

MONITORING EU GUIDELINES IN MONTENEGRO

MAKING THE MEDIA DEPENDENT ON THE STATE

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This report briefly assesses independence and transparency of the media regulator and public service media in Montenegro in 2014 and early 2015 taking into account the indicators in the Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014–2020.

THIS REPORT WAS PRODUCED IN MAY 2015 by the SEE Media Observatory as a contribution to the 2015 assessment of two results – independent and professional regulators, and public service media – elaborated in the Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014–2020. The content of the assessment follows the indicators included in the EU Guidelines.

INDEPENDENT AND PROFESSIONAL REGULATORS

LEGAL PROVISIONS ON INDEPENDENCE OF THE REGULATOR

Regulatory body in Montenegro – Agency for Electronic Media of Montenegro (AEM) – is founded by the state as “an independent AVM service regulatory body with public authorities” (Law on Electronic Media, enacted in 2010 and amended in 2011). According to the founding act (2010 Law on Electronic Media), it is an autonomous legal entity, functionally independent from any state authority, and any legal and natural persons engaging in production and broadcasting of radio and TV programs, or provision of other AVM services (Article 10).

However, other laws compromise independence of the Agency. For example, the Law on Budget obliges AEM to submit its financial plans and reports to the Parliament for adoption, as well as to return the revenue surpluses to the state budget. The Law on Budget has been amended in April 2014, but the legislature ignored the regulator’s arguments, and the provisions regarding the AEM’s finances remained in force. The only change is that AEM is now obliged to make all money transfers through the Central Bank of Montenegro, instead of using one of the commercial banks in the country. The 2010 Law on the Electronic Media is now under review again, but the Government’s focus is on the European rules for state aid in the media sector. The first draft published by the Ministry of Culture in April 2015 has not addressed any of the provisions relevant for the Agency’s independence.



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TRANSPARENCY OF THE REGULATOR

AEM is legally obliged to publish its Activity and Financial Reports, as well as “to make all documents pertaining to rights and obligations of legal or natural persons available to the public, accompanied by a statement of reasons” (2010 Law on Electronic Media). Statute of the Agency also stipulates that the following documents and information must be published on its website: statute and other general documents adopted by the Agency; decisions and other administrative documents of the Agency; public calls and invitations to public consultations; professional opinions and explanations related to implementation of the Electronic Media Law; statistical and other indicators related to the development of the AVMS sector; decision of the Parliament of Montenegro on the appointment and revocation of the Council members; the details of the Chairman and members of the Council, Agency Director and other employees of the Agency; decisions following the public calls for awarding the rights to provide AVM services. These obligations are fully respected in practice- documents are made available to the public, on the AEM’s website.

According to the Activity report for 2014, around 250 new documents were published on the AEM’s website while that number was nearly double in the preceding year. Number of visits to the website for the past two years is approximately 130,000, with around 10,000 unique users per month.

EFFICIENCY OF THE REGULATOR

The Agency is highly efficient in performing its normative activities. All procedures in adoption of bylaws, and decisions regarding the functioning of AVM service providers are adopted and published according to a legally set timeframe. Open calls for spectrum allocations and licensing procedures are promptly and effectively implemented. On the other hand, AEM provides little insight into the functioning and operations of the electronic media. Monitoring reports on the broadcasters’ respect of program standards are scarce and sporadic (the latest one is from 2012). In this domain, AEM fails to perform its control function in the implementation of legal provisions on program standards, and fails to provide program quality check.

While granted sanctioning power, AEM most often refrains from practicing it. The majority of media in Montenegro are faced with financial difficulties, and, consequently, they fail to fulfil their financial obligations towards the regulator – they do not pay broadcasting license fees. However, AEM has not revoked any license on the ground of that violation of the law, but instead it has tried to solve this situation by offering broadcasters a debt-restructuring scheme in an attempt to keep the existing level of media pluralism in Montenegro’s electronic media landscape.

