

Passed 18 July 2002 by the Serbian Parliament

Signed by Serbian President Milan Milutinovic on 19 July 2002

## **BROADCASTING ACT**

### **I. BASIC PROVISIONS**

#### **Subject of the Law**

##### **Article 1**

This Law stipulates the conditions for and manner of conducting broadcasting activities in keeping with international conventions and standards; establishes the Republican Broadcasting Agency, as well as public broadcasting service institutions; determines terms and procedures for issuing licences to broadcast radio and TV programmes and regulates other issues in respect of the broadcasting sector.

##### **Article 2**

The provisions of this Law shall not pertain to the conditions and procedure for issuing radio station licences, or to the terms and procedure under which broadcasters gain the right to set up, use and maintain fixed and mobile broadcasting equipment.

#### **Broadcasting Principles**

##### **Article 3**

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

- 1) Freedom, professionalism, and independence of public service broadcasters as a guarantee of the overall development of democracy and social harmony;
- 2) Rational and efficient use of the radio frequency spectrum as a limited natural resource;
- 3) Prohibition of any censorship of and/or influence on the work of public broadcasters, whereby their independence, the independence of their newsrooms and journalists is guaranteed;
- 4) Full affirmation of civil rights and freedoms and especially the freedom of expression and diversity of opinion;
- 5) Application of internationally recognised norms and principles with respect to the broadcasting sector, especially the respect of human rights in this sector;
- 6) Impartiality, prohibition of discrimination, and transparency of the procedure for issuing broadcasting licences;
- 7) Encouragement of the broadcasting development and creativity in the area of radio and TV in the Republic of Serbia.

#### **Definitions**

##### **Article 4**

Unless otherwise specified, the terms used in this Law shall have the following meanings:

- 1) **Broadcasting**: general term for radio and television as electronic mass media, achieved by the analogue or digital transmission of text, speech, sound, still and moving images in the form of programme contents via radio waves or cable distribution systems to adequate reception devices and intended for the general public.
- 2) **Radio frequency**: main physical parameter of electromagnetic or radio waves freely moving through space, whose conventional values fall within the 3 KHz – 3000 GHz band;
- 3) **Coverage area**: area in the vicinity of a transmitter providing the required field strength of the electromagnetic signal for a satisfactory service taking into account co-channel interference;
- 4) **Service area**: area in the vicinity of a transmitter fulfilling the condition of quality signal reception in real conditions. The service area in real conditions is always smaller than the coverage area;

5) **Proposed service area:** geographic area or administrative region which the broadcasting service is intended for. Depending on the needs, the proposed service area signifies either any individual service area or the sum of service areas covered by each transmitter. In case of a network of transmitters, the proposed service area is the sum of individual service areas covered by each transmitter;

6) **Radio/TV network:** two or more transmitters or repeaters or a combination of them broadcasting the same programme at the same time;

7) **Networking:** the setting up of a temporary radio or television network via terrestrial, cable or satellite links between two or more broadcasters with the aim of directly transmitting a radio or television programme;

8) **Broadcasting organisation (hereinafter broadcaster):** a natural or legal person registered to produce and broadcast radio or TV programmes, which has been issued a broadcasting licence in keeping with this Law.

9) **Public Broadcasting Service:** production, purchase, editing and broadcasting of the informative, educational, cultural, artistic, children's, entertainment, sports and other radio and TV programs in the general interest of citizens, and especially those aimed at realization of human and civic rights, exchange of ideas and opinions, nurture of political, gender, interethnic and religious tolerance, as well as the preservation of national identity;

10) **Independent production:** a radio and television programmes intended solely for broadcasting and produced by a natural or legal person who is registered therefor but who is not a broadcaster of the programme it is producing;

11) **Advertisement:** promotional message the aim of which is to present and draw attention to a certain product, service or firm, i.e. to induce consumers to purchase, i.e. use the product or service;

12) **Advertising:** broadcasting of advertisements for a fee or other form of compensation;

13) **Sponsorship:** any funding by a natural or legal person, which is not involved in the activity of producing a radio and/or television programme or the production of audiovisual content, of a radio and/or television programme, with the aim of promoting its name, trademark, reputation, activities or products;

14) **Teleshopping:** radio or television presentation of the qualities or values of products or services with the aim of directly selling them to the public.

15) **Cable distribution system (hereinafter CDS):** a predominantly cable telecommunication network intended for the distribution of radio and television programmes and the provision of other telecommunication services;

**Cooperation with the Telecommunications Regulatory Authority**

**Article 5**

The Republican Broadcasting Agency and the telecommunications regulatory authority shall cooperate and coordinate their work in accordance with and in the manner envisaged by the provisions of this Law and of a separate telecommunications law with the aim of achieving the rational and effective use of the broadcast band and consistent application of this Law and a separate telecommunications law.

## **II. REPUBLICAN BROADCASTING AGENCY**

### **1. Legal Status**

Establishment

**Article 6**

The Republican Broadcasting Agency (hereinafter Agency) is established as an autonomous i.e. independent organisation exercising public competencies pursuant to this Law and regulations passed on the basis of this Law to secure conditions for the efficient implementation and improvement of the set broadcasting policy in the Republic of Serbia in a manner befitting a democratic society.

The Agency is an autonomous legal person and is functionally independent of any state body, as well as of all organisations and individuals involved in the production and broadcasting of radio and television programmes and/or related activities.

Legal Status and Representation

#### Article 7

The Agency shall have the status of a legal person.

The Agency Council shall be the Agency body reaching all decisions on issues within the Agency's competencies.

The Agency Council Chairperson, or the Council Vice-Chairperson in the absence of the Chairperson for any reason, shall act in the name and on behalf of the Agency.

The Chairperson, i.e. the Vice-Chairperson deputising for the Chairperson, may wholly or partially delegate the power to represent the Agency to another Council member only on the basis of a Council decision.

#### 2. Agency Competencies

##### Article 8

The Agency is competent for:

1) Passing the broadcasting development strategy in the Republic of Serbia with the consent of the Government of the Republic of Serbia;

2) Supervising and ensuring the consistent application of the provisions of this Law;

3) Issuing broadcasting licences and prescribing the licence form;

4) Setting technical, organisational and programming conditions for the production and broadcasting of programmes pursuant to the provisions of this Law;

5) Prescribing rules binding on broadcasters which ensure the implementation of the broadcasting policy in the Republic of Serbia;

6) Supervising the work of broadcasters in the Republic of Serbia;

7) Considering submissions filed by natural and legal persons and complaints of broadcasters concerning the operation of other broadcasters;

8) Delivering to the competent state bodies its opinion with regard to accession to international conventions related to broadcasting;

9) Imposing adequate sanctions against broadcasters in keeping with this Law;

10) Performing other duties in accordance with this Law.

In addition to the competencies set forth in para 1 of this Article, the Agency is also competent to take measures in the broadcasting sector with the aim of:

1) Protecting minors;

2) Enforcing regulations on copyright and neighbouring rights;

3) Preventing the broadcasting of programmes which contain information inciting discrimination, hatred or violence against an individual or a group of individuals on grounds of race, religion, nationality, ethnicity or gender.

The Agency performs the duties in para 1, sub-paras 1, 2, 3, and 6 as duties entrusted to it.

Passing of the Broadcasting Development Strategy

##### Article 9

In cooperation with the telecommunication regulatory authority, the Agency shall pass a Broadcasting Development Strategy for the Republic of Serbia wherein it shall determine the number and types of broadcasters, proposed service areas and other parameters for which a public tender shall be called, after having taken into consideration the different requirements of citizens and social groups for information, education, cultural, sports and other contents et. al.

Law Implementation Supervision

##### Article 10

The supervision of the implementation of this Law entails control of the work of the broadcasters with respect to their consistent application and affirmation of

principles upon which the relations in the broadcasting sector are regulated as well as to the fulfillment of other obligations which broadcasters have under the provisions of this Law.

Issuing of Broadcasting Licence

#### Article 11

The Agency shall issue a licence for broadcasting a programme via terrestrial, cable or satellite transmission, either digital or analogue, in a procedure and according to criteria laid down by this Law.

A broadcasting licence is not required for broadcasting via the global information network (Internet webcasting), but the provisions of this Law shall apply to programme content.

Prescribing Binding Regulations for Broadcasters

#### Article 12

The Agency shall pass recommendations, instructions, binding instructions and general binding instructions for broadcasters to ensure the efficient implementation of the broadcasting policy in the Republic of Serbia.

The Agency shall pass recommendations for broadcasters in the event of inconsistent permitted practice on part of the broadcasters when applying the provisions of this Law in respect of the programme content.

The Agency shall pass an instruction if there is doubt whether the manner, in which a broadcaster or a group of broadcasters is using the licence in regard to the provisions of this Law pertaining to programme content, is permitted or not.

The Agency shall pass a binding instruction if it is established that the broadcasters' conduct in regard to certain issues regarding programme content is inconsistent and the Agency deems certain types of such conduct impermissible.

The Agency shall pass a general binding instruction in order to regulate certain issues regarding programme content in greater detail, regardless of the current practice of the broadcasters. The general binding instruction may pertain to a specific issue regarding programme content, a number of related issues, or all issues in respect of programme content (broadcasters' code of conduct).

Non-compliance with a binding instruction shall be deemed grounds for pronouncing a reprimand or a warning to the broadcaster, while non-compliance with a general binding instruction shall be the basis for pronouncing any sanction the Agency is empowered to pronounce.

Recommendations, instructions, binding instructions and general binding instructions shall be published in the manner envisaged by the Agency Statute.

The Agency shall pass and publish other regulations in keeping with this Law and in the manner envisaged by the Statute.

Supervising the Work of Broadcasters

#### Article 13

The Agency shall supervise the work of the broadcasters itself or by hiring an authorised organisation.

When exercising the competence laid down in para 1 of this Article, the Agency is under duty to focus on the broadcasters' overall respect of the terms and conditions on which they were issued the licence, particularly with regard to programme type and quality.

Broadcasters are obliged to allow the Agency access to the data and other documentation related to the subject of the supervision.

Consideration of Submissions

#### Article 14

Natural and legal persons shall have the right to file submissions to the Agency with regard to a broadcaster's programme contents if they deem these programmes are violating or endangering their personal interests or the public interest.

Upon the receipt and consideration of the submission, the Agency shall deliver forthwith the submission to the broadcaster for explanation and set a deadline thereof, unless the submission is manifestly ill-founded, in which case the Agency dismisses it and informs the submitter thereof.

If the broadcaster does not provide an explanation within the given deadline or informs the Agency that the submission is groundless, but the Agency still maintains that the submission is grounded, the Agency shall take adequate measures against the broadcaster and advise the submitter on ways in which s/he can protect his/her interests.

Adequate measures set forth in para 3 of this Article include but are not limited to:

- 1) Sanctions pronounced by the Agency in keeping with this Law;
- 2) Filing of misdemeanour or criminal charges or initiating of other appropriate proceedings with a state body of competent jurisdiction.

Consideration of Complaints

#### Article 15

A broadcaster may submit a complaint to the Agency about the conduct of another broadcaster which has inflicted or may inflict it damage.

The Agency shall deliver the complaint in para 1 of this Article forthwith to the broadcaster concerned, who shall provide an explanation within 15 (fifteen) days after the day of complaint receipt.

If the Agency maintains that the complaint is well-founded despite the broadcaster's explanation, it shall take measures set out in Article 14 para 4 of this Law against the broadcaster concerned.

Cooperation with State and Other Bodies and Organisations

#### Article 16

The Agency shall deliver its opinion to the competent state bodies at their request and in regard to accession to international conventions and other agreements related to the broadcasting sector.

The Agency shall cooperate with relevant organisations of other states, i.e. relevant international organisations with the aim of exchanging opinions, improving its work and harmonizing it with international experience and standards.

Competent state bodies shall ask the Agency for its opinion during the drafting of regulations related to the broadcasting sector.

