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INTRODUCTION

The modification of Montenegrin broadcasting legislation, a process that took several years, resulted, among other things, in the final steps in transforming the operation of the Agency for Electronic Media (AEM), as envisaged by the Electronic Media Law, being the primary focus of its activities in 2011. Hence, the 2011 Work Plan focused on adopting a set of by-laws, and putting in place the normative and practical assumptions for re-establishing AEM's financial viability, as a key prerequisite for securing its position of a genuinely independent regulatory authority.

Rather uncontrolled radical amendments of the legal framework governing the audiovisual media (AVM) services had a chain effect on practically all essential aspects in this sector. Hence, the bulk of AEM operations focused on ad hoc neutralising of the adverse impacts of inconsistent and, at times even controversial, provisions of the new legal framework. This was further aggravated by some subsequent provisions seriously threatening to gradually turn the AEM into a state administration authority.

In mid 2011, by issuing approval for provision of AVM services (broadcasting licence and approval for provision of AVM services on demand) to licence holders as per the prior law, the assumptions were put in place for establishing stable sources of revenues for the AEM. Given the grave economic situation faced by a large number of broadcasters, collection of broadcasting fee revenues fell short of the plan; however, for the time being, it does not threaten the continued operation of AEM.

Although the adoption of the Digital Broadcasting Law was supposed to accelerated the A/D switchover, given the delay in the development of the necessary transmission infrastructure for the first multiplex with national coverage, the activities related to the beginning of simulcast, including the public call for tenders for the access to the first multiplex and the promotion of the process, have been deferred. Although envisaged for late 2012, the postponement of analogue phase out seems quite certain, which only further aggravates the position of broadcasters whose licences will have expired by that time, and there are no conditions in place for making decisions and planning their future at the time of the digital broadcasting.

As a part of its regular activities in 2011, the AEM monitored the compliance of AVM service providers with the programme standards and protection of copyright and related rights. Given that the revised programme standards rulebooks and the new Law on Copyright and Related Rights were adopted in mid 2011, the AEM focused partly on the promotion of new revised provisions to encourage broadcasters and operators to compliance.

As one of the actors in the field of audiovisual policy implementation, the AEM contributed to the activities directly or indirectly pertaining to the AVM sector, particularly amendments to the Law on Inspection Supervision, the Law on Games of Chance, drafting the new Audiovisual Activity Law, etc.

The AEM 2011 Activity Report is a document featuring information on meeting its obligations directly stipulated (most often with strict deadlines) by the law or relevant secondary legislation. The normative basis for reporting is laid down by the Media Law, Electronic Media Law, Broadcasting Services Law, the Law on Copyright and Related Rights, and the Electronic Communication Law, as well as the AEM 2011 Financial Plan and Work Plan.

This report features all AEM's activities related primarily to introduction of the legal basis for re-establishing the agency's economic viability, and all other tasks carried out in 2011, vital for timely and successful implementation of the Electronic Media Law and the adoption and application of pertinent European standards in Montenegro.

DEVELOPMENT AND APPLICATION OF THE LEGISLATIVE FRAMEWORK FOR THE AVM SECTOR

1. *Electronic Media Law implementation*

The work and operation of AEM in 2011 was marked by complying with the provisions contained in the Electronic Media Law (Official Gazette of Montenegro 46/10, 40/11 and 53/11). An important segment of the law sets a framework defining the position, the rights and obligations of the Agency for Electronic Media (hereinafter: the AEM) as an independent regulatory authority for audiovisual media services (hereinafter: AVM services), exercising public authorities according to the law.

In early 2011 the AEM Council started operation with the adoption of the AEM Statute, the Council's Rules of Procedure, and the AEM Code of Ethics.

Pursuant to transitional and final provisions of the Law (Article 149), the Broadcasting Agency continued operating as the Agency for Electronic Media, taking over the staff, the equipment, rights and obligations of the Agency originally set up in 2003.

Following the public competition, the Council of the Agency for Electronic Media (hereinafter: the AEM Council), at its session held on 17 February 2011, passed the Decision to appoint the AEM Director.

As envisaged by the new Law, the AEM Council, at the proposal of the AEM Director, approved AEM 2011 Financial Plan and the Work Plan (available at AEM website www.ardcg.org). Pursuant to the amended Electronic Media Law from November 2011, the Parliament of Montenegro approved the AEM Financial Plan together with the 2012 Work Programme (Official Gazette of Montenegro 64/11).

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In line with its legal competences, AEM passes general and individual acts stipulating in more detail the rights and obligations of providers of AVM services and electronic publications (Art 45 of the Law). In doing so, the AEM is obliged, when drafting such acts, to post on its website the draft texts and extend an invitation to all interested parties to give their comments, proposals and suggestions for not fewer than 15 days.

Following the good practice established by the previous Agency, as a part of the consultation process in adopting the documents of the kind, AEM organised specialised thematic events and discussions with the members of the press, guilds and professional associations, non-governmental organisations, experts for specific fields and aspects of the issues, relevant state authorities, international institutions, individuals and entities. Such an approach helped reach sound, feasible and sustainable solutions.

Thus, on 21 June 2011, AEM organised a **round table discussion on the Draft Rulebook on Programme Standards for Electronic Media in Montenegro**, and on 01 July 2011 a **round table discussion on the Draft Rulebook on Commercial Audiovisual Communications**. Given the scope, nature and significance of changes brought about by these pieces of secondary legislation, the participants agreed it would be useful to hold a similar event after the adoption of the said legislation to exchange opinions and clear any ambiguities and doubts, and put in place the assumptions for their full and consistent application.