On one hand, it is valuable to keep the level of pluralism in the media high. On the other, by doing such compromises, the Agency directly interferes in the media market competition, and also increases the dependence of the media

MEDIA LEGISLATION IN MONTENEGRO PROVIDES FOR INDEPENDENCE OF THE REGULATOR, BUT OTHER LAWS SUCH AS THE LAW ON THE STATE BUDGET COMPROMISE THAT INDEPENDENCE.

of the state, supporting their practice to turn to the state for aid in financing of their businesses. In numbers, the broadcasting fee collection remains poor for years. In 2013 and 2014, the Agency collected only around one third of the broadcasting fees. With the debt-restructuring scheme introduced in 2014, the Agency managed to collect 40 percent of the unpaid fees from previous years. However, at the end of 2014, the total amount owed by broadcasters and AVM service providers to the Agency amounted to around 0.6 million EUR, while the overall annual revenues of AEM for the past 4 years amount to around 1 million EUR. The Agency has provided several incentives to broadcasters in order to solve this crisis. In 2013, AEM decided to give a 15 percent discount to broadcasting fees, for last three quarters of the year, but the percentage of total collection of fees was only 32 percent.

REGULATOR CONSULTED ON THE REGULATION CHANGES

The Ministry of Culture regularly consults the Agency on the regulation changes in the electronic media sector. For example, the Agency has given its opinion on the latest draft amendments to the Law on Public Broadcasting Services (November 2014). Agency's comments to the draft laws are made available to the public through its website. The Agency's opinion is not binding but it is considered in the parliament procedure of adopting the laws. The Agency is also legally obliged to organize public consultations when drafting the Development Program for AVM services sector and when determining the amount and method of payment of fees, the registration fee for the AVM service providers and the fee payable upon issued license for provision of AVM service.

MEDIA SECTOR CONSULTED ON THE REGULATION CHANGES

The Agency also regularly invites AVM service providers to give their written comments, proposals and suggestions prior to adopting any legal act with impact on provider's rights and obligations. It is, however, not known to what extent is the sector engaged in such consultations. For example, when adopting the Rulebooks on quotas for the European and independent productions, the Agency published the invitation for public consultations on its website on 22 September 2014, accompanying the invitation with the draft text of the Rulebooks. The invitation stated that comments could be given in written form by 8 October 2014. The next piece of information on the topic was a release from the Agency's Council meeting from 30 October stating that the Rulebooks was adopted, with no information on comments received or participation of any other interested parties.

DESPITE HAVING THE SANCTIONING POWER, AEM MOST OFTEN REFRAINS FROM PRACTICING IT. STRUGGLING WITH FINANCIAL DIFFICULTIES, MANY BROADCASTERS DO NOT PAY BROADCASTING LICENSE FEES. INSTEAD OF SANCTIONS, AEM IS OFFERING THEM A DEBT-RESTRUCTURING SCHEME AS AN ATTEMPT TO KEEP THE EXISTING LEVEL OF PLURALISM IN THE MONTENEGRO'S ELECTRONIC MEDIA LANDSCAPE. SUCH APPROACH INCREASES THE DEPENDENCE OF THE MEDIA OF THE STATE.

INTERFERENCE BY THE GOVERNMENT AND THE PARLIAMENT

The Government representative was excluded from the governing body of the Agency (Council of the AEM) by changes of the Law on Electronic Media in 2010. Instead, the governing board consists of 5 members elected among members of academia, professional organizations and civic sector. However, the Government and the Parliament have continued to interfere with AEM's financial autonomy. The Parliament elects AEM's Council members through transparent procedure, but it also has legal power to dismiss the whole Council as the governing body of regulator in case it fails: 1) to meet for more than six months without a justified reason, or 2) to make publicly available, by posting it on the AEM's website AEM's Activity, Financial and Audit Report for the previous year, not later than by the end of June of the current year.