Pronouncement of Sanctions

#### Article 17

The Agency may pronounce a reprimand or a warning against broadcaster, and may temporarily or permanently revoke its broadcasting licence in keeping with the provisions of this Law.

Exceptionally, public broadcasting service institutions - which are not obliged to acquire a broadcasting licence from the Agency - may only be pronounced a reprimand and a warning.

The Agency may initiate proceedings against a broadcaster or the broadcaster's responsible person with a court of competent jurisdiction or another state body if the broadcaster's act or failure to act has the character of an offence punishable under the law.

#### Article 18

A reprimand set forth in Article 17 paras 1 and 2 of this Law shall be pronounced against a broadcaster, which has for the first time breached an obligation stipulated by this Law or an Agency by-law passed on the basis of this Law.

The reprimand shall not be published in the media.

A warning shall be pronounced against a broadcaster which:

1) Despite the issued reprimand, continues acting in contravention of obligations stipulated by this Law or an Agency by-law adopted on the basis of this Law.

2) Violates an obligation for the first time, but in a manner in which this violation seriously threatens the application of principles regulating relations in the broadcasting sector;

3) Violates a term included in the broadcasting licence.

When pronouncing a warning, the Agency shall expressly specify the obligation the broadcaster has violated and define measures the broadcaster is to take to rectify the violation.

The warning shall be published in the media and obligatorily in the programme of the broadcaster concerned.

A broadcaster may also be subject to pronouncement of sanctions laid down in a separate telecommunications law, in the event the broadcaster does not abide by the prescribed obligations.

The Agency shall ensure impartiality and fairness during the imposition of a sanction, as well as enable the broadcaster to be heard about the committed violations of obligations it is held liable for prior to the imposition of the sanction.

The Agency shall prescribe detailed rules on the terms and procedure of sanction imposition.

Protection of Minors

#### Article 19

The Agency shall ensure the protection of minors and the respect of human dignity in programmes broadcast via radio and TV and shall pass a general binding instruction to that effect.

The Agency shall especially ensure that programmes, which may impair the physical, mental and moral development of minors, are not accessible via radio or television except when the broadcasting time or technical measures ensure that minors are as a rule unlikely to have the opportunity to watch or hear them.

Broadcasting of programmes, which grossly impair the physical, mental or moral development of minors, shall be prohibited.

Protection of Copyrights and Neighbouring Rights

#### Article 20

The Agency shall ensure that all broadcasters apply regulations on copyrights and neighbouring rights.

Conduct contrary to regulations in para 1 of this Article by a broadcaster may be the basis for pronouncing prescribed sanctions by the Agency independently of other legal remedies at the disposal of the aggrieved holder of a copyright or a neighboring right.

Suppression of Hate Speech

#### Article 21

The Agency shall ensure that the broadcasters' programmes do not contain information inciting discrimination, hatred or violence against an individual or a group of individuals on grounds of their political affiliation, or their race, religion, nationality, ethnicity, gender or sexual orientation.

Conduct in contravention of the prohibition in para 1 of this Article shall be deemed grounds for pronouncing the envisaged sanctions by the Agency, independently of the other legal remedies at the disposal of the aggrieved.

### 3. Agency Council

## Composition of the Council

### Article 22

The Agency Council (hereinafter Council) shall have 9 (nine) members, appointed from the ranks of reputed experts in fields relevant to conducting the affairs within the Agency's competencies (media experts, advertising experts, lawyers, economists, telecommunication engineers, et al.).

### Council Appointment

### Article 23

The Council members are appointed by the National Assembly of the Republic of Serbia (hereinafter Assembly) at the proposal of authorised nominators.

A Council member is appointed if the majority of all National Assembly members votes for him or her.

The power and duty to nominate Council members are vested in:

- 1) National Assembly of the Republic of Serbia;
- 2) Assembly of the Autonomous Province of Vojvodina;
- 3) Government of the Republic of Serbia;
- 4) Executive Council of the Autonomous Province of Vojvodina;
- 5) Rectors of the Universities in the Republic of Serbia, through mutual agreement;
- 6) Associations of broadcasting public media in the Republic of Serbia, Associations of journalists in the Republic of Serbia, Professional associations of film and drama artists in the Republic of Serbia, Professional associations of composers in the Republic of Serbia, through mutual agreement;
- 6) Domestic non-governmental organizations and civic associations focusing on the protection of the freedom of expression and/or the protection of the rights of national and ethnic minorities, and the protection of the rights of the child, through mutual agreement;
- 7) Churches and religious communities.

The ninth member of the Council is nominated by previously appointed members of the Council, while the nominated member must both fulfill the criteria for the Council membership determined by this Law and live and work on the territory of the Autonomous Province of Kosovo and Metohija.

Nomination for the Council's member from para. 4 of this article is deemed determined if at least 5 Council members have voted for it.

### Procedure for Nominating Council Members

### Article 24

Each authorised nominator as prescribed by article 23, para. 3 of this Law, nominates the candidates for one Council member, but shall submit obligatorily nominate two individuals on its nominee list. The individuals nominated by the authorised nominator need not belong to the ranks of the authorised nominator.

Exceptionally, candidate list for the member nominated by the previously appointed Council members, in accordance with article 23, para. 4 and 5 of this Law, contains only one individual.

An individual enjoying the reputation of a prominent media expert, advertising expert or a prominent expert in a field relevant to the work of the Agency shall be nominated for the post of Council member.

The Assembly shall appoint one nominee from each valid list.

The authorised nominators shall draft their lists independently, and, if an authorised nominator comprises more than one natural and/or legal person, the nomination shall be determined in agreement, by negotiations.

In case of nominators set forth in Article 23, para 3, sub-para 7 of this Law, the Assembly shall acquire the data on registered republican non-governmental

organisations and civic associations from bodies competent for keeping records of these organisations i.e. associations.

The submitted nomination list must be signed and certified by the authorized nominator and include the name and address of its representative.

If the nominators set forth in Article 23, para 3, sub-para 7 of this Law submit more than one nominee list, the list signed by a greater number of associations or organisations (of authorised nominators) that in the previous period had more effective actions, initiatives and publications in the area they are predominantly focused on, shall be deemed valid list.

Only registered organisations and associations may be the signatories of the nominee lists.

If the nominee list has been submitted in contravention of the provisions of this Law, the Assembly shall return the submitted proposal to the authorized nominator to conform it with this Law within 15 (fifteen) days.

The Assembly shall return the submitted nominations to the authorized nominators also when it is unable to determine which nominee list is valid in respect of para 8 of this Article, in which case the authorized nominators are obliged to submit to the Assembly an agreed-on nomination within 15 (fifteen) days.

The Assembly shall in an appropriate manner make public all valid nominee lists submitted by the authorized nominators at least 30 (thirty) days before the decision on the appointment of Council members is taken, along with their short CVs.

The Assembly is entitled to, before its decision on the Council members appointment, organize a public interview with all nominated candidates in order to get insight into their capabilities for performing duties stemming from the Agency's competencies.

If no candidate from Council members candidate lists obtains sufficient number of votes as prescribed by the article 23 para 2, the appointment shall be executed only after the submittal of a new list from the authorized nominator, which has to take place within 15 days from the day of decision on the previous list at the latest.

Ineligibility for Council Membership

#### Article 25

The following are not eligible to be Council members:

1) Federal and/or Republican Members of Parliament or members of the autonomous provincial parliaments;

2) Elected or appointed officials in the Federal Government, the Government of the Republic of Serbia (hereinafter Government) and the executive bodies of the autonomous provinces (ministers, their deputies, assistants, as well as heads of separate departments directly controlled by the Government or executive councils, and other officials);

3) Officials of political parties (party leaders, party presidency members and their deputies, members of party executive and main boards and other party officials);

4) Individuals, who as owners of shares or stocks, members of management or supervisory bodies, employees, contractees et al, have an interest in the legal persons involved in the production and/or broadcasting of radio and television programmes or related activities (advertising, telecommunications, et al) because the membership of such an individual in the Council may lead to a conflict of interests;

5) Individuals, who have been convicted by a final sentence of a crime of abuse of official power, corruption, fraud, theft or another criminal offense rendering him/her unfit for the post, notwithstanding the imposed sanction, or who have been convicted by a final sentence of another criminal offense to a prison sentence exceeding 6 (six) months.

6) Individuals who are spouses, parents, children or collateral relatives to the second degree of kinship of individuals listed in para 1, sub-paras 1 to 4 of this Article.



The nominee shall submit a written statement to the authorised nominator that there are no restrictions set forth in para 1 of this Article to his/her nomination.

Tenure of Council Members

#### Article 26

The Council Members shall not represent in the Council the bodies or organisations which nominated them, but shall fulfil their duties independently, to the best of their knowledge and conscience, and in keeping with this Law.

A Council member's term of office may terminate only for the reasons and after the procedure envisaged by this Law.

No one has the right to influence the work of Council members in any way and the members shall not take any instructions from anyone regarding their work with the exception of the decisions by the court of competent jurisdiction made in the procedure of judiciary control of the Council's work.

#### Duration of Tenure

##### Article 27

A Council member is appointed to a tenure of six years.

Notwithstanding para 1 of this Article, when appointing the first Council members, three Council members shall be appointed to two-year, three members to four-year and three members to six-year terms of office.

The Council members with two and four year tenures in the first Council composition shall be appointed in the following manner: before the Assembly decides on the submitted nominations, the Assembly Speaker shall draw lots to determine the authorised nominators whose nominees shall be appointed to two- and four-year terms of office.

An individual may not be appointed Council Member for two consecutive terms of office.

Termination of a Council Member's Tenure

##### Article 28

The tenure of a Council member may terminate in the following cases:

- 1) Expiration of the term of office to which the Council member has been appointed;
- 2) Dismissal for reasons envisaged by this Law;
- 3) Submission of a resignation to the Assembly in written form, in which case the term of office of the Council Member terminates the day the resignation has been submitted, whereas an a priori signed (enveloped) resignation shall not have legal effect;
- 4) Death of the Council member.

Termination of Tenure by Dismissal

##### Article 29

At the proposal of the Council or at least 20 MPs, the Assembly may dismiss a Council member in the following events:

- 1) If a competent health institution finds the member incapacitated by an illness to fulfil the duties of Council member for a period exceeding six months;
- 2) If it is determined that the member gave false personal data during the submission of the nomination or omitted to report data on circumstances set forth in Article 25 of this Law.
- 3) If it is determined that some of the circumstances set forth in Article 25 of this Law occurred during the tenure of the Council member.
- 4) If for no good reason, the member omits or refuses to fulfil the duty of a Council member for at least 3 (three) consecutive months or a period of 12 months during which the member failed to fulfil his duties for at least 6 months.

The decision on dismissal may be reached only on the basis of a duly reasoned motion for dismissal following a procedure, wherein all the relevant circumstances have

been determined and the Council member concerned has been given the opportunity to be heard on all the circumstances.

A Council member may not be dismissed because of his or her political or other opinions,  
i.e. because of his or her membership in a political organisation.

The decision to dismiss a Council member shall be deemed adopted if the majority of all MPs voted for it.

Suspension of a Council Member

#### Article 30

Upon the filing of a motion to dismiss a Council member, the Council may, by a two-third majority vote of all its members, reach a decision to suspend the Council member against whom the dismissal motion has been filed until the Assembly passes its decision thereon, but in duration no longer than 6 months.

Consequences of Tenure Termination

#### Article 31

The Assembly Speaker shall publicly call for a submission of a nominee list for a Council member at least six months before the term-of-office of that Council member expires. The invitation is addressed to the authorised nominators who had nominated the candidates whose term of office is expiring.

The authorised nominators shall submit to the Assembly the nominee lists for the vacated posts within three months from the day the public call has been made.

The Assembly shall reach a decision on the appointment of the new Council members before the tenure of the incumbent members expires.