On 30 June 2011, as a part of the public discussion process, AEM hosted a **round table on the Draft Rulebook on Requirements and the Procedure for Awarding Licences for Provision of AVM Services on Demand**. The representatives of KDS/IPTV/DTH/MMDS operators, their associations, the Ministry of Culture, and other responsible authorities took part in the event.

Pursuant to Art 45 of the Electronic Media Law and the 2011 Work Plan, the **AEM Council adopted the following pieces of secondary legislation** elaborating the rights and responsibilities of providers of AVM services and electronic publications:

- 📌 **Rulebook on the Amount, Method of Calculation and Payment of Licence Fees for AVM Services Provision** (Official Gazette of Montenegro 25/11). The Rulebook stipulates the method of calculation, the amount and the manner of payment of fees for AVM service providers. It gives transparent and objective models for calculation of broadcasting fees and fees for provision of on-demand AVM services.

Broadcasting fees are established as per the coverage zone, the attractiveness of areas within the coverage zone, the type of electronic media and the broadcasting platform. In doing so, if the broadcaster, due to using different zones, has a service zone that exceeds the service zone stipulated in the assigned broadcasting services, the annual fee is calculated as the sum of (1) the annual broadcasting fee using terrestrial means, and (2) the annual broadcasting fee using cable or MMDS systems, public terrestrial or mobile electronic communication network, satellite distribution system or other electronic communication networks for the service zone not covered by terrestrial broadcasting. The annual broadcasting fee is envisaged to be established by applying the formula in which the main quotient is the “annual base” which is, by a special decision of the AEM Council, determined on the occasion of adopting the Financial Plan for the given year.

The calculation of fees for provision of on-demand AVM services envisages two options. For the period until the end of the calendar year in which the provision of services started via a specific electronic communication network (technological platform), the fee is calculated by applying a formula featuring, apart from the already mentioned “annual fee”, other factors affecting its amount, such are all the municipalities which make part of its coverage zone and the remaining number of months until the end of the calendar year. For the second and all subsequent years when using the licence, this fee is calculated as a percentage of the annual revenues of the service provider accrued on this account over the previous calendar year for the current calendar year. This percentage is established, in a separate decision, by the AEM Council when approving the Financial Plan for the given year. In addition, it is envisaged for the annual revenues taken for the needs of the fee calculation to exclude the sale/lease proceeds for equipment aimed at receiving the on-demand AVM service, which in turn means that the financial statements and gross balance sheet of the service provider for the previous calendar year should state separately the service revenues and equipment revenues.

- 📌 **Rulebook on Requirements and the Procedure for Awarding Broadcasting Licence** (Official Gazette of Montenegro 33/11). The purpose of this Rulebook is to safeguard media pluralism, public interest and equitable and effective competition in the electronic media market. It provides details of procedures, requirements and the procedure for issuing the broadcasting licence, i.e. broadcasting of general or specialised radio and TV programmes.

It should be stressed that licensing, in cases not envisaging the use of broadcasting frequencies as a resource in limited supply, comes down to a simple procedure sufficing to submit a duly filled out form with requested accompanying documents. This has greatly simplified the licensing procedure and requirements for commencement of broadcaster's


operation. Given the upward trend in demand for radio and TV programme distribution via terrestrial systems (KDS/IPTV/DTH/MMDS), more conducive opportunities are created for faster and simpler access to a substantial share of the media market.


On the other hand, the right to use broadcasting frequencies is awarded based on the public competition invited by the AEM Council, taking into account objective and measurable criteria linked with the scope and the structure of applicants' programme contents (diversity, share of own production, local themes, European audiovisual works, independent productions) and financial indicators related to the possibility of a profitable business operation and survival in the market.

The broadcasting licence is issued by the AEM director as per the application filed, if there is no intention of using broadcasting frequencies, or as per the decision of AEM Council awarding the right to use frequencies.


The new provision as compared to the previous framework is stipulated in the 2010 Electronic Media Law (Art 109) saying that the broadcasting licence may, on temporary or permanent basis, be assigned, leased or otherwise transferred, with the approval of AEM Council. The Rulebook further elaborates on the procedure to safeguard the interests in the use of this limited resource and secure market competition, but also enable a more efficient use of some frequencies. The Rulebook envisages for the AEM Council to be able to deny the approval for a broadcaster to transfer the broadcasting licence should the said transferral:

- create illegal media concentration as per Art 132 and 133 of the Electronic Media Law;
- some of transferee's founders would include foreign entities registered in the countries where it is not possible to establish the origin of founding capital; or
- a political party, organisation or coalition would appear as the broadcaster, or an entity founded by a political party, organisation or coalition.

 **Rulebook on Special Technical Requirements, Premises and Staff Needed to Produce and Broadcast Radio and TV Programmes** (Official Gazette of Montenegro 33/11) stipulates such requirements, as well as the procedure for their establishment and keeping records of the broadcast programme. The verification whether such requirements have been met is conducted within regular inspection checks, following the awarding of the broadcasting licence.


 **Rulebook on Terms and Procedure for Issuing Licence for Provision of On-demand AVM Services** (Official Gazette of Montenegro 33/11). Following the new Law, this Rulebook elaborates comprehensively the licensing procedures for distribution of radio and TV programmes to end users via different technological platforms (cable/ satellite/ IP/ MMDS/ DVB-T), as well as the on-demand AVM services. The importance of effective assignment of the radio-frequency spectrum is recognised here, thus envisaging a public competition run by the AEM Council for acquiring the right to this limited resource.