The Parliament's control became even stronger in 2014. In April 2014, the Parliament convened a control hearing of the Agency's management and its Council members. The Parliamentary committee was dissatisfied with the quality of implementation of the Law on Electronic Media, the complaints referred to the lack of initiative within the Agency to monitor and sanction program content such as defamatory and hate speech. It was also criticized for inability to involve the general public in using the instruments of media regulation – the proof of which was a very small number of received viewers' complaints. Another general objection was the Agency's practice of not sanctioning the broadcasters that do not pay the broadcasting fees, which the Agency's managers justified on grounds of insufficient capacities of the Agency, which in turn influence its ability to produce more results in monitoring of the program standards. They also mentioned the Agency's plan to launch a campaign for boosting citizens' use of complaints mechanism. Answering to criticism for not imposing sanctions to broadcasters that do not pay the broadcasting fees, the Agency claimed strict application of the legal provisions in that case would result with collapse of more than half of the broadcasting media in Montenegro. The hearing also raised the issue of the Parliament's improper interference with the Agency's independence. It was emphasized that there is no legal basis for the Parliament to organize such a hearing in the first place – the hearing of the AEM's governing board and management (except in the Parliament's rules of procedure) – or to influence them to act in any specific manner other than the legally prescribed.

FINANCIAL AUTONOMY OF THE REGULATOR

AEM is financed from direct revenues assigned to it by the Law on Electronic Media. Regulator acquires funds from non-recurrent fees for registration of the AVM service providers and from the annual fees paid as per issued licenses for the AVM service provision (transmission fee, on-demand AVM service provision fee). Revenues and total spending are planned and realized according to the publicly available financial plans and reports. The state does not contribute to Agency's

funding and, since the adoption of the 2010 Law on Electronic Media (which gave the licensing competencies to the Agency), the regulator operates with surpluses.

In January 2013, the legislation changes forced the nominally independent AEM to return its own budget surpluses to the state budget. The Agency has protested against that solution since those funds are then not invested in the AEM's capacities and operations or in any initiatives beneficial for the media sector. Furthermore, the restrictions in the AEM's finances obstructed the regulator's intention to invest resources in strengthening its monitoring capacities. The Agency was subjected to the same rules also in 2014. While this has not endangered the Agency's functioning given that its financial operations resulted in surplus in 2014 as well, it has prevented it from investing in the development of its own capacities.

The Parliament has continued to be responsible for adoption of financial plans and reports of the Agency, contrary to the EC recommendations. It has also practiced its power to modify financial plans of regulator. The fact that the Parliament forced the Agency to modify its financial plans for 2013 and 2014, according to both Freedom House and the EC Progress report, it „clearly undermines the AEM's independence". This power was given to the Parliament by the 2011 Law on Budget, and the clause in question has not been revoked in 2014 amendments (2014 Law on Budget and Fiscal Responsibility).

Based on the Government's recommendations, in 2011 and 2012, the salaries in nominally independent regulatory bodies, including AEM, were reduced and that measure is still in force. However, the salaries in the Agency are still above the national average. The management insists on maintaining them as high as possible in order to keep the existing and attract the new qualified personnel in the sector where telecom industry presents strong competition.

Financial crisis is partially blamed for having significantly affected the revenues of both broadcasters and AVMS providers. However, while the broadcasters are struggling, the finances of the regulator have not been significantly affected thanks to the expansion of on demand AVM services providers. In 2014, they provided more than 60 percent of AEM's revenues in comparison to 30 percent collected from broadcasters. The share of the income from the fees paid by on demand AVM service providers in the Agency's annual revenue has been doubled since 2011.

TRACK-RECORD OF THE REGULATOR'S INDEPENDENCE, TRANSPARENCY AND PROFESSIONALISM

Past performance of the broadcasting media regulation in Montenegro does not serve as an indicator of future stability. On the contrary, Montenegro has gone through a serious crisis in this sector. The 2010 Law on Electronic Media has eliminated the problems created by the 2008 regulation, which deprived the Broadcasting Agency (official name of the regulator until 2010) of several important powers. The same legislation prescribed the establishment of a new

THE PARLIAMENT'S INTERFERENCE IN THE WORK OF THE REGULATOR BECAME EVEN STRONGER IN 2014. IN APRIL 2014, THE PARLIAMENT CONVENED A CONTROL HEARING OF THE AGENCY'S MANAGEMENT AND ITS COUNCIL MEMBERS WITHOUT HAVING LEGAL BASIS FOR SUCH CONTROL.

regulatory body, the Agency for Electronic Communications and Postal Affairs, but the powers of the two Agencies were not clearly distinguished. That situation caused a significant amount of criticism and tensions. The 2010 Law on Electronic Media was adopted following the severe criticism from the EU, OSCE and international organizations such as Article 19. The discussion in the national Parliament during the procedure of adoption of the Law raised concerns whether such solution was a compromise made by the Government in order to keep the control over the other regulatory body, the Agency for Electronic Communications and Postal Affairs, which controls primarily the area of telecommunications with an annual turnover of over 300 million EUR.