In the event of the early termination of a Council member's tenure (due to death, dismissal or resignation), the authorised nominator, who had nominated the member whose tenure has terminated in this manner, shall forthwith and within three months at the latest submit a list of nominees for the vacated Council post to the Assembly. The Assembly shall appoint the new Council member within 30 (thirty) days after the day of reception of the nominee list. This member shall be appointed to a tenure of six years.

Until a new member is appointed, decisions taken by the incomplete Council shall be deemed legally effective. However, the Council may not reach legally effective decisions if the number of Council members is less than five, because the tenures of certain members have terminated.

Council's Mode of Operation

#### Article 32

The work of the Council is public.

The Council shall reach decisions by a simple majority of votes of members present on condition that the decision-making quorum of five members is fulfilled, unless otherwise stipulated by this Law or the Statute. General by-laws and decisions on the rights of broadcasters shall be voted in by a simple majority of all Council members unless this Law or the Statute stipulates a two-thirds majority of all Council members. In the event of a tie, the vote of the Council Chairperson, or, in his/her absence, that of the Deputy Chairperson, shall prevail.

The Council decision referring to the territory of the AP of Vojvodina shall be deemed adopted if within the number of votes required for the decision adoption there is a vote of at least one Council member appointed on the proposal of the authorized nominators from AP Vojvodina.

The Council shall vote in the Council Chairperson and Deputy Chairperson from amongst its ranks by a two-thirds majority vote of all its members.

The Council Chairperson and members shall have the right to financial remuneration for their work in an amount equal to the salaries of the Chairperson, i.e. judge of the Supreme Court of Serbia.

The Council Chairperson shall act in the name of and behalf on the Agency, direct the work of the Council, sign the Council decisions and ensure their implementation, have the powers of a company director in respect of employment rights, obligations and responsibilities of the Agency expert department employees, and perform other functions set forth in the Law and Statute.

Agency Statute and Other General By-laws

#### Article 33

The Statute, the Council's rules of procedure, the by-law regulating the organisation of the Agency expert departments, the number and status of employees in the Agency expert departments and other Agency by-laws shall be passed by the Council.

The by-laws in para 1 of this Article shall be passed by a two-thirds majority vote of all Council members.

The Assembly shall give its consent to the Agency Statute.

#### **4. Agency Funding**

Financial Plan

#### Article 34

The funding of the Agency shall be carried out in keeping with a financial plan, which shall be adopted by the Council on an annual basis.

The financial plan shall determine the overall revenue of the Agency, the overall expenditure of the Agency, including reserves for unforeseen outlays, as well as the elements for the comprehensive overview of the Agency's salaries and employment policy.

The Assembly shall approve the financial plan in para 1 of this Article.

The financial plan shall be adopted by 15 December of the current year at the latest for the following year.

The financial plan shall be published in the manner envisaged by the Agency Statute.

All Agency revenue and expenditure accounts shall be subject to annual audit by an independent authorised auditor. The accounts shall be published within three months after the end of the fiscal year.

If the annual balance of the Agency revenues and expenditures shows that the Agency's overall revenues have exceeded the expenditures, the difference shall be paid to the account of the budget of the Republic of Serbia and shall be proportionately used to promote and develop culture, health, education and social care.

Sources of Funding

#### Article 35

The Agency income comprises funds earned from the fees the broadcasters pay for the right to broadcast programmes (the broadcasting licences) in keeping with this Law.

If the Agency fails to accrue the planned income from the fees set forth in para 1 of this Article, the lacking funds shall be provided from the budget.

The provision of lacking funds in keeping with para 2 of this Article shall in no way influence the independence and autonomy of the Agency.

#### **5. Transparency of the Agency's Work and Judicial Control**

Transparency of Work

#### Article 36

The Agency shall publish an annual report on its work in the manner determined by the Statute.

Judiciary Control

#### Article 37

An Agency decision may not be appealed against, but an administrative lawsuit may be launched against it.

### **III. BROADCASTING LICENCE**

#### **1. Definitions of Licence and Licence Holders**

Principles of Licence Issuance

##### **Article 38**

A natural or legal person may not broadcast a radio or television programme unless it has previously been issued a licence by the Agency, unless otherwise stipulated by this Law.

Any legal or natural person, fulfilling the conditions prescribed by this Law and regulations passed on the basis of this Law may be granted a licence to broadcast a radio and television programme under equal terms.

The broadcasting licence issuance procedure is public.

Records of all issued licences are kept in accordance with this Law.

Broadcasting Licence

##### **Article 39**

A broadcasting licence is an authorisation the obtainment of which vests in the licence holder the right to broadcast a certain radio and/or television programme intended for an unspecified number of users via terrestrial radio stations, cable distribution systems, satellite radiocommunications or in another appropriate manner.

The broadcasting licence shall be issued by the Agency upon its implementation of a procedure envisaged by this Law.

The broadcasting licence shall determine the programming and technical standards for the production and broadcasting of radio and television programmes.

A composite part of the broadcasting licence is the radio station licence (broadcasting station licence), which is issued by the telecommunications regulatory authority at the Agency's request, in accordance with a separate law and on the basis of the Radio Frequency Assignment Plan adopted by the telecommunications ministry.

The issued radio station licence shall be submitted to the Agency for the implementation of the procedure for issuing a broadcasting licence.

The telecommunications regulatory authority shall issue a radio station licence if the conditions set in separate law have been met and if the Agency request is in keeping with the Radio Frequency Assignment Plan.

The broadcasting licence holder shall exercise the right to mount, use and maintain fixed and mobile broadcasting equipment in keeping with the provisions of a separate telecommunications law, regulations passed on the basis of that law, general by-laws of the telecommunications regulatory authority and the technical prerequisites i.e. standards the application of which is stipulated by these regulations.

Cable and Satellite Broadcasting

##### **Article 40**

The Agency shall issue a licence for cable or satellite broadcasting of programmes without calling a public tender at the request of the holder of a cable distribution system (hereinafter CDS), i.e. holder of a terrestrial satellite station, if the holder of the CDS i.e. terrestrial satellite station has met the conditions regarding the mounting, use and maintenance of telecommunication equipment determined in keeping with a separate telecommunications law.

The obligation to obtain a broadcasting licence shall not be incumbent upon the holder of a system which is broadcasting the following radio and television programmes intended for cable distribution:

1) Programmes for which the Council has awarded a terrestrial broadcasting licence for the area in which the CDS is situated, whereby the CDS holder is obliged to distribute the public service programmes via its system free of charge.

2) Programmes which can be received via free (unencrypted) satellite distribution in the territory of the Republic of Serbia.

The holder of a system for broadcasting radio and television programmes intended for satellite distribution shall be obliged to obtain a licence in all events in which the holder has not obtained a licence for the terrestrial or cable broadcasting of the programme to be broadcast via satellite.

Regulations envisaged for the issuing of cable broadcasting licences shall accordingly apply to the issuance of licences for broadcasting via the MMDS (Microwave Multichannel Distribution System) technology, whereby the holder of the MMDS shall not be exempted from the obligation to obtain the appropriate licence for each radio station in keeping with a separate telecommunications law.

Broadcasting Licence Holder

#### Article 41

Only a domestic legal or natural person, registered for the businesses of producing and broadcasting radio and television programmes and with a head office i.e. residence in the territory of the Republic of Serbia, may be a holder of a broadcasting licence.

A domestic legal person, whose founders are foreign legal persons registered in countries the internal regulations of which do not allow or where it is impossible to determine the origin of the founding capital, may not take part in the public tender for a broadcasting licence.

A foreign legal or natural person may have a share of a maximum 49% in the overall founding capital of the broadcasting licence holder unless otherwise envisaged by international agreements ratified by the Federal Republic of Yugoslavia.

Exceptionally, a foreign natural or legal person may not possess a share in the capital of public service broadcasting institutions.

Persons which may not be Licence Holders

#### Article 42

The following may not be broadcasting licence holders:

1) An enterprise, institution or another legal person established by the Republic of Serbia or an autonomous province, with the exception of public broadcasting service institutions;

2) A political party, organisation or coalition, or a legal person founded by a political party, organisation or coalition.

Broadcaster

#### Article 43

A legal or natural person, registered for the business of producing and broadcasting radio and television programmes, shall acquire the status of broadcaster in terms of this Law when awarded a broadcasting licence, i.e. when awarded a radio station licence in the case of broadcasters which are not required under the provisions of this Law to obtain a broadcasting licence.

A broadcaster may produce and broadcast radio and television programmes as a:

1) Public broadcasting service institution;

2) Commercial radio and/or television station;

3) Civic sector radio and/or television station;

4) Radio and/or television station of a local or regional community.

Public Broadcasting Service Institutions

#### Article 44

Public broadcasting service institutions of the Republic of Serbia or of the autonomous provinces, shall be awarded the right to programme production and broadcasting as broadcasters directly on the basis of this Law.

Broadcasters in para 1 of this Article shall be issued only radio station licences in keeping with the Radio Frequency Assignment Plan and this Law.

Broadcasters in para 1 of this Article shall be subject to the provisions of this Law, except for provisions regarding the obtainment of broadcasting licences, as well as to the relevant provisions of a separate telecommunications law.

Types of Broadcasters with regard to Radio and Television Programme Content

#### Article 45

With respect to the radio and television programme content they produce and broadcast, broadcasters may be:

1) Broadcasters of complete programmes, encompassing news, educational, cultural, scientific, sports and entertainment contents as the predominant part of their activities;

2) Broadcasters of specialised programmes, the content of which fundamentally belong to the same thematic category (sports, culture, music, education, et al); or,

3) Broadcasters whose programmes are wholly devoted to advertising and sale of goods and services.

Licence Non-Transferability and Inviolability

#### Article 46

The broadcasting licence, which also comprises the radio station license, may not be ceded, leased or in another manner transferred or alienated either temporarily or permanently.

The broadcasting licence set forth in para 1 of this Article may not be ceded even in the event of broadcaster's selling of the broadcasting equipment.

In the event set forth in para 2 of this Article, new owner of the broadcasting equipment may not start broadcasting prior to obtaining the broadcasting licence as prescribed by this Law.

Proposed Service Area

#### Article 47

A proposed service area may encompass the territory of the Republic of Serbia, the territory of an autonomous province, region or local area.

A public service broadcaster must ensure quality reception of radio i.e. television signal by at least 90% of the population in the proposed service area.

A commercial broadcaster must provide quality reception of the radio i.e. television signal to at least 60% of the population in the proposed service area.

Sharing a Radio Frequency

#### Article 48

If the terms set forth in the Radio Frequency Assignment Plan have been fulfilled, approval may be granted to a maximum of three broadcasters to a broadcast radio i.e. television programme on the same radio frequency and in the same proposed service area.

The joint use of a radio frequency may be approved only on the basis of a positive opinion previously obtained from the telecommunications regulatory authority.

Broadcasters shall jointly apply for a broadcasting licence in para 1 of this Article, by submitting, inter alia, a contract wherein they have together detailed the time slots of each broadcaster intending to share the radio frequency in the same proposed service area.

The Agency shall award to each broadcaster in para 3 of this Article a separate broadcasting licence which specially details the joint use of the radio frequency, the broadcaster/s sharing the same frequency and the terms and conditions of the joint frequency use.

### **2.Licence Issuance Procedure**

Public Tender

#### Article 49

The broadcasting licence shall be issued on the basis of a public tender.

The public tender must be called when conditions are met on the basis of the Radio Frequency Assignment Plan to award new broadcasting licences.

The public tender shall publicise the proposed service areas the coverage of which is the reason for calling the public tender, in keeping with the Radio Frequency Assignment Plan.

Invitation for a public tender

#### Article 50

The announcement calling for a public tender for broadcasting licences shall contain:

1) The territory of the proposed service area with the radio frequencies/locations assigned to it;

2) The technical, organisational and programming terms for programme production and broadcasting which the applicant is to fulfil;

3) The terms set forth in a separate telecommunications law and regulations adopted on the basis of that law which the applicant is to meet to be awarded a radio station licence;

4) The amount of the annual fee for the right to broadcast a programme and the amount of the fee which is paid for the use of a radio frequency on the basis of the awarded radio station licence;

5) The deadline for submitting the application for the public tender, together with the prescribed documentation;

6) The deadline in which the decision on tender applications shall be reached.