The licence for provision of on-demand AVM services is issued by the AEM Director, based on the application filed if there is no intention of using broadcasting frequencies, or as per the decision of AEM Council awarding the right to use frequencies.

 **Rulebook on Programme Standards in Electronic Media** (Official Gazette of Montenegro 35/11). The Rulebook primarily aims at securing a consistent application of the Electronic Media Law and professional standards in programmes of electronic media in Montenegro thus contributing to free, true, comprehensive, impartial and timely public information;

respect for and promotion of fundamental human rights and freedoms, democratic values and institutions, and the plurality of ideas; fostering the culture of public dialogue and respect for linguistic standards. It particularly elaborates on the standards for:

- protection of privacy,
- avoidance of offensive language and hate speech,
- protection of minors,
- written and sound warning and graphic marking of the contents which may endanger physical, health, ethical, mental, intellectual, emotional and social development of minors,
- respect of court and secrecy of proceedings,
- religion in electronic media programmes,
- parapsychology, quackery and fortune telling,
- language and linguistic rules in electronic media programmes,
- participation of audience in electronic media programmes,
- broadcast re-runs and archive materials.

 **Rulebook on Commercial AV Communication** (Official Gazette of Montenegro 36/11) lays down standards, terms and quotas for advertising, teleshopping and sponsorship in electronic media programmes and in electronic publications, in terms with the Media Law, the Electronic Media Law and other domestic and international instruments. The provision of such services is free, with both the domestic and foreign entities enjoying the same rights and responsibilities, and the provisions of this Rulebook apply *mutatis mutandis* on radio and TV programmes and electronic publications. The Rulebook treats separately the standards related to:

- obligations of advertisers and sponsors,
- prevention of covert, fraudulent and comparative commercial AV communication
- prevention of abuse of trust,
- environmental protection,
- protection of minors,
- medicines, medical appliances and treatment procedures and methods,
- alcoholic beverages,
- tobacco,
- distribution of advertising and teleshopping,
- programme interruptions,
- advertising on a part of the screen, tele-promotion and virtual promotion,
- TV channels for advertising, teleshopping and self-promotion,
- sponsorship,
- provision of such services within re-broadcast programmes,
- protection of advertising recipients.

All the above acts were published in the Official Gazette of Montenegro and on the AEM's website www.ardcg.org.

Starting from recommendations received through the consultation process preceding their adoption, in September 2011 the AEM organised an event for the members of electronic media focusing on “**Implementation of the Rulebook on Programme Standards in Electronic Media and the Rulebook on Commercial AV Communication**”.

The public consultations and events hosted showed the interest of some among the AVM service providers to get actively involved in the secondary legislation drafting when relevant for the exercise and enjoyment of their rights and responsibilities with the AEM. Such activities also reveal the substantial needs of AVM service providers when it comes to detailed knowledge and implementation of programme standards. It is particularly prominent in the area of protection of minors, standards related to advertising and other forms of audiovisual communication, as well as copyright and related rights.

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With a view of harmonising the AEM operation with the Electronic Media Law and the new AEM Statute:

✚ the AEM Council passed the following acts:

- **Rules of Procedure of the AEM Council** (act no. 01–91 of 02 February 2011) governing the organisational set-up and working methodology of the AEM Council and other matters relevant for its operation and work.
- **AEM's Code of Conduct** (act no. 01–177 of 01 March 2011) setting standards and rules of conduct for the AEM Council members, AEM staff and persons hired as per fixed term contracts to perform the activities from within AEM's remit, as well as rules of conduct towards members of the public and interpersonal relations among the AEM staff.
- At the proposal of AEM Director, **AEM's Rulebook of Internal Organisation and Job Systematisation** (act no. 01–378 of 24 March 2011). This act stipulates the organisational units of AEM, types of jobs, type and degree of qualifications and other special requirements for different posts. Accordingly, AEM is subdivided into two departments: Legal and Economic Department (Legal Affairs Division, Economic Affairs Division, and General Matters Division) and the Monitoring Department (Radio-monitoring Division and TV Monitoring Division). The Rulebook envisages the total of 17 posts, including the AEM Director. Although there was a need for more staff in the Monitoring Department, given AEM's adverse financial situation over the past two years, the AEM Council decided to reconsider the possibility of increasing the number of permanent AEM staff only after stable sources of income have been established. In 2011, the need for having more staff in place was overcome by hiring interns for a fixed term.

✚ The AEM Director passed the following acts:

- **AEM Collective Agreement** (act no. 02–435 of 04 April 2011). This Agreement was concluded between the AEM Director and AEM Trade Union and it governs, in terms with the law and General Collective Agreement, the rights, duties and responsibilities of AEM staff, the rights, duties and responsibilities of the employer, and mutual rights and obligations of the contracting parties.

- **Rulebook on Remuneration for Travel and Other Expenses of AEM Council and Staff Members** (act no. 02-1442 of 23 December 2011). This Rulebook sets forth the terms, the entitlements and the amount of remuneration for travel and other expenses incurred by the AEM Council and staff members, and envisages the mutatis mutandis application of provisions of the Decree on Remuneration of Costs for Civil Servants and State Employees (Official Gazette of Montenegro 57/11).
- **Rulebook on Performing Financial and Accounting Tasks in AEM** (act no 01-1450 of 26 December 2011). This Rulebook governs: bookkeeping; creation, circulation and keeping of accounting statements, contents of the Account Plan, stipulation of assets and calculation of fixed assets depreciation, preparation of financial statements (annual accounts), conducting inventories of AEM's assets and liabilities and other matters related to AEM's accounting.
- **Instruction for Access to Information Held by AEM** (act no. 02-1449 of 26 December 2011). This Instruction governs the right to access information of public interest held by AEM, to provide for the exercise and safeguarding of the right of the public to know.
- **Decision on Usage of AEM's Business Vehicles** (act no. 01-1455 of 27 December 2011). This Decision governs the terms and the manner for using a business car held by AEM, as well as the rights, duties and actions of AEM staff related to the use of the car.