AVAILABILITY OF RECORDS ON MEDIA OWNERSHIP AND FINANCIAL STATEMENTS OF OUTLETS

AEM is obliged to provide annual reports on media ownership, but the latest annual report available on the AEM's website (accessed on 28 April 2015) is the one from 2012. Currently, the only available information is sporadic notices on changes in media ownership structure of particular media. Commercial media outlets in Montenegro have never revealed their financial statements, nor are they obliged to do so. AEM does not have any jurisdiction over their economic performance or its transparency.

LEGISLATION AGAINST MEDIA MONOPOLIES AND DOMINANT MARKET POSITIONS

The 2010 Law on Electronic Media provides definitions and sanctions for media concentration. All decisions on sanctions, as well as resolutions of the complaints submitted by the media are made public through the AEM's website. Unlawful media concentration is considered to exist when a broadcaster with national coverage holds more than 25 percent stake in another national broadcaster or more than a 10 percent stake in a news agency or daily print media with the circulation exceeding 3,000 copies. The Law also forbids broadcasters to broadcast over the same area more than one television and one radio program with the same or similar program content. Also, radio or television program licensed for broadcasting with local or regional coverage may not hold more than 30 percent stake of another broadcaster with regional or local coverage over the same area, or publish local daily print media (Article 131). The same provisions apply to relatives of media owner in direct line up to the second degree or his/her spouse. (Article 132) Besides the Law on Electronic Media, there is also separate regulation against monopolies – the Law on Protection of Competition (2012). Regulator in this area – Agency for Protection of Competition – has never intervened in the electronic media sector, but it has annulled the 2013 agreement of four daily papers on the price increase from 0.5 to 0.7 EUR. The decision still hasn't been enforced due to long court appeal procedures.

The sanctions for illegal media concentration, as stipulated in the Law on Electronic Media, include license revocation or denied license. Such measure has never been applied. Instead, AEM has issued warnings to media outlets that have breached these provisions and requested from them to correct the irregularities in the ownership structure. In 2014, there were no such interventions, and in 2013 there were only two, both resolved in line with regulator's requests. It is uncertain whether the formal ownership structure discloses who really controls the tangible media. For example, media concentration was announced legally correct in the case of a broadcaster TV Vijesti, a daily newspaper Vijesti, weekly magazine Monitor, and news web portal Vijesti, where several individuals formally have only minor stakes in the ownership structure of these media. In public, they are, however, recognized as main and real owners and decision-makers.

All decisions on sanctions, as well as complaints resolutions invested by sanctioned media are made public through AEM's website.

"STATE ADVERTISING"

State advertising in the media in Montenegro is not regulated. The analyses conducted by civic sector revealed indications that state advertising is irregular, uncontrolled and non-transparent. It also distorts media market competition. The 2014 report released by the Center for Civic Education, disclosed that in 2013 state bodies spent more than 2 million EUR on advertising, with the majority of that money having gone to public broadcaster RTCG, (at that time) state-owned daily Pobjeda, and to local media controlled by local governments in accordance with their political and pro-government affiliations. At the same time, the state spent only 2 percent of that total amount for advertisements in private broadcaster TV Vijesti, and even less in daily Vijesti, although they are among the three most influential media in Montenegro (according to the opinion polls) but critical to the Government in their editorial policy.