In order to ensure that the public tender is made known to all interested parties under equal terms, the invitation for a public tender shall be published in the "Official Gazette of the Republic of Serbia" and in at least one newspapers of general circulation. If the public tender is called for awarding broadcasting licences to radio and/or television stations of local or regional communities, the invitation must also be published in at least one local i.e. regional newspaper published in the area for which the public tender is being called.

The deadline for submitting applications for the public tender shall not be shorter than 60 (sixty) days after the day the announcement has been published.

Deposit

#### Article 51

The Agency may reach a decision binding the applicants to pay a deposit when submitting the applications.

The decision from para. 1 of this article shall determine the amount of the deposit that may not exceed the full amount of a trimester license fee.

Application for the Public Tender

#### Article 52

An application for the public tender is submitted on a form the content of which is prescribed and published by the Agency.

The applicant shall furnish the following documents together with the application:

1) Proof of the applicant's registration for the business of radio and television programme production and broadcasting;

2) Proof that the applicant has fulfilled the terms embodied in Article 50 para 1, sub-paras 2 and 3 of this Law;

3) Documentation in respect of the proposed programme concept;

4) Organisational and technical concept and staff structure;

5) Estimate of annual cost and revenue plans (with their specification) and data on the financial potentials of the applicant, and, if the applicant is broadcasting a radio and/or television programme at the time of application, also the financial statement and

the profit and loss account for the year preceding the year in which the application for the public tender is being submitted;

6. A statement that there are no hindrances pursuant to this Law in respect of prohibited concentration of media ownership; 7) Proof of payment of the deposit and of the administrative taxes for application submission.

The applicant may submit other documentation which it deems material to being awarded a broadcasting licence.

Agency's Consideration of Submitted Applications

#### Article 53

The Agency shall:

- 1) Reject an application containing incomplete or incorrect data, i.e. incomplete documentation if the applicant does not amend the application, i.e. submit the correct data or comprehensive documentation within the subsequently set deadline of seven days;
- 2) Publicise, in the same manner as the public tender, a list of all applicants, whose applications are complete and have been submitted within the envisaged deadline, within seven days after the expiration of the application submission deadline;
- 3) Consider all complete and duly submitted applications;
- 4) Set and publicise non-discriminatory, impartial and measurable decision-making criteria, corresponding to the activities for the performance of which the licence is awarded;
- 5) Reach a decision in keeping with the set criteria and prescribed conditions and standards for programme production and broadcasting, and, in the event that more than one person fulfilling the terms has applied for the same radio frequency, give advantage to the one which, on the basis of the submitted documentation, provides stronger guarantees that it shall contribute to better quality and more diverse programme i.e. programme contents in the area in which the programme is to be broadcast. If the applicant is broadcasting a radio and/or TV programme at the time of application submission, the Council shall, while making a decision, take into consideration the applicant's previous broadcasting period contribution to the implementation of principles regulating relations in the broadcasting sector, determined in article 3 of this Law;
- 6) Ensure coordination of work with the telecommunications regulatory authority and timely submission of requests for radio station licences, so that a decision on the comprehensive broadcasting licence can be reached within a maximum of (90) ninety days after the date of the publication of the list of public tender applicants;
- 7) Publicise in the same manner as the tender the list of persons which have been awarded broadcasting licences;
- 8) Deliver the applicants, whose applications have been rejected, duly reasoned decisions thereof within eight days after the day the decision on the public tender has been reached;
- 9) Submit one copy of the awarded licence to the telecommunications regulatory authority.

Complaint against an Agency Decision

#### Article 54

A person, which has applied at the public tender and is dissatisfied with the Council decision, has the right to file a complaint to the Council within 15 (fifteen) days after the day of receipt of the decision on application rejection.

The Council shall decide on the complaint within 30 (thirty) days after the date of its submission.

An administrative lawsuit may be launched against the decision on the complaint.



## Register of Granted Broadcasting Licences

### Article 55

The Agency shall maintain a register of issued broadcasting licences, which shall be public.

The Agency shall establish and update a database on the register it maintains.

## Commencement of Broadcasting

### Article 56

A broadcaster shall commence broadcasting the programme within a maximum of 60 (sixty) days after the date of broadcasting licence receipt, but may not begin to broadcast the programme before fulfilling the terms for launching the radio station prescribed by a separate telecommunications law.

In the event a broadcaster does not act in keeping with para 1 of this Article, the broadcaster's broadcasting licence shall be revoked.

## Deposit Refund

### Article 57

A person, which has not been issued a broadcasting licence, shall receive the deposit refund within seven days after the day the decision on its application to the public tender has been reached, while the paid deposit shall be calculated as part of the broadcasting fee of a person which has been granted a licence.

The deposit is not refunded to a broadcasting licence holder which:

- 1) Informs the Council in writing before the expiration of the deadline for commencing broadcasting that it is relinquishing the use of the awarded broadcasting licence, i.e. the use of the radio frequency granted to it on that basis;
- 2) Does not commence broadcasting the programme within the set deadline.

## Licence Granted at the Broadcaster's Request

### Article 58

Notwithstanding the provisions of this Law, broadcasters, whose proposed service area is not fully covered due to terrain configuration, may submit a request to the Agency, without a public tender being called, to award them a broadcasting licence for additional coverage.

The Agency shall decide on the submitted request in coordination with the telecommunications regulatory authority in keeping with the Radio Frequency Assignment Plan.

## Validity and Extension of a Broadcasting Licence

### Article 59

The licence to broadcast a radio and/or television programme shall be issued for a period of eight years.

The broadcasting licence may be issued for a shorter period of time at the request of the applicant.

The validity of the broadcasting licence may be extended at the licence holder's request, which the licence holder is obliged to submit to the Agency within six months before the expiration of the valid licence.

## Issuance of a Broadcasting Licence of Shorter Validity

### Article 60

The Agency may issue a broadcasting licence of shorter validity for the coverage of certain events.

The licence in para 1 of this Article shall be issued at the request of a natural or legal person intending to broadcast a programme exclusively linked to the holding of a certain event.

The licence in para 1 of this Article shall be temporary in character and shall be valid only for the duration of the event wherefore it was issued.

The time-restricted radio station licence, which is a composite part of the licence in para 1 of this Article, is issued by the telecommunications regulatory authority, in keeping with the provisions of a separate telecommunications law.

Broadcasting Licence Invalidation before Expiry

#### Article 61

A broadcasting licence shall cease to be valid prior to the expiry of its validity period in the following events:

- 1) If a broadcaster notifies the Agency in writing it no longer intends to broadcast its programme;
- 2) If it is established that, whilst applying, a broadcaster presented untrue data or omitted to present data material to the decision on its application either in the application for the public tender or in the accompanying documentation;
- 3) If the telecommunications regulatory authority annuls the issued radio station licence in respect of the provisions of a separate telecommunications law due to the occurrence of any reason envisaged by that law;
- 4) If a broadcaster has not commenced programme broadcasts within the prescribed deadline;
- 5) If a broadcaster has not conducted a technical inspection of the radio station within the prescribed timeframe;
- 6) If a broadcaster has for no justifiable reason ceased broadcasting programme for more than 30 (thirty) consecutive days or for 60 (sixty) days intermittently in one calendar year;
- 7) If a broadcaster has violated the provisions on prohibited concentration of media ownership envisaged by this Law;
- 8) If the Agency has imposed the sanction of revoking a broadcasting licence after a procedure in accordance with this Law and regulations passed on the basis of it because the broadcaster has violated its obligations or failed to comply with the terms and conditions prescribed by the broadcasting licence;
- 9) If the broadcaster has not paid the broadcasting licence fee despite a prior written warning;
- 10) If it transpires after the licence issuance that a founder of the broadcaster, which has been issued a broadcasting licence, is a foreign legal person registered in a country whose internal regulations do not allow or where it is impossible to determine the origin of the founding capital.

Licence Revocation Procedure

#### Article 62

In the event any of the reasons set forth in Article 61 of this Law occur, the validity of the broadcasting licence shall cease by an Agency decision on licence revocation.

The Agency shall regulate in greater detail the procedure for reaching the decision in para 1 of this Article, whereby the procedure shall be based on the principles of impartiality and fairness and the broadcaster shall be provided the opportunity during the procedure to be heard on the facts which have given cause to the procedure. The broadcaster's representative has the right to attend the Council session at which the revocation of the licence is discussed and to orally plead the broadcaster's defense at that opportunity.

The Council decision on revoking the broadcasting licence shall be reached by a two-thirds majority of all the Council members.

The decision in para 3 of this Article must be duly reasoned.

The broadcaster, whose broadcasting licence has been revoked, has the right to file a complaint to the Council within eight days after the Council has delivered it the decision.

The complaint stays the implementation of the decision.

An administrative lawsuit may be launched against the Council decision on the complaint.

Unless the court temporarily stays the execution of the decision during the administrative lawsuit on the filed charges, the broadcaster shall forthwith obey the final Council decision on licence revocation, and if it fails to comply, the compulsory enforcement procedure shall be applied in keeping with the regulations of general administrative procedure.

Broadcasting Licence Revocation as a Sanction for Violating Broadcaster Obligations

#### Article 63

The Council shall pronounce a temporary broadcasting licence revocation lasting up to 30 (thirty) days against a broadcaster which, despite the warning pronounced in terms to Article 18 of this Law, continues failing to abide to the provisions of this Law or regulations passed on the basis of it or does not abide to the terms embodied in the broadcasting licence or does not act pursuant to measures for remedying the violations specified in the Council warning.

The permanent revocation of a broadcasting licence shall be pronounced against a broadcaster which has not fulfilled its obligations and has previously been punished at least three times by temporary broadcasting licence revocation.

#### Broadcasting Licence Expiration

#### Article 64

A broadcasting licence shall no longer be valid upon expiration of the term for which the broadcasting licence was issued unless the Agency has reached a decision on its extension in keeping with Article 59 of this Law.

Revision of Terms Set in the Radio Station Licence

#### Article 65

The terms set in the radio station licence may be revised by the telecommunications regulatory authority during the work of that radio station only in keeping with a separate telecommunications law and regulations passed on the basis of that law.

### 3. Broadcasting Fee

Compulsory Fee Payment

#### Article 66

The broadcaster shall pay an appropriate fee for the right to broadcast programme (hereinafter broadcasting fee).

In addition to the fee set forth in para 1 of this Article, the broadcaster shall also pay the fee for the use of a radio frequency (a fee for the radio station licence). The fee for the radio station licence shall be fixed and the manner of payment shall be determined in keeping with a separate telecommunications law and regulations based on that law. The fee for the radio station licence shall be paid to the account of the telecommunications regulatory authority.

The broadcasting fee shall be paid to the account of the Agency.

The broadcasting fee shall be fixed on the basis of the following criteria:

1) Number of residents in the area in which the programme is broadcast on the basis of official data of the authorised statistics authority; and,

2) Programme concept of the broadcaster, i.e. the origin and type of programme being broadcast, notably:

a) proportion of scientific, educational, cultural, art, children or self-produced news programmes in the entire broadcast programme;

b) proportion of self-produced programmes or programmes of independent producers with contents listed in point 1) of this sub-para above the quota set by this Law;

c) proportion of the programme of other domestic broadcasters or translated foreign programmes.

The Agency shall set the broadcasting fee with the consent of the Government of the Republic of Serbia, whereby the radio programme fee shall amount to 20 % of the fee set for the broadcasting of television programmes.

The programme broadcasting fee shall be fixed on an annual basis and the broadcaster shall pay the Agency 1/12 of the set annual fee on a monthly basis, with the exception of the day of licence issuance.

The Agency shall pass detailed guidelines for setting the broadcasting fee in keeping with criteria set forth in para 4 of this Article.

