and UHF IV and V frequency bands

Article 1 establishes the subject-matter of the Rulebook, by providing that this Rulebook establishes the types of transmissions and technical characteristics of radio stations for television broadcasting in the VHF I and III (47-68 MHz and 174-230 MHz) and UHF IV and V (470-862 MHz) frequency bands, through analogue transmitters and transposers for these broadcasts, with the

object of providing for uninterrupted reception to television broadcasts, other radio services and effective use of the radio frequency spectrum.

Article 2 provides that the radio stations referred to in Article 1 of this Rulebook may only be used if they comply with the requirements laid down in this Rulebook, that the provisions of the Rulebook also apply to producers and importers of the transmitters designed for that type of transmission, as well as for the requirement to perform tests for conformity with relevant standards and apply the CE mark.

Article 3 identifies relevant international regulations on the basis of which this Rulebook has been drafted and which the stations referred to in the Rulebook must comply with, as well as the standards for measurement methods, namely the following international regulations:

- CCIR Report 624-4 - "Characteristics of television systems"
- ITU-R Recommendation BT.470-7 - "Conventional analogue television systems"
- ITU-R Recommendation BT.1439-1 - "Measurement methods applicable in the analogue television studio and the overall analogue television system"
- ITU-T Recommendation J.61 including Amd.1 - "Transmission performance of television circuits designed for use in international connections"
- ETSI EN 302 297:2006 - Electromagnetic Compatibility and Radio Spectrum Matters (ERM); Transmitting Equipment for the Analogue Television Broadcasting Service; Part 2: Harmonized EN Under Article 3.2 of the R&TTE Directive
- EN 60244-1:2000 - "Methods of measurement for radio transmitters - Part 1: General characteristics for broadcast transmitters" EN 60244-5:1995 - "Methods of measurement for radio transmitters - Part 5: Performance characteristics of television transmitters"
- EN 60244-9:1995 - "Methods of measurement for radio transmitters - Part 9: Performance characteristics for television transposers"
- EN 60244-10:1993 - "Methods of measurement for radio transmitters - Part 10: Methods of measurement for television transmitters and transposers employing insertion test signals".

Article 4 defines the meanings of certain terms used in this Rulebook.

Article 5 identifies the frequency bands allocated for analogue terrestrial television system in the VHF and UHF range, in accordance with the Radio Frequency Allocation Plan.

Article 6 provides that the division of channels according to locations should be carried out in compliance with the provisions of the Stockholm 1961 Agreement (ST61), the 2006 revision of this agreement (RRC-06-Rev.ST61) and the Broadcasting Frequency Distribution Plan in Montenegro.

Article 7 lays down the requirements which television transmitters must meet with regard to accurate frequency shifts in the same channel.

Article 8 establishes the technical characteristics of television systems.

Article 9 establishes the characteristics of horizontal synchronisation signals.

Article 10 establishes the characteristics of vertical synchronisation signals.

Article 11 establishes the characteristics of video signals (PAL System).

Article 12 establishes the radio frequency characteristics of B and G systems.

Article 13 lays down the general technical requirements for the construction of a television transmitter.

Article 14 establishes the special characteristics of video transmitters.

Article 15 identifies the levels of output signal of the video channel.

Article 16 identifies the special characteristics of the sound channel.

Article 17 identifies the components of transposers.

Article 18 established the general technical characteristics of transposers.

Article 19 establishes the specific items of Article 13 of this Rulebook which, in addition to transmitters, also apply to television transposers.

Article 20 establishes the special technical characteristics of transposes.

Article 21 establishes the minimum output power of transposers against the nominal output power, in the event of input signal failure.

Article 22 establishes the minimum duration of input signal failure during which a transposer must not be turned off.

Article 23 establishes the range of input voltage of the wanted signal for the possibility of adjusting automatic activation and deactivation of a transposer.

Article 24 establishes the requirements for the protection of transposers for outdoor installation.

Article 25 establishes the maximum level of noise produced by a television transposer under specific circumstances.