This illustrates the need to introduce good governance rules in this area, not only for market reasons, but also to prevent misuse of the state finances for further political polarization of the media in Montenegro. According to data of National Electoral Commission on political parties' expenditures for media campaigns during the 2014 local elections, the opposition parties clearly supported TV Vijesti, while on the other hand, ruling party DPS spent its entire advertising budget in TV Prva and TV Pink, whose editorial policy is close to the Government. There are no data on volume and share of state advertising or use of other type of public money per media outlet in Montenegro. Neither regulation nor self-regulation has been adopted to introduce such transparency obligations. Also, there is no record on advertising spending by big state-owned companies and no monitoring of that issue.

THERE IS URGENT NEED TO INTRODUCE GOOD GOVERNANCE RULES FOR "STATE ADVERTISING", NOT ONLY FOR MARKET REASONS, BUT ALSO TO PREVENT MISUSE OF THE STATE FINANCES FOR FURTHER POLITICAL POLARIZATION OF THE MEDIA IN MONTENEGRO.

SECTOR ANALYSIS AND VERIFIED AUDIENCE MEASUREMENT

AEM is legally obliged to monitor adherence to the minimum program standards, commercial AV communications and “other legal rules with regard to broadcasted program”. In practice, AEM regularly provides quarterly market reports limited to data on market coverage with digital vs. analogue signal, and channels/types of signal distribution. It also sporadically monitors the program standards (the last report is from 2012). Those reports are limited to data on the amount of production by national broadcasters, and quotas for commercial AV communications.

In 2014, the Agency introduced practice of semi-annual analyses of television coverage of events/topics of special interest. In 2014, such events were local elections and the Pride Parade. Apart from this, the Agency doesn't provide any data on audience share of specific broadcasters, or any other data on type/quality of program that could be useful for setting policy. Audience measurement data is sporadically provided by private agency Ipsos Strategic Marketing. These measurements are conducted under commercial contracts with broadcasters and are not publicly available.

The Agency is, however, active in policy setting within its scope of current jurisdiction. Such example is the digitalization agenda. Transfer from analogue to digital broadcasting in Montenegro was intensified only in mid 2014, when the necessary equipment was installed and the national broadcasting multiplex set to operation. In June 2014, the first permit to start digital broadcasting was given to public broadcaster RTCG, free of charge. In October 2014, an open call for nine available licenses for digital broadcasters was published. AEM has previously raised concerns that poor financial and technical capacities of commercial broadcasters could be an obstacle for digitalization. Therefore it decided not to charge any additional costs for digital broadcasting until the final shut down of analogue signal in June 2015. Only three broadcasters applied to the call. It means that two thirds of digital broadcasting capacities are left out of use and without means for exploitation. The market conditions make majority of commercial and local public broadcasters uninterested in transferring to digital platform because of debts and anticipated switchover costs. The delayed digital switchover was realized at the point of time when more than 75 percent of Montenegrin households already chose some other platform for reception of TV programs.

MONITORING OF INFORMAL ECONOMIC PRESSURES ON INDEPENDENT REPORTING

AEM does not conduct any analysis that might disclose informal economic pressures on independent reporting. On the other hand, there is a clear need for identifying potential threats to fair media reporting and operating. Civil society organizations (for instance Institut Alternativa, 2015) in their reports

raise the issue of unfair competition in advertising and media market in general. For many years professional associations such as AKEM (Association of Commercial Electronic Media) claim that the operations of TV broadcasters Pink and Prva, which produce majority of their programs in Serbia, should be considered unfair competition to the rest of commercial broadcasters in Montenegro. It is unclear whether the TV stations with headquarters in Serbia and operations in Montenegro fulfil legal requirements on local production quota. The latest publicly available data from May 2012, provided by AEM, show that some of broadcasters do not respect the quota requirement, but there is no data available on subsequent actions undertaken by the regulator nor more recent data to reveal whether this still is the case. These broadcasters, however, harvest the greater part of the marketing revenues in Montenegro.

It is estimated that 80 percent of advertisements placed in Montenegrin media come through specialized advertising agencies, with the remaining 20 percent contracted directly between media outlets and businesses. The market is dominated by branch offices of big regional advertising agencies' chains where dominant position belongs to Direct Media agency.

Apart from already mentioned provisions on unlawful media concentration and general anti-monopoly legislation, no other legal provision or legal check against economic irregularities or pressures exist.