The Agency may revise the fee amount during the validity of a broadcasting licence depending on the changes in the broadcast programme. The Agency decision on amending the fee amount must be duly reasoned.

For the first six months of exercising the right to broadcast programme, a broadcaster shall pay the total six months fee set forth in para 5 of this Article within seven days after the day of receipt of the notification of the granted right. In the subsequent period, the broadcaster shall pay its monthly fee installment by the fifth day of the month for the running month.

Exemption from the Obligation to Pay the Broadcasting Fee

#### Article 67

Public broadcasting service institutions of the Republic of Serbia and the autonomous provinces, radio and television stations of local and regional communities, which are wholly state-owned, and civic sector radio and television stations shall pay only the radio station fee (radio frequency use fee) and shall be exempt from the broadcasting fee.

The radio and television stations of local and regional communities, which are partly privately owned, shall pay part of the broadcasting fee proportionate to the share of private capital.

Radio and television stations of churches and religious communities shall not pay the broadcasting fee until the completion of the procedure restituting the property these churches and religious communities were deprived of through nationalisation, confiscation, expropriation et al. after World War Two.

#### IV. BASIC PROGRAMME STANDARDS

Basic Broadcaster Obligations in Respect of Programme Content

#### Article 68

All broadcasters shall abide by the following standards in respect of programme content within their programme concept:

- 1) Ensure the production and broadcasting of quality programme both in terms of technology and of programme content by applying international and national standards;
- 2) Ensure free, comprehensive and timely informing of citizens;
- 3) Broadcast important urgent announcements regarding threat to human life, health, security or property;
- 4) Contribute to raising the overall culture and awareness of the citizens;
- 5) Shall not broadcast programmes the content of which may impair the physical, mental or moral development of children and youth, as well as clearly mark such programmes and, if they are broadcasting them, do so only between 24:00 and 06:00 hours;
- 6) Shall not broadcast programmes containing pornography or the content of which gives undue prominence to violence or is likely to incite violence, drug abuse or other forms of criminal behaviour, as well as programmes abusing the naiveté of the audience;
- 7) Broadcast foreign programmes intended for pre-school children synchronised in Serbian or the languages of the national and ethnic minorities.

All broadcasters shall keep the broadcast programme contents in accordance with regulations on public information, i.e. in accordance with regulations on the protection of cultural heritage.

#### **Identification Obligation**

##### **Article 69**

The name, logo, i.e. the abbreviated identification sign of the broadcaster must be continuously displayed throughout the broadcasting of the television programme or aired in an appropriate manner during the broadcasting of radio programmes.

The use of the name, logo or abbreviated identification sign incorrespondent to the registered name of the broadcaster shall be prohibited.

The provisions of a separate public information law shall be applied to the broadcaster's identification obligation.

The name, logo, i.e. abbreviated identification sign of the broadcaster must be displayed even during the rebroadcasting of programmes of other broadcasters, whereas, in the event of broadcasting independent production programmes, the broadcaster's name shall be cited at the beginning or at the end of the programme.

#### **Networking**

##### **Article 70**

The networking of two or more broadcasters for simultaneous programme broadcasting without the use of additional radio frequencies or radio relay links is allowed for the duration of up to three hours per day in continuation or in summation. In exceptional circumstances, the Agency may reach a decision allowing networking of longer duration if it establishes that such a decision would be in the public interest. The Agency decision must be duly reasoned.

Networking, involving the establishing of radio relay links or link repeaters may be only temporary in character and shall be approved by the telecommunications regulatory authority if such networking does not interfere with the broadcasts of other broadcasters.

Networking to broadcast the same programme is prohibited if it constitutes a violation of the provisions on concentration of media ownership embodied in this Law or the anti-monopoly provisions set out in separate regulations.

#### **Access to Major Events**

##### **Article 71**

The Agency shall detail the list of events which are of interest to all citizens in the Republic of Serbia for which the exclusive right to broadcast may be exercised only by the broadcaster whose service area, as prescribed by article 47 of this Law, encompass the entire territory of the Republic of Serbia.

The broadcaster, granted with an exclusive right to broadcast an event included in the list from para 1 of this Article, shall allow and enable all interested broadcasters to tape and broadcast short reports of the event lasting up to 90 seconds which shall contain the authentic picture and sound of the event.

#### **Broadcasting in One's Native Tongue**

##### **Article 72**

The broadcaster shall produce and broadcast programme in Serbian or ensure that the programmes produced in foreign languages are broadcast with a translation into Serbian.

The obligation in para 1 of this Article does not pertain to broadcasters producing and broadcasting programme intended for national minorities or parts of the programme of the public broadcasting service institutions meeting the needs for information of national minorities in their mother tongues.

The obligation in para 1 of this Article does not pertain to the broadcasting of foreign music programmes, with the exception of television broadcasts of stage shows.

In exceptional circumstances, the Council may allow the broadcaster to air parts of a programme in a foreign language.

#### **Self-Produced Programmes**

##### **Article 73**

Of the total annual broadcasting time, a broadcaster shall broadcast at least 50% of programmes produced in Serbian, out of which at least 50% shall be produced by the broadcaster itself.

Broadcasters producing and broadcasting programmes for national minorities are obliged to broadcast at least 50% of their self-produced programme in the total annual broadcasting time in the languages of national minorities.

The total annual broadcasting time does not include reruns, transmission of sports events, game shows, advertisements and teleshopping, nor news programmes, with the exception of the broadcaster's self-produced news.

Self-produced programme signifies programmes or shows in which the self-produced audio or video material and/or co-authorship proportion of a show or programme account for over 50% of the television and over 20% of the radio programmes, i.e. shows.

Self-produced programme also entails co-productions.

#### **Independent Production Quotas**

##### **Article 74**

The public broadcasting service institutions of the Republic of Serbia and autonomous provinces, as well as the local and regional broadcasters, which are predominantly state-owned, are obliged to place at least 10% of their total annual broadcasting time at the disposal of independent radio and television productions.

Programmes older than five years may account for maximum 50% of the quota set forth in para 1 of this Article.

Total annual broadcasting time does not include reruns, transmission of sports events, game shows, advertisements and teleshopping, nor the news programmes, with the exception of a broadcaster's original news production.

#### **Accountability of Broadcasters**

##### **Article 75**

A broadcaster shall be held accountable for the broadcast programme content in accordance with the provisions of a separate public information law.

## **V. PUBLIC BROADCASTING SERVICE**

### **Carriers of the Public Broadcasting Service**

##### **Article 76**

Republican and provincial broadcasting institutions shall be the carriers of the public broadcasting service in the Republic of Serbia.

Broadcasting institutions in para 1 of this Article shall perform the activities of producing and broadcasting radio and television programme and shall have specific obligations in achieving public interest in the public broadcasting service sector, as determined by this Law.

Broadcasting institutions in para 1 of this Article shall have the status of a legal person.

#### **Achieving Public Interest in the Public Broadcasting Service Sector**

##### **Article 77**

Programmes produced and broadcast within a public broadcasting service shall be of public interest.

Programmes in para 1 of this Article shall encompass programmes with informative, cultural, art, educational, religious, scientific, children's, entertaining, sports and other content, ensuring the meeting of the needs of citizens and other persons and the fulfillment of their rights in the broadcasting sector.

Programmes produced and broadcast within the public broadcasting service must ensure diversity and balance (mutual coordination or conformity) of content which uphold democratic values of a modern society, particularly the respect of human rights and cultural, national, ethnic and political pluralism of views and opinions.

Public Service Broadcasters' Obligation to Achieve Public Interest

#### Article 78

With the aim of achieving public interest in the broadcasting sector, determined by this Law, and in addition to general obligations of broadcasters in relation to programme content set forth in Article 68 of this Law, public broadcasting service carriers shall:

1) Ensure that programmes which are produced and broadcast, and particularly programmes with news content, are protected from any influence of the authorities, political organisations or centres of economic power;

2) Produce and broadcast programmes intended for all segments of society, without discrimination, particularly taking into consideration specific societal groups such as children and youth, minority and ethnic groups, handicapped, socially and medically vulnerable groups, deaf and dumb (mute), and others;

3) Adhere to lingual and speech standards not only of the majority population but also, proportionately, of national minorities and ethnic groups in the area where the programme is being broadcast;

4) Ensure the satisfaction of the needs of citizens for programme content expressing cultural identity not only of the nation, but also of national minorities and ethnic groups, by enabling them to follow certain programmes or blocks of programmes in the areas where they live and work, in their native tongue and writing;

5) Provide adequate time slots for broadcasting content related to activities of civic associations and non-governmental organisations, as well as of religious communities in the area where the programme is being broadcast;

6) Provide during election campaigns free-of-charge and balanced broadcasts of promotions of political parties, coalitions and candidates for federal, republican, provincial or local elections, whose candidacies have been accepted, whereas these broadcasters may not broadcast a paid election promotion and, pursuant to their general by-laws, may refuse to broadcast programmes and propaganda spots if these do not serve the election campaign;

7) Envisage in their annual plans the broadcasting of independently produced programmes, the selection of which is based on a public tender and upon the conclusion of a written contract with the independent producer at customary market conditions;

8) Enable the use of self-produced teletext or teletext independently produced by a third party at the recommendation of the Agency;

9) Ensure the use and development of modern technical and technological standards in programme production and broadcasting, and draft and duly fulfil plans of transferring to new digital technologies;

10) Respect the traditional spiritual, historical, cultural, humanitarian and educational importance and role of churches and religious communities in society;

11) Mutually cooperate and exchange programme contents of interest to the citizens of Serbia.

Special Obligations Regarding News Programme Production and Broadcasting

#### Article 79

Public broadcasting service carriers shall in their news programme production and broadcasting abide by the principles of impartiality and fairness in treating different political interests and different persons, uphold the freedom and pluralism of the public expression of opinions, and prevent any form of racial, religious, national, ethnic or other intolerance or hatred, or intolerance on the grounds of sexual orientation.

Financing of a Public Broadcasting Service

## Article 80

A radio-television subscription shall be paid to finance the activities of public broadcasting service institutions related to activities in the public interest determined by this Law.

For the execution of other tasks within the scope of its activities, the public broadcasting service shall acquire resources from:

- 1) The production and broadcasting of advertisements;
- 2) The production and sales of audio-visual programmes (shows, films, serials, sound carriers, etc.);
- 3) The production of other programme services (teletext, etc.);
- 4) Organising concerts and other performances;
- 5) Performing other activities laid down in the Statute;
- 6) Other sources in keeping with the law.

Radio-Television Subscription

## Article 81

Owners of radio and TV receivers shall pay radio-television subscription to public broadcasting services, in keeping with this Law.

Owners of radio and TV receivers shall pay an identical flat RTV subscription across the entire territory of the Republic of Serbia.

Radio-television subscription (hereinafter subscription) shall be paid for radio and television receivers (hereinafter receiver) per household and for receivers linked to joint antennae or connected to a cable system.

One household, owner of two or more receivers, notwithstanding receivers in motor vehicles, shall pay the subscription for one radio or television receiver at the same address.

Hotels and motels shall pay one subscription per every ten rooms equipped with television or radio receivers, whereas any other legal person, the owner of a television receiver, shall pay the subscription per every 20 employees capable of receiving a programme.

The obligation to pay the subscription shall begin on the first day of the month following the purchase of a receiver.

All natural and legal persons, which are owners of a receiver, shall report the purchase of the receiver to the republican public broadcasting service institution, and for the territory of AP Vojvodina radio and TV receivers are to be registered at the Vojvodina's PBS as well.

The obligation to report the receiver or report the receiver owner's change of address or change of head office shall be fulfilled within 15 (fifteen) days from the day of the receiver purchase or the change.

In the event of alienating the receiver, the former owner of the receiver shall pay the subscription until the cancellation of the receiver registration and shall submit a statement that s/he does not own another receiver.