Article 26 requires UHF TV transposers to have an external oscillator connection for a certain voltage level of actuating signals.

Article 27 establishes the requirement for a transposer to have voltage stabilizers.

Article 28 establishes the requirement of installing an input filter and its characteristics .

Article 29 establishes the minimum distance between input and output channels, and provides for the possibility of reception on a channel within one and transmission on a channel within another frequency range.

Article 30 provides for the method of establishing technical characteristics of television transmitters and transposers.

Article 31, as part of transitional and final provisions, establishes that if radio stations referred to in Article 1 of this Rulebook fail to comply with the requirements laid down in this Rulebook, their technical characteristics must be brought into conformity with this Rulebook, in accordance with the provisions of the Law on Electronic Communications.

Article 32 provides that the Rulebook on the technical and exploitation conditions for use of broadcasting stations for broadcasting TV programme in the VHF I and III and UHF IV and V frequency bands (Official Gazette of the Republic of Montenegro 40/05, 42/06, 01/07, 16/07, 45/07) shall cease to have effect as from the date of entry into force of this Rulebook.

Article 33 provides that this Rulebook shall enter into force on the eight day following that of its publication in the Official Gazette of Montenegro.

The following appendices are an integral part of the Draft Rulebook:

- Appendix I which provides data on frequency shift of video and sound carriers;
- Appendix II which provides a list of test signals and identifies the measurable characteristics of television transmitters.

14. (Ref to Q. 60): Please provide a list with the public and private broadcasters which are currently licensed or authorised.

Provided below is a list of public and private broadcasters which are currently licensed or authorized:

I Public Broadcasting Services in Montenegro:

No.	BROADCASTERS	PUBLIC BROADCASTING SERVICES
1.	Public Enterprise Radio and television of Montenegro	Radio of Montenegro and Television of Montenegro

II Local Public Broadcasting Services in Montenegro:

No.	BROADCASTERS	LOCAL PUBLIC BROADCASTING SERVICES
1.	Public Enterprise "Radio Andrijevica"	Radio Andrijevica
2.	Local Public Broadcasting Service "Radio Bar"	Radio Bar
3.	Public Enterprise "Radio Berane"	Radio Berane
4.	Local Public Broadcasting Service "Radio Bijelo Polje"	Radio Bijelo Polje
5.	Public Enterprise Information and Publishing Centre "Cetinje"	Radio Cetinje
6.	Public Enterprise "Radio Danilovgrad Broadcasting Service"	Radio Danilovgrad
7.	"Public Service Information Centre Radio Herceg Novi"	Radio Herceg Novi
8.	Public Enterprise "Radio Kotor"	Radio Kotor
9.	Public Institution "Radio Rozaje"	Radio Rozaje
10.	Public Enterprise "Information Centre Tivat"	Radio Tivat
11.	Local Public Broadcasting Service "Radio Budva"	Radio Budva
12.	Local Public Broadcasting Service "Radio Television Pljevlja"	Radio Television Pljevlja
13.	Local Public Broadcasting Service "Television Budva"	TV Budva
14.	Public Enterprise "Radio and Television Niksic"	Radio Niksic and TV Niksic

III Commercial Broadcasting Services in Montenegro:

No.	BROADCASTERS	COMMERCIAL BROADCASTING SERVICES
1.	Business organization "TV COMM" LLC. - Podgorica	NTV Montena
2.	Business Organization "AST" LLC. - Podgorica	PROTV i PROFM
3.	Business Organization "083 VUCELJIC" LLC. - Niksic	Radio 083
4.	NVO "Adriatic Star Association Bijelo Polje" - Bijelo Polje	Radio Adriatic
5.	Business Organization "TEHNOFLESH". LLC - Bijelo Polje	Radio Amigo
6.	Business Organization "ANTENA M" LLC. - Podgorica	Radio Antena M
7.	Business Organization "ANGEL" LLC. - Podgorica	Radio Boom
8.	Business Organization "BORKIS MARKOVIC AND OTHERS" GP. - Podgorica	Radio Borkis
9.	Business Organization "RADIO CITY LLC. - Podgorica	Radio City
10.	NGO "Society for Equality and Tolerance - ai" – Podgorica	Radio Cool