PRIVATISATION OF STATE-OWNED MEDIA

In November 2014, the last remaining state-owned media (with 84.7 percent state ownership stake) in Montenegro – daily Pobjeda – was privatized. For more than a decade the state has been violating the Law on Media which set the final deadline for privatization of Pobjeda in November 2003. During that period the state aid to the newspaper amounted to almost 6 million EUR, in addition to covering multimillion losses of the company during the years. Three privatization tenders (2007, 2008 and 2011) failed. The last two finished in failed negotiation between WAZ, and later AVAZ, and the Government. The public has never been given precise reasons for the tender failures. During this decade, the government has increased its ownership stake by writing-off the company's tax debts. At one point, the Government bought the land and the building of Pobjeda estimated at 4.89 million EUR, and in return paid 2.8 million EUR for taxes and contributions for employees' salaries, but the public never found out how the difference of 2 million EUR was spent. Finally, the company has declared bankruptcy and then it was sold in direct negotiation procedure. The new owner of Pobjeda is the Greek company Media Nea, which already owns a daily in Montenegro – Dnevne novine. The owner, a Greek businessman Petros Stasis is a business partner of Victor Restis, one of the tenants of Sveti Stefan, with good connections with the Montenegrin Government. In public, there were speculations that the deal was agreed in advance.

PUBLIC SERVICE MEDIA

LEGAL DEFINITION OF PUBLIC SERVICE REMIT

The public service broadcaster in Montenegro is a public enterprise “Radio and Television of Montenegro”(RTCG) with two radio and three TV channels. Its remit is specified in the Law on Public Broadcasting Services of Montenegro (2008, 2012). The activity of RTCG is the production and broadcasting of radio and television programs that meet democratic, social, educational, cultural and other needs of public interest of all segments of Montenegrin society.

The law holds the public broadcaster obliged and accountable for production and broadcasting high quality programs which meet public interests on both national and local level, in balance manner, and with appropriate representation of informative, cultural, educational, scientific, sport and entertaining programs. RTCG is obliged to take into special account children and youth, national and ethnic minorities, disabled persons, and socially vulnerable groups; to affirm and foster Montenegrin national and cultural identity, as well as European cultural heritage. Its mission is also to contribute to the observance and promotion of fundamental human rights and freedoms, democratic values and institutions, public dialogue culture, and to present citizens’ initiatives, and a number of other obligations.

In practice, RTCG has gone through significant program changes since the appointment of new general manager, Rade Vojvodic, former owner of the closed commercial IN TV, in 2012. Vojvodic hired around 30 journalists and editors from IN TV, which for 10 years held a position as a station with top audience share in Montenegro. The former IN TV editors took some of the key positions in RTCG while the newsroom editorial team remained unchanged. Old news management is close to the Prime Minister Milo Djukanovic, and therefore the reporting of public broadcaster is considered as biased to the ruling party DPS. Vojvodic is trying to transform technically outdated system of the public broadcaster in a modern, but also more entertainment oriented television. The proofs of this in 2013 and 2014 were investments in costly Turkish soap opera shows and sports program. There are critical views in Montenegro claiming that new general management of public broadcaster does not understand and respect the concept of public service.

LEGAL PROVISIONS ON EDITORIAL INDEPENDENCE AND AGAINST POLITICISATION OF PSB

The legal provisions on independence (Article 13 and 14 of the Law on Public Broadcasting Services in Montenegro) state that RTCG independently decides upon the content of the program. Journalists’ independence is specially highlighted in the Article 14, which states that journalists employed at RTCG are independent in their work, acting in the public interest. According to the law, journalist may not be dismissed from a job, his/her salary may not be reduced,

THE RTCG COUNCIL, A SUPERVISORY BOARD, IS INDEPENDENT OF ANY STATE AUTHORITY, AND IT IS RECOGNIZED AS THE BODY WHICH REPRESENTS THE PUBLIC INTEREST. IT TAKES EFFECTIVE PARTICIPATION IN THE CONTROL OF THE RTCG FUNCTIONING.

his/her job position in editorial office may not be changed, and he/she may not be determined as responsible for an opinion or a position expressed in accordance with professional standards and program-related rules.