The republican public broadcasting service institution shall keep a register of subscribers, with all personal and other necessary data, and for the territory of AP Vojvodina radio and TV subscribers are to be registered in the Vojvodina's PBS as well.

The public broadcasting service institution may not execute control of ownership of receivers in a manner that would jeopardise the citizens' constitutional rights.

Exemption from the Obligation to Pay Subscription

## Article 82

Exempted from the obligation to pay subscription are households - owners of receivers - with at least one household member who is:

- 1) An invalid with 100% physical disability;



2) An invalid with less than 100% physical disability who, in keeping with provisions of other specific regulations, has been granted a right to a subsidy for external care and assistance;

3) An individual with permanent loss of hearing or a blind individual.

The right to exemption from the obligation to pay the subscription set forth in para 1 of this Article is exercised on the basis of a certificate issued by a competent pension and disability insurance institution, i.e. another institution or body if so stipulated by a separate law.

The following legal persons are exempted from the obligation to pay subscription:

1) Institutions, which in terms of Article 79 of the Law on Social Welfare and Protection ("Official Gazette of the Republic of Serbia", Nos. 36/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96 and 29/2001) are deemed institutions for the accommodation of the socially vulnerable, schools, health institutions and organisations of the disabled, and firms for training and employing the disabled;

2) Diplomatic-consular representation offices, on a reciprocal basis.

The Rates and Modes of Subscription Payment

#### Article 83

The rate of monthly subscription for receivers used in households and for receivers owned by legal persons shall be 210 dinars.

The rate of annual subscription for a receiver used in a motor vehicle shall be 440 dinars.

The subscription in para 1 of this Article shall be paid on a monthly basis, by the 15<sup>th</sup> day of the current month for the preceding month.

The subscription in para 2 of this Article shall be paid on an annual basis, by a special money order, during the registration of a motor vehicle.

Seventy (70) percent of the revenue collected from the subscription in the territory of an autonomous province shall belong to the province's public broadcasting service institution. The Broadcasting Institution of Serbia shall transfer these funds to the public broadcasting service institution of the autonomous province within three days after payment collection.

The Broadcasting Institution of Serbia shall pay to a separate account of the Republic of Serbia budget 1.5% of its overall monthly subscription for the development of the domestic film industry.

Payment of the monthly subscription shall be collected via the public company offering most favorable conditions for the collection of subscription fees for certain territory, and in a manner prescribed by the contract concluded in between the Broadcasting Institution of Serbia and the corresponding public company.

The subscription rates in paras 1 and 2 of this Article in the year 2003 and each following year shall be harmonised with the retail price growth index in the Republic of Serbia in the preceding calendar year, in accordance with data officially published by the authorised statistics body, increased by 5%.

Obligations relating to the Proposed Service Area

#### Article 84

The Broadcasting Institution of Serbia shall broadcast its programme in the entire territory of the Republic of Serbia within the MF, VHF and UHF frequency bands assigned to the broadcasting service. The Broadcasting Institution of Serbia shall broadcast programme outside the territory of the Republic within the HF frequency bands.

The public broadcasting service institution of an autonomous province shall broadcast programme in the territory of the autonomous province within the MF, VHF and UHF frequency bands assigned to the broadcasting service.

The Broadcasting Institution of Serbia shall broadcast its radio programme via three networks within the MF band and three networks within the VHF band, and its television programme via two networks within the VHF/UHF band.

The public broadcasting service institution of an autonomous province shall broadcast its radio programme via two networks within the MF band and three networks within the VHF band, and its television programme via two networks in the VHF/UHF band.

Before the commencement of broadcasting, institutions in paras 1 and 2 of this Article are obliged to obtain radio station licences, which are issued at the request of the Agency by a telecommunications regulatory authority in keeping with the Radio Frequency Assignment Plan.

#### **Serbian Broadcasting Service Institution**

##### **Article 85**

In order to perform the activities of a public broadcasting service in the territory of the Republic of Serbia, the Broadcasting Institution of Serbia shall be set up with its head office in Belgrade.

The assets for the founding and operation of the Broadcasting Institution of Serbia shall include the real estate and other resources used by the Public Company "Radio Television of Serbia", determined by the division of assets dividing the assets, rights and obligations of the Public Company "Radio Television of Serbia" between the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina.

The Broadcasting Institution of Serbia shall use the immovable property and broadcasting infrastructure assets in para 2 of this Article (buildings, antenna systems, radio-relay systems et al.) as stipulated in the contract concluded by the authorised persons of the Broadcasting Institution of Serbia and the Republic of Serbia Property Directorate.

Bodies of the Broadcasting Institution of Serbia

##### **Article 86**

Bodies of the Broadcasting Institution of Serbia shall comprise: the Managing Board and the General Manager.

The Programme Board shall be the consultative body of the Broadcasting Institution of Serbia.

Managing Board

##### **Article 87**

The body managing the Broadcasting Institution of Serbia shall be the Managing Board, which has nine members.

Members of the Managing Board shall be appointed and dismissed by the Agency.

Members of the Managing Board shall be named from the ranks of journalists and prominent experts in media, management, law and finance, as well as from among other prominent figures.

Federal and Republican Members of Parliament, members of the autonomous provincial parliaments, members of the Agency Council, members of Government or of executive bodies of an autonomous province, individuals appointed to the Government, an executive body of an autonomous province or the republican, that is, provincial bodies, as well as officials of political parties (leaders of political parties, their deputies, members of party presidencies, main and executive party boards and other officials) may not be members of the Managing Board.

The term of office of Managing Board members is five years and one person may be appointed member of the Managing Board for a maximum of two consecutive terms.

In their work, members of the Managing Board shall be autonomous and shall ensure the consistent implementation of the provisions of this Law with regard to the public broadcasting service.

The Mode of Operation of the Managing Board

#### Article 88

The Managing Board shall adopt rules of procedure on its work.

The Managing Board shall elect its Chairperson from amongst its members.

The Managing Board shall make decisions by a majority vote of all members of the Managing Board, unless the Statute (of the Broadcasting Institution of Serbia, translator's addition) envisages a two-thirds majority of all the Managing Board members for certain decisions. In the event of a draw, the Chairperson shall have the prevailing vote.

Members of the Managing Board shall be entitled to financial remuneration for their work, the level of which shall be determined by the Agency.

Managing Board's Duties

#### Article 89

The Managing Board shall:

1) Adopt the Statute of the Broadcasting Institution of Serbia (hereinafter Statute) with the Agency's consent, adopt business plans and reports on activities of the Broadcasting Institution of Serbia and periodical and annual profit and loss accounts and inform the public, the Agency and the Assembly thereof;

2) Appoint and dismiss the General Manager of the Broadcasting Institution of Serbia, with a two-thirds majority vote of all the Managing Board members, whereby the decision on appointment shall be made after a public tender;

3) Appoint and dismiss directors of radio and television, programme editors-in-chief, with a two-thirds majority vote of all members of the Managing Board, whereby the decision on appointment shall be made at the proposal of the General Manager after a public tender;

4) Approve the General Manager's general by-law on the systematisation of duties and tasks in the Broadcasting Institution of Serbia;

5) Adopt investment plans;

6) Consider recommendations of the Programme Board;

7) Determine the mode of registering and cancelling the registration of receivers;

8) Perform other activities determined by the law and the Statute.

General Manager

#### Article 90

The General Manager shall:

1) Act for and on behalf of the Broadcasting Institution of Serbia;

2) Organise and manage the process of work and run the business activities of the Institution;

3) Ensure the legality of the work and business activities;

4) Execute decisions of the Managing Board;

5) Consider recommendations of the Programme Board;

6) Be held accountable for the fulfillment of the programme concept and ensure the execution of adopted business plans and the implementation of the provisions of this Law which relate to the public broadcasting service;

7) Propose to the Managing Board the appointment of directors of radio and television and programme editors-in-chief;

8) Pass general by-laws on the systematisation of duties and tasks and on the organisation of work in the Broadcasting Institution of Serbia;

9) Perform other duties determined by law and the Statute.

The term of office of the General Manager shall be four years and an individual may be appointed General Manager for two consecutive terms at the most.

An individual, ineligible for the post of a member of the Managing Board of the Broadcasting Institution of Serbia, may not be appointed General Manager.

Auditing

#### Article 91

All profit and loss accounts and financial statements of the Broadcasting Institution of Serbia are subject to annual audit by an independent authorised auditor.

The Programme Board

#### Article 92

The Programme Board shall advocate the interests of all viewers and listeners.

The Programme Board shall consider the implementation of the programme concept of the Broadcasting Institution of Serbia and shall thereon submit recommendations and suggestions to the General Manager and the Managing Board.

The Programme Board shall consist of 18 members appointed by the Assembly, six of whom are MPs, while 12 (twelve), proposed by the Agency, shall come from amongst various professional associations, scientific institutions, religious communities, civic associations, nongovernmental organisations et al.

Individuals elected or appointed to Government or republican bodies and Agency Council members may not be members of the Programme Board.

The term of office of the members of the Programme Board shall be three years and they may not be reappointed.

The Statute of the Broadcasting Institution of Serbia shall detail the mode of operation of the Programme Board.

The Broadcasting Institution of Serbia shall provide working conditions for the Programme Board.

Statute of the Broadcasting Institution of Serbia

#### Article 93

The Statute of the Broadcasting Institution of Serbia shall detail in-house organisation, mode of operation, manner for achieving public interests in the broadcasting sector, the rights and obligations of journalists in fulfilling public information duties, development planning, investment and information technology policies, and other issues relevant to the work and the functioning of the Broadcasting Institution of Serbia.

The Statute of the Broadcasting Institution of Serbia shall be approved by the Agency.

Broadcasting Institution of an Autonomous Province

#### Article 94

The Broadcasting Institution of Vojvodina shall be set up with its head office in Novi Sad in order to perform the activities of a public broadcasting service in the territory of the Autonomous Province of Vojvodina.

The assets for the founding and operation of the Broadcasting Institution of Serbia shall include the real estate and other resources used by the Public Company "Radio Television of Serbia", determined by the division of assets dividing the assets, rights and obligations of the Public Company "Radio Television of Serbia" between the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina.

The Broadcasting Institution of Vojvodina shall use the immovable property and broadcasting infrastructure assets in para 2 of this Article (buildings, antenna systems, radio-relay systems et al.) as stipulated in the contract concluded by the authorised persons of the Broadcasting Institution of Vojvodina and the Republic of Serbia Property Directorate.

The provisions of this Law related to the bodies of the Broadcasting Institution of Serbia, their competencies, the Programme Board, the auditing of financial statements,

and provisions with regard to the Statute of the Broadcasting Institution of Serbia, shall be applicable to the Broadcasting Institution of the Autonomous Province.

The Agency shall appoint members of the Managing Board of the broadcasting institution of the autonomous province from amongst individuals who live and work in the territory of the autonomous province.

The Programme Board of the broadcasting institution of the autonomous province shall be appointed by the assembly of the autonomous province.

Radio and/or Television Stations of the Civic Sector

#### Article 95

Radio and/or television stations of the civic sector are those stations which satisfy specific interests of particular social groups and civic associations.

Radio and/or television stations in para 1 of this Article may be founded by a civic society non-profit organisation (a non-governmental organisation or a civic association).

The content of a programme broadcast by civic sector radio and/or television stations must be related to the field of activity of the non-governmental organisation or the civic association which founded the station.

Civic sector radio and/or television stations may be founded to cover only a local area.

Civic sector radio and/or television stations may not be profit-making.

Provisions of this Law pertaining to the public service broadcaster with respect to special programme production obligations shall apply to civic sector radio and/or television stations.

Civic sector radio and/or television stations shall be granted a broadcasting licence upon participation at a public tender for a proposed service area, but they need not pay the broadcasting fee.

Resources for the work of radio and/or television stations of the civil sector may be provided from donations, citizens' contributions, sponsorship and other sources of revenue, in keeping with a separate law regulating the founding and the activities of civic associations and non-governmental organisations. Revenues raised through sponsorship and advertising shall be subject to the provisions of this Law which pertain to a public service broadcaster.