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In early November 2011, in urgent procedure, the Parliament of Montenegro adopted the **amendments to the Electronic Media Law** (Official Gazette of Montenegro 53/11). With the entry into force of these amendments, Article 159 paragraph 1(2) ceased to be in effect, thus bringing back into force the provisions of the Budget Law pertaining to the AEM. This, among other things, results in an ambiguous and unclear framework regarding the authorities and obligations of AEM bodies in adoption of its annual financial plans and statements. In AEM's opinion, such a provision is a result of lack of understanding of the status of an independent regulator in the area of AV services and the need for its position to be ensured as envisaged by international standards.

Analysis of the adopted amendments leads to a conclusion that the Budget Law and the Electronic Media Law are in sharp collision when it comes to AEM's financial plans and statements, given that they stipulate different procedures for their adoption (competent authority and timeframes). Thus, the whole set of important procedural issues remains unregulated, especially those pertaining to accountability and consequences in case the Parliament fails to adopt these documents. In AEM's opinion, the method of adoption (without public discussion and as per a hard to justify urgent procedure) and the subject matter of the adopted law amendments discourage the competent state authorities from putting in place the assumptions for a stable and independent operation of the regulator in the area of media and freedom of expression.

Given the above, AEM invited the Prime Minister and the Speaker of the Parliament to reconsider the adoption and implementation of the legislation in the area of electronic media and launch a procedure for revoking the disputed amendments to the Electronic Media Law.

2. Implementation of the Digitalisation Law

With the adoption of the Digitalisation Law¹, in July 2011, the normative grounds for intensifying the digital switchover process were introduced. However, with the exception of setting deadlines and certain matters referring to the first digital terrestrial broadcasting network, the law does not set good grounds for a comprehensive switch over from analogue to digital broadcasting.

Thus, neither the procedure for granting MUX rights (for multiplex operators as providers of on-demand AVM services) nor the rights of access the multiplex capacities (for broadcasters), required for beginning to use the digital platform for broadcasting or distribution of radio and TV programmes, are given the detailed coverage in the Law. Therefore, these procedures will be carried out in accordance with the Electronic Media Law and the Electronic Communication Law stipulations.

Without the envisaged public competition procedure, the Digital Broadcasting Law was invoked in granting the following rights or status:

- the Broadcasting Centre of Montenegro, the status of the first MUX operator and the first network with nation-wide coverage,
- Montenegrin Radio and TV (RTCG), the right of access to the first MUX with national coverage for transmission and broadcasting of two TV programmes of the national public broadcaster in standard definition (SDTV),
- local public broadcasters the right of access to MUX with local coverage for broadcasting their programmes within the municipal territory.

All other broadcasters acquire the right of access to multiplex facilities as per the public competition carried out by the AEM.

The Law does not contain provisions that would facilitate the A/D switchover for broadcasters, or some of the matters relevant for local public broadcasters, referring to development of local networks for broadcasting their programmes.

On the other hand, the Law stipulates the provisions referring to the manner and schedule of introducing HDTV (high-resolution TV) and the issues of broadcasting standards, notwithstanding the absence of real indicators whether the national public broadcaster would be able to start broadcasting in the HDTV format within the timeframe set. It all brings into question the possibility of making precise parameters for awarding the capacities of digital terrestrial broadcasting in the first MUX.

Although, as a part of an IPA funded project to support digitalisation, the Ministry for Information Society and Telecommunication (as the line ministry) opted for the DVB-T2 standard of broadcasting, it would enable the increase of the number of broadcasters to have access to the capacity of the first MUX, but, on the other hand, it increases the costs of network development and the price of receiving equipment for end users. All of these have been recognised as possible limitations for bringing this process to a closure by the end of 2012, and there are no legal tools to work out the consequences of the already manifest delay in the process and take corrective actions.

Particularly limiting is the substantial delay in the delivery and putting online the transmission equipment for the first MUX, funded through the IPA project. This is further aggravated by the disagreement between the Broadcasting Centre and the line ministry, on one hand, and the successful bidder for development and procurement of the required equipment for the first MUX, on

¹ Official Gazette of Montenegro 42/11.

the other, on the quality of offered solutions, as well as the references and competency of the bidder. It is, therefore, to be expected that the implementation of the first digital terrestrial broadcasting network would prolong beyond 2012, making the final date and the schedule of digital switchover utterly uncertain.

All this led to the postponement of the AEM's decision to launch the public competition procedure in 2011 for access to the first multiplex. The AEM management was of the opinion this would only further complicate a situation which is already complex enough, given that any rights granted could not be actually exercised.

Against such a backdrop, on several occasions the AEM drew attention to the need to adopt law amendments to set more feasible implementation and system development schedule and respond to the issues of the purpose of the first digital TV multiplex, i.e. whether it is to be used solely by public broadcasters (regardless of being the SDTV or HDTV) and whether the remaining capacity could be made available to the existing broadcasters (for their broadcasts in SDTV).