SUPERVISORY BOARD OF PSB

The RTCG Council, a supervisory board, is independent of any state authority, and it can be said that it represents the public interest. In line with the 2012 Law on Public Broadcasting Services, the Council has eight members and the president who are elected as nominees of Universities in Montenegro, Montenegrin Academy of Science and Art, “Matica crnogorska,” national institutions of culture and non-governmental organizations in the field of culture, Montenegrin Chamber of Commerce and association of employers, trade unions, non-governmental organizations in field of media (except association of broadcasters), non-governmental organizations for protection of human rights and freedoms, protection of environment, consumers’ rights and rights of the disabled persons or rights on education and social welfare, as well as Montenegrin Olympic Committee and Montenegrin Para-Olympic Committee. The Council takes effective participation in the control of RTCG functioning. It sometimes releases dissonant opinions on managerial practices coming from civic sector representatives in the Council. These critical voices especially address the use of available funds. On the other hand, the current composition of the RTCG Council is not recognized as professionally strong enough to implement measures for raising the quality of PBS program and its functioning.

SUSTAINABILITY AND AUTONOMY OF PSB FINANCING MECHANISM

Since 2009, the RTCG is financed through contributions from the state budget (1.2 percent of the budget), advertising revenues and other own revenues from sales of audiovisual works and sponsorship. In 2013, the state contributions amounted to 82.5 percent of the RTCG’s total revenues. It reveals that RTCG for the major part of its finances relies on the state aid. The situation makes the public broadcaster vulnerable and puts at risk its independence and freedom in editorial decisions. According to the 2013 financial report, the RTCG total revenues amounted to 11.9 million EUR, out of which 7.4 million EUR come from the state budget contribution; additional 2.4 million EUR is contribution of the state to cover debts to the European Broadcasting Union, taxes and electricity bills. In its last financial report covering the first half of 2014, RTCG declares that the amount of the current state contribution is not sufficient for fulfilment of public broadcaster’s legal obligations.

The search for more favourable financing model has started in 2013, with drafting the amendments to the legislation. Current proposal, released by the Ministry of Culture in 2014, and supported by RTCG, specifies that the amount of state contribution to public broadcaster should be set to 0.3 percent of GDP.

If applied, such solution will increase the state contribution to the budget of RTCG for 30 percent. The Government is supporting the draft proposal that also introduces the provision that the state contribution can be spent only for production of programs qualified as programs of public interest, and not for production of commercial programs. The model of financing with subscription (licence) fee paid by households would eliminate the public broadcaster's dependence on state, but is not considered an option since in the past it was inefficient in practice. The subscription fee model had been in force in 2007 and 2008, but the collection of fees charged with telecommunication and later electricity bills was poor (only 30 percent was successfully collected).

The pressures on increasing the revenues of RTCG mounted with approaching the deadlines for digitalization which, according to the RTCG management) requires additional investment of 16 million EUR for modernization of poor and outdated technical capacities of RTCG.

AVAILABILITY OF ANNUAL REPORTS

RTCG regularly publishes annual financial plans and reports, including annual reports on realization of its program orientation. These documents are available to the public on the web site of the public broadcaster.

EFFECTIVE MECHANISM IN PLACE TO DEAL WITH VIEWERS' COMPLAINTS

RTCG also has valid program principles and professional standards that incorporate ethical standards, adopted in 2003. A mechanism for dealing with viewers' complaints is established in the RTCG's Statute; the public broadcaster has appointed a special Commission for dealing with audience complaints. The Commission is composed from three members elected by and accountable to the RTCG's Council - its conclusions on violations of professional standards need to be adopted by the Council, and after that they are published on the RTCG's website. According to information on the RTCG website (accessed on 28 April 2015), in 2014, there were eight Councils' decisions referring to viewers complaints. They are all given in form of recommendations to the editor of the news program, calling for more attentive approach to the program principles and standards. The complaints were mainly filed by state institutions complaining that RTCG has not reported on their activities, and by civic organizations defending human rights of LGBTs. For comparison, in 2013, RTCG received 7 viewers complaints and only 3 in 2012. Judging by the numbers of received complaints, the general public is not familiar with the existence of this mechanism or its purpose.