No.	BROADCASTERS	COMMERCIAL BROADCASTING SERVICES
11.	Business Organization "JU MEDIA MONT" LLC. - Podgorica	Radio D
12.	Business Organization "M.D. COMPANY" LLC. - Podgorica	Radio D plus
13.	Business Organization "NEBOELECTRONIC LLC ". - Herceg Novi	Radio Delfin
14.	Business Organization "MEDIA INTERNATIONAL CORPORATION" LLC. - Podgorica	Radio DRS
15.	NGO "CROATIAN UMBRELLA ORGANIZATION" - Tivat	Radio Dux
16.	Business Organization "GRESA TRADE LLC ". - Ulcinj	Radio Elita
17.	Business Organization "TOPOLICA" LLC. - Bar	Radio F
18.	Business Organization "FOKUS" LLC. - Bijelo Polje	Radio Fokus
19.	Business Organization "RADIO GORICA" LLC. - Podgorica	Radio Gorica
20.	Business Organization "RADIO GUSINJE" LLC. - Gusinje	Radio Gusinje
21.	Business Organization "RADIO HARIZMA" LLC. - Kolasin	Radio Harizma
22.	Business Organization "RADIO TELEVISION ATLAS" LLC. - Podgorica	Radio and TV Atlas
23.	Business Organization "M CORONA" LLC. - Bar	Radio and TV Corona
24.	Business Organization "ELMAG RTV" LLC . - Podgorica	Radio and TV Elmag
25.	Business Organization "ADNAN" LLC. - Plav	Radio and TV Glas Plava
26.	Business Organization "IN CO" LLC. - Podgorica	Radio and TV IN
27.	Business Organization "RADIO MOJKOVAC" LLC. - Mojkovac	Radio and TV Mojkovac
28.	Privately-owned institution "RADIO TELEVISION PANORAMA" – Pljevlja	Radio and TV Panorama
29.	Business Organization "TELEVISION VIJESTI" LLC - Podgorica	Radio and TV Vijesti
30.	Business Organization "SRAUBA" LLC. - Herceg Novi	Radio Jadran
31.	Business Organization "JUPOK" LLC. - Rozaje	Radio Jupok
32.	Business Organization "BRADVA-COMPANY" GP. - Plav	Radio Luna
33.	Business Organization "RADIO MREZA M" LLC. - Niksic	Radio Montena
34.	Business Organization "TRIPK COM" LLC. - Herceg Novi	Radio More
35.	Business Organization "INFO KOL" LLC. - Kolasin	Radio Ozon
36.	Business Organization "NORTH SKY" LLC - Bijelo Polje	Radio Plus
37.	Business Organization "PONTA" LLC. - Budva	Radio Ponta
38.	NVO "SKADAR LAKE" - Podgorica	Radio Skadar Lake
39.	Business Organization "MAXKO" LLC. - Kotor	Radio Skala
40.	Business Organization "METROPOLITEN MEDIA". LLC - Cetinje	Radio Svetigora
41.	Business Organization amd "ZARUBICA COMPANY" LLC. - Niksic	Radio Z
42.	Business Organization "RADIO ZETA" LLC. - Podgorica	Radio Zeta

No.	BROADCASTERS	COMMERCIAL BROADCASTING SERVICES
43.	Business Organization "AGROPRODUKT". LLC - Rozaje	TV APR
44.	Business Organization "BOIN". LLC - Podgorica	TV Boin
45.	Business Organization "EHOO" GP. - Berane	TV Eho
46.	Business Organization "BLUE MOON" LLC - Podgorica	TV MBC
47.	Business Organization "ORION" LLC. - Kolasin	TV Orion
48.	Business Organization "PINK M COMPANY" LLC. - Podgorica	TV Pink
49.	Business organization "SUN SUN" . - Bijelo Polje	TV Sun
50.	Business Organization "MIR & TEUTA" LLC. - Ulcinj	TV Teuta

D. Film heritage

15. (Ref to Q. 88): Please provide a more detailed reply to the question.