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Referring to the rights and obligations stipulated by the Electronic Media Law and the Electronic Communication Law, the AEM Council gave its prior approval (act no. 01-1104/2 of 23 September 2011) to the **Plan for Frequency Assignment for Digital Terrestrial Broadcasting**², approved by the Agency for Electronic Communication and Postal Services. In granting the approval, the AEM Council noted that the Plan stipulated the technical requirements and the manner of use of individual radio frequencies and geographic areas where frequencies aimed for digital terrestrial broadcasting are used, in line with Article 3 of the Digital Broadcasting Law. This document gives an overview of planning methodologies and the most important parameters referring to planning of digital broadcasting networks, reference values as the basis for planning, and the overview of frequency allocations and geographic areas related to distribution of radio frequencies in frequency spectrums covered by the Allocation Plan. It features an overview of radio frequencies and geographic areas internationally coordinated at the Regional Conference on Radio Communication, Geneva 2006 (RRC-06) and thus entered into relevant parts of the plan approved at this event (GE06)

In terms with the AEM Council Decision to approve the draft Plan, the transitional and final provisions of the document envisage the revoking of the Allocation Plan for Radio Frequencies in Montenegro (Official Gazette of the Republic of Montenegro 67/04, 33/05, 06/06, 32/06, 05/07 and Official Gazette of Montenegro 06/08, 31/08, 46/08, 10/10, 23/10, 37/10, 67/10 and 23/11) in its section referring to frequency allocation for analogue TV, adjusted with the deadline stipulated by Art 16 of the Digital Broadcasting Law (for the time being it is 31 December 2012). This provision holds particular importance given the additional limitations imposed on the use of broadcasting frequencies for analogue TV only by the end of 2012. This is the reason why the prolongation of the deadline for analogue switch off stipulated in the Digital Broadcasting Law is both necessary and justified given the circumstances.

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The Digital Broadcasting Law envisages a set of **rights and duties of the Broadcasting Centre of Montenegro** (hereinafter: BCM), and the timeframe for their implementation. Given the role

² Official Gazette of Montenegro 55/11.

assigned to BCM by this Law, as the operator of the first multiplex and the first network with national coverage, it is vital to meet all the requirements for implementation of its rights and duties.

Pursuant to Art 17 of the Digital Broadcasting Law, BCM is obliged to file an application with AEM for the licence for distribution of AVM services in line with the Rulebook on Terms and Procedure for Awarding Licence for On-demand AVM Services within 30 days from this law entering into force. This is still pending.

Acknowledging the circumstances in which the preparations for digital switchover are taking place, the AEM was determined to implement all the activities from within its remit in order to foster the implementation of this demanding process.

To that effect, we had a number of meetings with members of the BCM discussing actions and deadlines, and progress made or challenges still ahead in their preparation for the beginning of digital TV broadcasts. Special attention was focused on:

- requirements and abilities of BCM to transmit and broadcast two channels of TVCG in standard definition (SDTV), as well as other (commercial) TV programmes. Here, the definition of the number of commercial TV/radio programmes to be given access to the first MUX, in addition to RTCG, becomes particularly relevant;
- the preparatory work done by BMC in order to define the technical and financial requirements for access to and use of the first network with nation-wide coverage. At the time of simulcast, broadcaster at a certain broadcasting location who acquired the right of access to multiplex, will be exempted from paying such services to BCM, but only for "locations" for which the broadcaster was granted licence for analogue broadcasting.

The Digital Broadcasting Law stipulates that BCM is obliged, not later than 01 July 2012, to provide the coverage of 85% of the population with the first network (Art 1). To that, the Law envisages (Art 10) that, with the aim of providing conditions for digital broadcasting of the national public broadcaster RTCG to:

- develop the first network with national coverage, or at least 85% of the population, and
- secure funds to cover the increased power costs in the transitional period (concurrent operation of analogue and digital terrestrial systems) to the first network operator, i.e. BCM.

The Law envisages such funds will be appropriated in the Budget and other sources of finance (EC grants, loans, etc). In order to meet the deadlines, AEM drew attention to the huge importance of timely determination of the funds needed, and the entities responsible for their planning and appropriation in 2012.

Given that the bulk of these activities have not been implemented, AEM was not able to set the objective criteria for launching public competition for access to the first multiplex capacities. Thus, one of vital actions envisaged for 2011 referring to digital broadcasting was not implemented.

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The activities related to the A/D switchover taken so far only reconfirm its complexity, the importance of timely and sound coordination in spatial and temporal terms, and coming up with a solution acceptable to all the interested parties. With this in mind, back in 2008 the Broadcasting Agency's Council adopted the **Digital Switchover Strategy**. It contains the goals, guidelines and

timeframe for planning and implementation in due time of all the necessary activities for an efficient and successful digitalisation of TV broadcasts in Montenegro. It came as a result of a number of activities undertaken by the Broadcasting Agency in preparation for digital switchover, in particular at the time of two sessions of ITU Regional Conference on Radio Communication (RRC) held in Geneva in 2004 and 2006 (RRC-04 and RRC-06), and the activities in between the two events.

Given that the transition is the single most important topic in broadcasting in the many decades of development within this sector, the Strategy sets broad guidelines, provides for wide information of both the general and the professional public, and indicates possible specific solutions aimed at speedy completion of the switchover process. This document gives an overview and baseline analysis for A/D switchover in Montenegro, certain technological, but also legal and economic considerations with a view of running a smooth process.