Management of a civic sector radio and/or television station is detailed in the station Statute which is approved by the Agency.

If a civic sector radio and/or television station changes its status in the course of its work, or broadcasts a programme or uses sponsorships and advertisements in contravention of the provisions of this Law, its licence shall be revoked before validity expiry and it shall make a retroactive payment of the broadcasting fee for the period of work since the occurrence of reasons for launching the licence revocation procedure.

Radio and/or Television Stations of Local and Regional Communities

#### Article 96

A radio and/or television station of a local community is founded by a municipal assembly.

A radio and/or television stations of a regional community is founded by two or more municipal assemblies.

A station set up by a city assembly also has the status of a radio and/or television station of a regional community.

A municipal assembly may set up only one local radio and/or television station, while two or more municipal assemblies or a city assembly may set up only one regional radio and/or television station, and each of these radio and/or television stations shall broadcast only one radio and/or television programme.

If a municipal assembly is a co-founder of a regional radio and/or television station, it may not simultaneously be the founder of a local radio and/or television station.

Radio and/or television stations in paras 1, 2 and 3 of this Article may be in mixed ownership. These stations shall have the status of a public company as long as the state-owned resources represent the majority stake in their total capital.

Radio and/or television stations in paras 1, 2 and 3 of this Article shall be granted licences after participation in a public tender for the proposed service area.

Radio and/or television stations in paras 1, 2 and 3 of this Article are obliged to comply with provisions of this Law which relate to special obligations of a public service broadcaster in programme production and broadcasting, as long as they have the status of a public company.

Federal and republican MPs, members of the parliament of the autonomous province, municipal councilmen, individuals elected or appointed to federal, republican, provincial or local executive bodies, as well as political party officials may not be directors, editors-in-chief or members of the managing boards of local and/or regional radio and/or television stations while these stations have the status of a public company.

Radio and TV stations from para. 1,2 and 3 of this article shall be under obligation to get privatized within the deadline of 4 years from the day when this Law comes into effect.

Privately owned radio and/or television stations, which have not been founded by one or more municipal assemblies i.e. a city assembly, or stations in which the state does not possess a majority shareholding interest, may also broadcast in the territory of one or more municipalities as well as in the territory of a city. Such stations shall not enjoy the special status of local or regional radio and/or television stations and general provisions of this Law applying to commercial broadcasters shall apply to them.

## **VI. PREVENTION OF PROHIBITED CONCENTRATION OF MEDIA OWNERSHIP**

### **Concentration of Media Ownership**

#### **Article 97**

Concentration of media ownership, in terms of this Law, exists when a broadcaster:

- 1) Possesses a share in the founding capital of another broadcaster;
- 2) Possesses a share in the founding capital of a company publishing a daily newspaper, or vice versa;
- 3) Possesses a share in the founding capital of a company performing the activities of a news agency, or vice versa;
- 4) Simultaneously possesses several broadcasting licences;
- 5) Simultaneously broadcasts both radio and television programmes;
- 6) Simultaneously broadcasts a radio and/or television programme and publishes a daily newspaper distributed in the area in which the radio and/or television programme is broadcast;
- 7) Simultaneously broadcasts a radio and/or television programme and performs the activities of a news agency.

Concentration of media ownership in terms of this Law also exists when founders of a broadcaster are legal or natural persons, who are at the same time:

- 1) Founders of another broadcaster;
  - 2) Founders of a company publishing a daily newspaper distributed in an area in which the radio and/or television programme is broadcast;
  - 3) Founders of a company or a shop performing the activities of a news agency;
- or
- 4) Spouses or direct relations regardless of the degree of kinship.

### **Prohibited Concentration of Media Ownership**

#### Article 98

Prohibited concentration of media ownership, i.e. prevalent influence on the public opinion, shall exist in terms of this Law, when a broadcaster violates principles of the pluralism of views in the mass media in the following ways:

- 1) By participating in the founding capital of another broadcaster;
- 2) By participating in the founding capital of a newspaper-publishing company;
- 3) By participating in the founding capital of a company performing the activities of a news agency;
- 4) By simultaneously broadcasting both radio and television programmes in the same area as the only broadcaster; or
- 5) In any other way determined by the provisions of this Law.

Prohibited concentration of media ownership, in terms of this Law, shall also exist when a founder of a newspaper-publishing company or a company performing the activities of a news agency violates the principles of pluralism of opinions in mass media by taking part in the founding capital of a broadcaster.

#### Article 99

Prohibited concentration of media ownership, i.e. a prevalent influence on the public opinion, shall be considered to exist always when:

- 1) A broadcaster, licensed to broadcast programme at the national level of coverage, has a share exceeding 5% in the founding capital of another broadcaster with the same type of licence;
- 2) A broadcaster is broadcasting more than one television and more than one radio programme in the same area;
- 3) A broadcaster, licensed to broadcast programme at the national level of coverage, has a share exceeding 5% in the founding capital of a company publishing a daily newspaper with a circulation of more than 30,000, and vice versa;
- 4) A broadcaster, licensed to broadcast programme at the national level of coverage, has a share exceeding 5% percent in the founding capital of a company performing the activity of a news agency, and vice versa;
- 5) A broadcaster, licensed to broadcast programme at the national level of coverage, simultaneously publishes a daily newspaper with a circulation exceeding 30,000;
- 6) A broadcaster, with the status of a local or regional radio or television station, has a share exceeding 30% in the founding capital of another local or regional broadcaster in the same area;
- 7) A broadcaster, which has the status of a local or regional radio or television station and is simultaneously publishing a local daily newspaper in the same or neighbouring area.

#### Article 100

Prohibited concentration of media ownership, i.e. prevalent influence on the public opinion, shall also be deemed existent when, in the events set forth in Article 99, a natural person, who is the founder of a broadcaster or a company publishing a daily newspaper or performing the activities of a news agency, or his/her direct relatives regardless of the degree of kinship or his/her spouse, takes part in the founding capital of another broadcaster, of a company publishing a daily newspaper or performing the activities of a news agency, up to a set level of the founding capital.

Broadcasting Licence Issuance and Prohibited Concentration of Media Ownership

#### Article 101

The Agency shall not issue a broadcasting licence to an applicant for the public tender if it establishes that issuing the licence would result in prohibited concentration of media ownership in terms of this Law.

An applicant for the public tender shall submit together with the application form a certified statement that the issuance of the broadcasting licence would not result in prohibited concentration of media ownership in terms of the provisions of this Law.

#### Article 102

If the Agency establishes that the prohibited concentration of media ownership resulted after the granting of the licence, it shall order the broadcaster to bring its status into accordance with the provisions of this Law related to prohibited concentration of media ownership within six months.

If the broadcaster does not act in accordance with the order in para 1 of this Article without a justifiable reason within the set deadline, the Agency shall launch the procedure for revoking the broadcasting licence.

Notification of Change in the Broadcaster's Ownership Structure

#### Article 103

A broadcaster shall notify in writing the Agency of any change in its ownership structure prior to the change.

If the Agency establishes that the planned changes in the ownership structure would result in prohibited concentration of media ownership, it shall recommend to the broadcaster to revise the changes in a way so as to avoid prohibited concentration of media ownership.

If the broadcaster does not act in keeping with the Agency recommendation and proceeds with the ownership structure change whereby prohibited concentration of media ownership occurs, provisions of this Law with respect to broadcasting licence termination before expiry shall be applied to the broadcaster.

### VII. ADVERTISING AND SPONSORSHIP

#### 1. Advertising and Teleshopping

Permissibility of Advertisements and Teleshopping

#### Article 104

Prohibited shall be the advertising of tobacco products; alcoholic beverages; professional medical treatments and their results and health protection methods, including traditional and alternative medical methods and procedures; methods and procedures of treatment by persons not deemed health workers and health associates in terms of the law regulating the health protection sector; medications or treatment with medications that may be purchased only on subscription, and of goods and services the trade in or the provision of which is banned under the law shall be prohibited.

Advertisements and teleshopping, targeting children or in which children are performing, must avoid anything likely to damage their interests and shall take into consideration their particular vulnerability.

Teleshopping shall not exert pressure on minors to purchase or negotiate the purchase of goods and services.

Prohibited shall be the running of untrue, deceitful, covert or denigrating (offensive) advertisements and teleshopping, of advertisements and teleshopping which abuse the naivete of listeners and viewers, advertisements and teleshopping that, by means of technical audio and visual editing in a very short period of time or in another way, may transmit messages or influence the opinion of listeners or viewers by affecting their sub-conscience so that they are not fully or at all aware of the influence, as well as the advertising of free professions.

Advertisements must be clearly distinguishable and set apart from other programme products by visual or acoustic means.

Advertisements shall, as a rule, be broadcast in blocks.

Journalists, presenters and editors of news, documentary, cultural, educational and children's programmes may not appear or be heard in an advertisement or on teleshopping.

Modes of Broadcasting Advertisements



## Article 105

Advertisements shall be broadcast between programmes, and, in exceptional circumstances, during a programme, so as not to undermine the value of the programme or infringe the rights of the copyright holder.

News programmes, information, documentary and children's programmes may not be interrupted by advertisements if their duration is shorter than 30 minutes.

Religious programmes may not be interrupted by advertisements at all.

In programmes, comprising separate wholes, and during sports, cultural and art programmes and events with breaks, advertisements may be broadcast only between the wholes or during the natural breaks in the event.

Broadcasting of audio-visual works, such as recordings of theatre plays, musical and stage works, concerts, or movies and television movies (which does not include entertainment programmes, etc.) may be interrupted only once on condition that they are longer than 45 minutes. Another break is allowed if these recordings are at least 20 minutes longer than two or more 45-minute periods together.

When programmes are interrupted by advertisements, at least 20 minutes must pass between two commercial breaks.

Advertising of Political Organizations

## Article 106

All advertising of political organizations shall be prohibited outside election campaigns.

During an election campaign, registered parties, coalitions and candidates may advertise on the basis of equal representation and without discrimination.

Mediation in Advertising

## Article 107

Public broadcasting service institutions and civic sector radio and television stations shall be prohibited from acting as mediators, representatives, or advertisers of or on behalf of third parties.

Duration of Advertisements

## Article 108

The duration of advertisements in proportion to the total programme time of public broadcasting service institutions, civic sector radio and television stations and local and regional radio and television stations shall not exceed 10% of the total daily broadcasting and shall not be longer than six minutes per hour of programme, and the schedule and manner of broadcasting advertisements during the programme shall be regulated in detail in keeping with this Law.

## Article 109

The duration of advertisements for commercial broadcasters shall be restricted to 20% of the daily broadcasts and to 20% per hour of broadcasting.

A maximum of six teleshopping programmes, whose total duration does not exceed three hours, may be broadcast per day.

During an election campaign, commercial broadcasters may broadcast paid political announcements and advertisements, but without discriminating political parties, coalitions and candidates and on equal financial terms.

The same rules regulating the schedule and manner of broadcasting advertisements during programmes shall apply to commercial broadcasters.

## 2.Sponsorship

Definition

## Article 110

Sponsorship signifies the participation of a legal or natural person, not involved in broadcasting, in the direct or indirect financing of a programme, with the aim of promoting a name, trademark or an image.

State authorities and institutions, political parties, coalitions and other political organisations may not be sponsors of broadcast programmes.

Programmes may not be sponsored by legal or natural persons, whose core activity is the production or sale of products or provision of services, the advertising of which is prohibited by this Law.

Identification of a Sponsored Programme

#### Article 111

A fully or partially sponsored programme must be clearly marked as such by the identification of the sponsor at the beginning, during or at the end of the show. During the airing of sports, cultural or art programmes, the identification of the sponsor may be displayed both at the beginning and at the end of the natural breaks of the programme.