The Film Archives of Montenegro, established by the Government of Montenegro in 2000, has been granted the authority to deposit cinematographic works.

Under Article 42 of the Cinematography Law (Official Gazette 14/08), the Film Archives of Montenegro is authorised to present and/or ensure the accessibility of the cinematographic works in their possession for educational, cultural, research or other non-commercial uses. The Montenegrin Film Archives ensures the accessibility of cinematographic works for the said purposes by presenting them to the public, either directly or in cooperation with interested electronic media, as well as by allowing students, researchers and journalists to access cinematographic works at the premises of the Film Archives.

The access to deposited cinematographic works is enabled in such a way and scope that could not damage or reduce their value, as well as in compliance with the authors' right to freedom of expression and copyright. The protection of the rights of authors of cinematographic works is provided for in Article 3 of the Law on Cinematography and the relevant provision of the Law on Copyright and Related Rights (Official Gazette of Serbia and Montenegro 61/04).

In addition, the new Law on Electronic Media, currently in the form of a draft which will be presented to the Government of Montenegro for consideration in the second quarter of 2010 and then to the Parliament of Montenegro, provides for additional measures for the protection of the rights associated with cinematographic works, by prohibiting, in Article 48, the providers of audiovisual media services from transmitting cinematographic works outside the periods agreed with the right holders. This legal measure complies with Article 3d of the Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 (Celex No. 32007L0065) amending the Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 (Celex No. 31989L0552).

E. Protection of minors**16. (Ref to Q. 96): Please specify in more details the activities/initiatives by the IT operators mentioned.**

The telecommunication industry has joined forces with the order to prevent the dissemination of child sexual abuse content through mobile telephones. Some of the world's largest mobile operators propagate the use of filters at the global level in order to prevent natural persons from using mobile networks for uploading, accessing and profiting from child sexual abuse content. Being part of the Alliance (Mobile Alliance Against Child Sexual Abuse Content) major operators have undertaken to apply a filter technology in their companies throughout the world.

Montenegrin mobile operator ProMonte, part of Telenor Group, is introducing the first filter of this kind in Montenegro in cooperation with the Montenegrin Interpol. ProMonte is committed to Internet security in the context of mobile telephony, with a view to providing safe products and protecting the most vulnerable part of the population in our society. To this end, ProMonte is establishing partnership with the Police Administration, i.e. Interpol Montenegro, in introducing a filter for child sexual abuse content. This filter is a technical barrier that blocks access to the website containing child sexual abuse content.

Telecommunications have become an important component in the lives of facilities, which is particularly true for children who use all the benefits of mobile telephony with great enthusiasm. However, one must take their protection into consideration, or otherwise they might become exposed to unwanted content on their mobile phones. The purpose of introducing this filter is, therefore, to prevent the creation of a market for these materials and prevent the possibility of accidental access to child sexual abuse content.

In parallel with the advancement of new technologies, 3G in particular, mobile operators are facing new challenges and new demands, as users may access any website through their mobile phones. The introduction of the filter helps raise awareness of a very serious problem, as well as establish new international standards.

As part of the agreement, the Police Administration operates a 24-hour hotline for possible reports and constantly updates the list of URL addresses containing illicit materials featuring child sexual abuse content. This agreement clearly specifies that the Montenegrin Interpol is responsible for assessing the lawfulness of content, whereas the role of ProMonte is to provide for the technical process of filtering, based on the list of websites that need to be blocked, which is provided by the Montenegrin Interpol.

Annex

1. Law on Electronic Signature



Please double click to open the whole document

2. Law amending the Law on Electronic Signature



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3. Rulebook on the record keeping, registry and mandatory assurance of the certification services providers



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4. Rulebook on the measures and procedures for electronic signature application and security, electronic signature creation devices and certification systems



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5. Rulebook on technical regulations and conditions on the connectivity of electronic signature certification systems



Please double click to open the whole document

6. The Strategy for the Establishment of Certification Authority (CA)



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