One of milestones set by the Strategy was complete digital switchover by the end of 2012. Apart from time schedules for the switchover, the Strategy also gave guidance regarding the selection of the proper image compression system for a more efficient attainment of goals set and possibility of access to all interested parties, including both public and commercial broadcasters. Relying on experiences of neighbouring countries, the Strategy envisages the use of MPEG-4 compression standard (ITU-T H.264), with a view of a more efficient use of the radio frequency resources, and putting in place a better starting base for possible implementation of high-definition TV (HDTV) in future.

Apart from technical guidelines and the ones for the switchover process itself, the Strategy also envisages and proposes the ways to speed up the process, given the timeframe, by setting up support funds for the process at large and its specific segments, primarily the funds for infrastructure development and upgrading, securing good coverage by digital TV signals of rural and underdeveloped areas. Also, it envisages the use of funds primarily for subsidising the transmission and reception equipment, and raising awareness and encouraging end users regarding the deadlines, advantages and upsides of digital broadcasting.

In general, the Strategy recognised the need to enable digital reception of those programmes currently transmitted in analogue mode. Given the state of play in broadcasting sector in Montenegro at the time, the Strategy also envisaged staged development. This is indicative of how overly ambitious it seems to squeeze the activities planned by the Strategy for four years in one year only. It also gives the justification for the AEM's insistence to review and redefine the rights and obligations of all relevant authorities in the process without delay.

SUPERVISION OVER THE IMPLEMENTATION OF THE ELECTRONIC MEDIA LAW

Within its remit, the AEM oversees the implementation of the Electronic Media Law (Art 14). An important segment of its activities in 2011 was devoted to issuance of licences for provision of AVM services to license holders whose licences were issued as per the earlier Broadcasting Law.

1. Granting licences for provision of AVM services to existing broadcasters and operators

Pursuant to Art 148 of the Electronic Media Law, the AEM **awarded broadcasting licences** (July 2011) to commercial broadcasters which were operating as per transmission and broadcasting licences (issued pursuant to the Broadcasting Law) and decisions awarding the use of radio frequencies (issued pursuant to the Law on Electronic Communications). These covered all previously assigned frequencies which granted the right to radio or TV programme broadcasting. The only exception referred to those frequencies broadcasters ceased to use for longer than 12 months or that notified AEM of renouncing the acquired right to use certain frequencies.

The Electronic Media Law and the Rulebook on Issuing Broadcasting Licences lay down the contents of the broadcasting licence, and AEM's 2011 Financial Plan and the Decision on the Amount of Criteria for Determining the Fee for Provision of AVM Services in 2011 (01 – 656 of 31 May 2011) stipulate the quotient value – the basis for calculating the annual broadcasting fee for 2011 amounting to €2,800.00.

The Electronic Media Law, in its Art 148, stipulates that transmitting and broadcasting licence holders, licensed pursuant to the Broadcasting Law, would be issued broadcasting licences with the validity dates set in the original licences. With this in mind, the validity periods of licence granted are up to:

- 2017 for radio programmes in the majority of cases,
- not later than the end of 2012 for television programmes.

Pursuant to the Rulebook on the Amount, Calculation and Payment of Licence Fees for AVM Service Provision, and given the coverage zone, the attractiveness of the area within the coverage zone, type of electronic media, and the broadcasting platform, the amounts of annual broadcasting fees and registration fees were established.

The list of commercial broadcasters which were granted licences in 2011 is posted on the AEM's website www.ardcg.org.

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In addition, pursuant to Art 148 of the Electronic Media Law, AEM **issued licences for provision of on-demand AVM services** to KDS/MMDS/DTH/IPTV operators, who worked as per licences for development and use of radio and TV programme distribution systems to end users (granted under the earlier Broadcasting Law) and decisions on entry into registers of operators (granted under the Electronic Communication Law).

The Electronic Media Law and the Rulebook concerning the terms and licensing procedure for on-demand AVM services stipulate the contents of the licence for such service providers, and the Rulebook concerning the amount, method of calculation and payment of licence fees for AVM services and AEM's 2011 Financial Plan stipulate the terms for calculating the amount of annual fee

for provision of on-demand AVM services. The AEM Council Decision on the value of parameters for determining the fees for AVM service provision in 2011 (01 – 656 of 31 May 2011) stipulates that the base for calculating the amount of fee for provision of on-demand AVM services will be 3% of annual revenues of the said AVM service provider accrued in 2010. Based on 2010 financial statements, 2010 gross balance sheet and analytical income cards pertinent to provision of AVM services on demand in 2010, as submitted by on-demand AVM service providers, the annual fees for 2011 were established (calculated as 3% of income of on-demand AVM service providers realised in 2010 on this account) and the registration fee (5% of the annual fee).

The list of on-demand AVM service providers (KDS/MMDS/DTH/IPTV operators), licensed in 2011, is posted on the AEM's website www.ardcg.org.

With granting of broadcasting licences and the licences for on-demand AVM service providers, the assumptions for collection of AVM service provision fees (broadcasting fee and the fee for provision of on-demand AVM services), as basic sources of finance for AEM, were put in place.

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Given the serious economic situation of the electronic media, and with a view of the 2011 Financial Plan, AEM endeavoured to take into account to the full extent possible the justified demands of AVM service providers to facilitate their payment of the fees.

First of all, AEM decided for the schedule of payment of 2011 annual fee to be adapted to the complex economic circumstances in which a large number of such entities operate. Accordingly, it was decided for the payment of the first, second and third instalment of the 2011 fee, normally envisaged for the beginning of the first, second and third quarter respectively, to be shifted and postponed for mid August, September and October 2011.