MEASURING DYNAMICS OF PUBLIC'S TRUST IN PSB

The RTCG's annual reports on realization of program orientation for 2012 and 2013 contain viewership analyses performed by the private agency Ipsos

RTCG FOR THE MAJOR PART OF ITS FINANCES RELIES ON THE STATE AID. SINCE 2009, THE RTCG IS FINANCED MOSTLY THROUGH CONTRIBUTIONS FROM THE STATE BUDGET (1.2 PERCENT OF THE STATE BUDGET). IN 2013, THE STATE CONTRIBUTIONS AMOUNTED TO 82.5 PERCENT OF THE RTCG'S TOTAL REVENUES. THE SITUATION MAKES THE PUBLIC BROADCASTER VULNERABLE AND PUTS AT RISK ITS INDEPENDENCE AND FREEDOM IN EDITORIAL DECISIONS.

Strategic Marketing. The 2013 report provides detailed analysis which shows increase in audience perception of quality of almost each program segment of RTCG. The research was based on interviews with public representatives asked to evaluate different parameters such as quality of information, professionalism, relevance etc. The largest success was the increase in the audience perception of quality of central news program Dnevnik 2 from 30.74 percent to 34.45 percent, with decrease in audience perception of bias and political influence from 24 percent to 17 percent. Until the end of April 2015, the RTCG annual report for 2014 has not been available.

DIGITALIZATION OF PUBLIC SERVICE BROADCASTING

Digitalization process in Montenegro started in 2008 with the adoption of the National Digital Switchover Strategy, but the process of digitalization has been postponed several times due to the lack of financial and institutional capacities. The procurement of digital TV broadcasting equipment in Montenegro has been funded by the Delegation of the European Union in 2011, but the equipment was not operational until late 2013. The reason for that were complaints and a lawsuit alleging misconduct by the EU Delegation during the tender procedure. The complaints were solved in favour of the EU Delegation, but the case caused significant delay in the project implementation. The technical and institutional conditions were established only in mid 2014.

Two television and two radio channels of the national public broadcaster RTCG were automatically included in the catalogue of the first multiplex. The Broadcasting Center, as a multiplex operator is obliged to distribute the programs of RTCG at no charge, through free access. Other commercial television channels were given possibility to gain access to the first multiplex through public tender realized in the second half of 2014. However, due to the lack of financial and technical capacities the interest from commercial and local public broadcasters was poor. Only three national TV broadcasters responded to the tender; only 3 out of 9 available licenses have been allocated. The Agency for Electronic Media waived digital broadcasting fees for commercial broadcasters until June 2015, which is the final deadline for completing the process of digitalization according to the law.

Although the AEM has announced that the broadcasting fees will not be significantly changed with the new digital platform set in place, the interest of commercial broadcasters remained low. Majority of them have their signals transmitted through some of the existing channels of cable, IPTV and other modes of distributions, which already have almost 80 percent penetration. Additional costs of technical adjustments to digital broadcasting platforms create an obstacle for digitalization process in Montenegro. RTCG estimates that the transformation requires 16 million EUR of investments, which will most likely be given to the public broadcaster from the state budget. Commercial

RTCG ESTIMATES THAT THE TRANSFORMATION TO DIGITAL BROADCASTING REQUIRES 16 MILLION EUR OF INVESTMENTS. MOST LIKELY IT WILL BE GIVEN TO THE PUBLIC BROADCASTER FROM THE STATE BUDGET. COMMERCIAL BROADCASTERS CANNOT EXPECT SUCH STATE SUPPORT AND THEY OFTEN TURN TO THIS ARGUMENT WHEN SPEAK ABOUT RTCG AS AN UNFAIR COMPETITOR IN THE MEDIA MARKET IN MONTENEGRO.

broadcasters cannot expect such state support and they often turn to this argument when speak about RTCG as an unfair competitor in the media market in Montenegro.

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MAKING THE MEDIA DEPENDENT ON THE STATE