Prohibition of Sponsor's Influence on Programme Content and Time

#### Article 112

A sponsor may not under any circumstances influence the content and broadcasting time of the sponsored programme, nor shall the sponsor question the broadcaster's editorial policy on that account.

Sponsorship of news and other programmes dealing with current affairs is prohibited.

### VIII. PENAL PROVISIONS

#### Article 113

A fine between 50,000 and 200,000 dinars shall be imposed on a legal person which commits the following misdemeanour:

- 1) Broadcasts programme without a Council license (Article 38.);
- 2) Broadcasts a programme contrary to programme and/or technical standards laid down in the licence (Article 39, para 3);
- 3) Cedes, leases or in any other way transfers or alienates, temporarily or permanently, the granted broadcasting licence (Article 46);
- 4) Uses a radio frequency jointly with another natural or legal person without the Agency Council's approval or in contravention of the granted approval (Article 48);
- 5) Broadcasts without a licence a programme, which requires a broadcasting licence with a limited period of validity (Article 60);
- 6) Broadcasts programme contrary to the granted broadcasting licence with a limited period of validity (Article 60)
- 7) Broadcasts programme after the expiry of the broadcasting licence (Article 64);
- 8) Fails to broadcast an important and urgent announcement (Article 68, para 1, sub-para 3);
- 9) Broadcasts programme content in contravention of Article 68, para 1, sub-paras 5 and 6 of this Law;
- 10) Fails to identify its programme in keeping with Article 69, para 1 of this Law;
- 11) Uses a name, logo or abbreviated identification sign which does not correspond to the registered name of the broadcaster (Article 69, para 2);
- 12) Fails to identify the broadcaster or independent production whose programme it has broadcast or rebroadcast (Article 69, para 4);
- 13) Networks in contravention of Article 70 of this Law;
- 14) Does not allow other interested broadcasters to record and broadcast short reports of events for which the broadcaster had purchased the broadcasting right (Article 71, para 2);
- 15) Omits to report the planned change in ownership structure (Article 103);
- 16) Advertises products, goods or services the advertising of which is prohibited (Article 104, para 1);
- 17) Broadcasts advertisements and/or teleshopping, the broadcasting of which is prohibited (Article 104, para 4);
- 18) Broadcasts advertisements in contravention of Article 105 of this Law;

19) Broadcasts political advertisements outside an election campaign (Article 106, para 1);

20) Despite being a public broadcasting service institution, a civic sector radio and television station, acts as mediator, representative or advertiser of or on behalf of third parties (Article 107);

21) Broadcasts advertisements and teleshopping programmes beyond the time limits set out in Articles 108 and 109;

22) Discriminates political parties, coalitions or candidates when broadcasting paid political announcements and advertisements (Article 109, paragraph 3);

23) Sponsors a programme in contravention of Article 110, paras 2 and 3 of this Law;

24) Fails to clearly identify a fully or partially sponsored programme (Article 111);

25) As a sponsor, influences the content or the broadcasting time of the sponsored programme (Article 112 para 1);

26) Sponsors news or current affairs programmes (Article 112, para 2).

For a misdemeanour in para 1 of this Article a fine between 2,500 and 10,000 dinars shall be imposed on both the legal person's responsible person and the natural person.

A fine in the amount corresponding to 1 year subscription fee shall be imposed for a misdemeanour of natural and legal person failing to report the purchase of a radio and/or TV receiver, as prescribed by article 81 of this Law.

## **IX. INTERIM AND FINAL PROVISIONS**

### **Article 114**

Authorised nominators in Article 23 para 3 of this Law shall submit to the National Assembly of the Republic of Serbia their lists of nominees for Agency Council members within 45 (forty five) days after the day this Law comes into effect.

### **Article 115**

The National Assembly of the Republic of Serbia shall decide on the appointment of the members of the Agency Council, nominated by authorized nominators as prescribed by article 23 para 3 of this Law, within 45 (forty five) days after the expiry of the deadline for submitting the nominations.

### **Article 116**

The Agency Council shall be constituted within 15 (fifteen) days from the day the Council members were appointed, in accordance with article 115 of this Law.

At its constituent session, the Agency Council is obliged to determine the proposal for the appointment of the ninth member in accordance with article 23 para 4 and 5 of this Law, and to deliver this proposal to the National Assembly of the Republic of Serbia.

The National Assembly of the Republic of Serbia shall appoint the ninth member of the Council within 15 (fifteen) days from the delivery day of the proposal from para 2 of this article.

The Agency Council shall be under obligation to appoint the Chairperson and Deputy Chairperson, to pass its Statute, standing orders and general by-laws on systematisation of duties and tasks and the in-house organisation of the Agency within the deadline of 7 (seven) days from the appointment of the ninth member.

The Agency Council and Council Chairperson shall hire and allocate jobs to the required number of employees in the Agency within 45 (forty five) days after the day of the adoption of general by-laws in para 4 of this Article.

The Agency shall begin work the day the Council of the Agency is constituted.

The Government of the Republic of Serbia shall provide premises, technical, financial and other material resources for the beginning of the work of the Agency within 60 (sixty) days from the day this Law takes effect.

### **Article 117**

Other Agency general by-laws, necessary for its functioning and work, shall be adopted within six months at the latest from the day the Agency commences work.

General by-laws required for the calling of a public tender and the issue of broadcasting licences shall be passed within three months from the day the Agency commences work.

#### Article 118

The Agency shall begin issuing invitations for a public tender for broadcasting licences within 15 (fifteen) days from the day of adoption of by-laws, which are required for calling a public tender and granting broadcasting licences in keeping with the provisions of this Law and a separate telecommunications law.

The Agency shall start inviting tenders for granting broadcasting licenses in following order:

- 1) for the territory of the entire Republic;
- 2) for the territory of Autonomous Province and regions;
- 3) for local territories.

#### Article 119

Radio and/or television stations, which are broadcasting a programme at the time this Law comes into effect, shall continue broadcasts until the completion of a relevant broadcasting licence public tender, which shall be called in keeping with the provisions of this Law.

#### Article 120

The division of assets in Article 85, para 2, i.e. Article 94, para 2 of this Law shall be adopted by the Government of the Republic of Serbia by 31 December 2002 at the latest, upon the proposal of a Commission made up of three representatives each of the Government of the Republic of Serbia, the Executive Council of the Autonomous Province of Vojvodina and the Public Company "Radio-Television of Serbia".

The Commission set forth in para 1 of this Article shall be formed by the Government of the Republic of Serbia.

Radio frequencies used by the Public Company Radio-Television Serbia until the day this Law takes effect, shall, in keeping with the provisions of this Law, continue to be used by the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina until radio station licences are issued in keeping with the new Radio Frequency Assignment Plan and this Law.

The Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina shall commence work on 31 January 2003.

#### Article 121

The Republican Broadcasting Agency shall appoint the Managing Board of the Broadcasting Institution of Serbia and the Managing Board of the Broadcasting Institution of Vojvodina at least 30 (thirty) days before the day the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina commence work.

The Managing Board of the Broadcasting Institution of Serbia and the Managing Board of the Broadcasting Institution of Vojvodina shall be constituted within 7 (seven) days from the day of appointment (hereinafter Managing Board).

At its constituent session, the Managing Boards of the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina shall reach a decision to call a public tender for the appointment of the General Manager of the Broadcasting Institution of Serbia and the General Manager of the Broadcasting Institution of Vojvodina.

The respective Managing Boards shall appoint the General Manager of the Broadcasting Institution of Serbia and of the Broadcasting Institution of Vojvodina, within 15 (fifteen) days from the day the deadline for submitting applications to the public job tender has expired.

In the event that it fails to reach a decision on appointment upon the called public tender in para 4 of this Article, the respective Managing Boards shall appoint an acting General Manager of the Broadcasting Institution of Serbia and an acting General Manager of the Broadcasting Institution of Vojvodina, until the appointment of their respective General Managers.

The Managing Board of the Broadcasting Institution of Serbia, i.e. the Managing Board of the Broadcasting Institution of Vojvodina shall pass the statutes of these institutions within 30 (thirty) days from the day of their constitution.

#### Article 122

The Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina shall take over the resources, rights, obligations and employees of the Public Company Radio-Television Serbia the day they commence work in keeping with the division of assets in Article 85 para 2 i.e. Article 94 para 2 of this Law.

The General Manager of the Broadcasting Institution of Serbia, that is the General Manager of the Broadcasting Institution of Vojvodina, shall adopt general by-laws on the systematisation of jobs and the in-house organisation of work of the Broadcasting Institution of Serbia, that is of the Broadcasting Institution of Vojvodina, within 60 (sixty) days from the day Broadcasting Institution of Serbia i.e. the Broadcasting Institution of Vojvodina commences work.

Employees in para 1 of this Article, who are not assigned jobs in keeping with a general by-law on in-house organisation of the Broadcasting Institution of Serbia, that is of the Broadcasting Service of Vojvodina, shall enjoy the rights exercised by employees in the event of employment termination set out in a separate law.

From the day of the division of assets adoption in accordance with article 120 para 1 of this Law, Radio-Television Serbia may not alienate or burden its property or employ new staff.

#### Article 123

The Managing Board of the Broadcasting Institution of Serbia, that is the Broadcasting Institution of Vojvodina, shall at the latest within 15 (fifteen) days before the Broadcasting Institution of Serbia, that is the Broadcasting Institution of Vojvodina, commences work, launch a public tender for the appointment of the radio and television directors and programme editors-in-chief.

Until the completion of the public tender in para 1 of this Article and the adoption of the decision on appointment and within 30 (thirty) days from the day the Broadcasting Institution of Serbia, that is the Broadcasting Institution of Vojvodina, commences work, the respective Managing Boards shall appoint acting radio and television directors and acting programme editors-in-chief upon the proposal of respective General Managers.

#### Article 124

Radio-Television Serbia shall cease work on the day the Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina are registered in the court register.

#### Article 125

The Broadcasting Institution of Serbia and the Broadcasting Institution of Vojvodina shall pass other general by-laws envisaged by the law within six months from the day they commence work.

#### Article 126

Broadcasters, founded by local administrations (municipality, city) shall continue operating as local or regional radio and television stations, but shall be obliged to bring their work and business activities in accordance with the provisions of this Law within one year from the day this Law takes effect, as well as to conclude the privatization process within the deadline set forth in article 96 of this Law.

The competent Ministry shall within 6 months upon this Law takes effect adopt the regulation in which it shall prescribe the manner of radio and/or TV stations privatization set forth in article 96, para 1, 2 and 3 of this Law in more detail.

#### Article 127

The Public Company Radio-Television Serbia shall establish by 1 December 2002 a register of subscribers in the territory of the Republic of Serbia, who, as owners of radio and television receivers, are obliged to pay radio-television subscription in keeping with this Law.

The Radio-Television Serbia shall submit to each subscriber written notification on the future obligation to pay radio-television subscription, within 15 (fifteen) days from the day of establishing the register.

The obligation to pay radio-television subscription starts the month following the month in which notification in para 2 of this Article had been delivered.

#### Article 128

Provisions of this Law, in respect of the obligation to broadcast a prescribed percentage of programme in the Serbian language, i.e. self-produced programme, shall be applied upon the expiration of a period of one year after the day this Law takes effect.

Provisions of Chapter VII dealing with advertising and sponsorship shall be effective from January 1, 2003.

#### Article 129

Provisions of this Law, which regulate prohibited concentration of media ownership issues, shall not be applied to the state of affairs at the time this Law takes effect until a decision is made following a public tender for broadcasting licences for the relevant service area.

An applicant for the public tender for broadcasting licences shall abide to the provisions on prohibited concentration of media ownership in order for his application to qualify for consideration.

#### Article 130

The Law on Radio Television ("Official Gazette of the Republic of Serbia" no. 48/91, 49/91, 53/93, 55/93, 67/93, 48/94 and 11/2001) shall cease to be effective when this Law comes into force.

#### Article 131

This Law takes effect on the eighth day from the day of its publication in the "Official Gazette of the Republic of Serbia".