The Rulebook on the Amount, Calculation and Payment of the Licence Fee for AVM Service Providers envisages that the registration fee is paid to the AEM when taking the AVM service provision licence and is non-refundable, and it amounts to:

- for a new licence: 10% of the annual fee;
- for licence renewal: 5% of the annual fee.

Given the above, when granting licence for provision of AVM services, these entities are obliged to pay the registration fee of 5% of the annual fee amount.

In the case as per the appeal of "Broadband Montenegro" a.d. (no. 518 of 05 August 2011), lodged against the first instance decision – licence for AVM service provision as per the application no. O-AVMD-01 (no. 02-975 of 29 July 2011), in its part referring to the payment of non-recurrent registration fee, the AEM Director proposed to the Council to dismiss the appeal, but to consider the possibility of relieving all licensees for AVM services provision, licensed pursuant to Art 148 of the Electronic Media Law, of the obligation to pay the registration fee. The AEM Director highlighted the difficult financial status of the relevant entities and the fact that the same fee was paid pursuant to the prior Law.

Given the above, at its session held on 22 August 2011, the AEM Council decided to dismiss the appeal as non-founded, but to approve the Director's proposal and amend the 2011 Financial Plan as regards planned revenues from the registration fee for licences for AVM services provision licensed as per Art 148 of the Electronic Media Law (Decision of AEM Council no. 01-1019/2 of 22 August 2011). Given that a number of entities had already paid the registration fee, the AEM Council concluded the same amount should be deducted from their debt as per the 2011 annual fee.

2. Licensing of new broadcasters and operators for provision of AVM services

Acting as per licence applications for AVM services provision lodged in 2011, the AEM granted:

- the licence for broadcasting general radio programme "**Roma Radio**", by which the NGO "Montenegro's Association of Roma", Podgorica, acquired the status of a broadcaster and the right to broadcast programme for an unidentified number of listeners using electronic communication networks, without making use of broadcasting frequencies.
- licence for on-demand AVM service "**Media Net**", by which the company "Media Net" d.o.o., Podgorica, acquired the status of a provider of on-demand AVM services and the right to provide such services using public cable electronic communication network to an unidentified number of users in the approved service zone (Berane, Cetinje and Rožaje).

3. Public Broadcasters

Public broadcasting services, established as per the earlier Broadcasting Law, pursuant to the provisions of the new Electronic Media Law, continue operating as public broadcasters. Currently, apart from the Radio and Television of Montenegro (RTCG), the national public broadcaster founded by the central government, Montenegro has 14 local broadcasters, founded by the local governments.

Given that the new provisions envisage a different management structure, the Electronic Media Law imposes the obligation on the existing public broadcasting services to align their organisational setup and method of work within six months from the new Law entering into force (February 2011).

The Law stipulates that all public broadcasters should appoint the council and the director as their managing bodies, and the necessity for the Articles of Association to stipulate the method of appointment, election, decision-making and competences of these bodies, as well as other matters relevant for the work of public broadcasters. Compared to the previous provision, the need to establish Management Boards in public broadcasters was abolished.

Since during the period envisaged for alignment with the new provisions no founder of a local public broadcaster met the said requirement, thus the year 2011 was marked by alignment and operation of public broadcasters with the newly adopted provisions. On several occasions AEM responded to the requests from the Association of Local Broadcasters (ULES) and individual municipalities as founders of public broadcasters to offer expert assistance in drafting the documents needed (Articles of Association and Statutes).

Also, with the entry into force of the Law on Business Environment Improvement (Official Gazette of Montenegro 40/10), the Public Company Law (Official Gazette of the Republic of Montenegro 6/91) and the Law on Social Activities (Official Gazette of the Socialist Republic of Montenegro 19/90 and 6/91 and the Official Gazette of the Republic of Montenegro 21/95) were revoked. In addition, this Law stipulates (art 13) that public companies and public institutions operating under the Public Company Law and the Law on Social Activities continue to operate under laws governing specific fields of activity and their articles of association. Also, public companies are obliged to restructure pursuant to Company Law within three years from this law entering into force.

With this in mind, the AEM pointed out to the possibility of using the opportunity offered in adopting founding acts under the Electronic Media Law to meet these obligations as well.

The Articles of Association for local public broadcasters, pursuant to the Electronic Media Law, were adopted by the following local parliaments: Andrijevica, Berane, Bijelo Polje, Danilovgrad, Nikšić, Pljevlja, Ulcinj, Herceg Novi, and Cetinje.

Out of these, pursuant to such founding documents, the managing bodies (Council and Director) were nominated by local parliaments in Berane and Pljevlja. Nikšić appointed the local public broadcaster's Council, whereas Herceg Novi envisaged for the term of office of existing management bodies to last until the expiry of the term to which they were originally appointed. On the other hand, six local parliaments failed to appoint the management bodies envisaged by the approved Articles of Association (Andrijevica, Bijelo Polje, Danilovgrad, Ulcinj, Cetinje).

Although on several occasions AEM indicated to the relevant municipal services the need to draft Articles of Association for public broadcasters, that the adoption of such acts is the obligation of local governments which founded the existing local public broadcasters, five local government units (Bar, Budva, Kotor, Rožaje, and Tivat) failed to align the operation of existing public broadcasting services with the Electronic Media Law.

Financing of local public broadcasters was an issue of special concern in 2011, additionally aggravated by poorly defined framework.

As regards sources of funds, Article 76 of the Electronic Media Law stipulates that public broadcasters are entitled to a share of general revenues of the national budget, and a share of general revenues from local budgets, as well as other sources in line with the law and founding documents. The national and local budgets secure a share of funds needed for the exercise of the right to public information enshrined in the Constitution and law, free from discrimination, based on programme contents relevant for the right to public information and notifications for Montenegrin citizens, the exercise of rights of minority nations in Montenegro and members of other minority communities and Montenegrin expatriate communities, human and political rights of citizens, and improvement of the rule of law, social security and civil society, development of culture, science, education and arts, etc.

Given that the Law failed to elaborate the financing model, on several occasions the AEM indicated the obligation of each founder of public broadcasters, as envisaged by the law, to determine and, by the relevant founding act, stipulate the optimal model and scope of financing for public broadcasters from the local budget.

Notwithstanding that, the decisions of local parliaments establishing local public broadcasters approved to date have not provided details of sources of finance.

Most of such decisions stipulate that public broadcasters shall be financed from the general revenues of municipal budgets, and that the Budget Decision for the specific year determines the amount of funds for co-financing the basic activity of local public broadcasters.

Additionally, as envisaged by said decisions, municipal budgets should also secure:

- funds for the exercise of the right to public information enshrined in Constitution and laws, free of discrimination, based on programme contents; and
- funds for payment of transmission costs and broadcasting via terrestrial systems, carried out by the Broadcasting Centre.

Such a mode of financing refers to the following local broadcasters: Radio Berane, Radio Bijelo Polje, Radio Danilovgrad, RTV Cetinje and RTV Nikšić.

Only two municipalities (RTV Pljevlja and RTV Ulcinj) elaborated in more details the sources and volume of financing local broadcasters in the way that the appropriations from the local budget, aimed at the exercise of core activity, are planned according to the percentage scale in relation to

total operational budget of the municipality (e.g.: up to €3 million budget → 3.0 %; €3 - 6 million budget → 2.7 %).

Apart from the appropriations from local budgets of municipalities of Pljevlja and Ulcinj the funds are also envisaged for:

- exercise of the right to public information enshrined in the Constitution and laws, without discrimination, based on programme contents in terms with the law and the Statute;
- coverage of costs incurred by transmission and broadcasting of programmes via terrestrial broadcasting systems, done by the BCM.

Given the importance of securing continuity of operation for local public broadcasters and clear definition of rights and responsibilities for their compliance with the new law, AEM regretfully notes that there has been a delay in this important activity, which additionally aggravates the survival and operation of local public broadcasters as an important segment of the media system in Montenegro.

4. Measures pronounced

The production and provision of AVM services in Montenegro is based on the principles of prohibition of censorship, promotion of human rights and freedoms, especially pluralism of thought and freedom of expression. Apart from these basic principles, the relations in the area of AVM services are based on the principles of freedom, professionalism and independence; objectivity, transparency and prohibition of discrimination; free and equal access to all AVM services; development of competition and pluralism; application of international standards.

Given such a systemic environment, the Law establishes the position and the remit of AEM which is authorised to perform supervision over the implementation of standards in the work of AVM service providers, as well as the rights and obligations contained in the licences granted. AEM bases its role of an independent regulator and the implementation of its competences on the application of the following methods of work, operation and relations with AVM service providers:

- permanent direct communication and exchange of information;
- periodic counselling on topical issues aimed at updating current and acquiring new information and knowledge;
- their maximum involvement in all stages of planning, development and adoption of legislation related to professional standards, as well as their rights and responsibilities;
- clear and timely definition of rights, obligations and responsibilities aimed at avoiding voluntarism, and the abuse in their interpretation and application;
- Application of most lenient stipulated repressive measures having previously exhausted all available preventative measures to address the problems caused by failure of the media to adhere to professional standards.

*The TV Monitoring Division continuously monitors the programmes of **nine** TV stations and **three** KDS/DTH/IPTV operators.*

*The monitoring equipment installed in AEM is continuously used to monitor the programmes of **23** radio stations, and the mobile equipment, in Bijelo Polje and Bar is used to monitor additional **eight** local and regional radio programmes.*

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In 2011, AEM registered, identified and handled cases against broadcasters pronouncing sanctions for violation of programme standards as regards hate speech, protection of privacy, broadcasting programme contents concerning parapsychology, quackery and fortune telling, and non-compliance with programme standards as regards protection of juveniles.

Within the supervision over the work of AVM service providers, AEM **pronounced the following sanctions:**

- **Pink M Company** d.o.o., Podgorica (02 march 2011), a commercial broadcaster of the TV programme of TV Pink M, was issued a **warning** for broadcasting a reality show “Dvor“ containing:
 - a. swearing and offensive language and use of non-conventional language at times outside the limit hours;
 - b. information and opinions encouraging discrimination, hate or violence against persons or groups on the account of their belonging or non-belonging to a certain race, religion, nation, ethnic group, sex or sexual orientation.

This broadcaster was ordered to air the given reality show in the limit hours between 23 and 06 o'clock with sound and visual warning of their inappropriateness for certain groups of spectators. Also, it was ordered not to air contents and information that encourage discrimination, hate or violence against persons or groups on the account of their belonging or non-belonging to a certain race, religion, nation, ethnic group, sex or sexual orientation.

The broadcaster acted as per the orders from the warning airing the said reality show in the limit slots.

- **Metropolitan media** d.o.o., Podgorica (07 April 2011), a commercial broadcaster of the radio programme Radio Svetigora, was issued a **warning** for broadcasting the show entitled “Ask the Pastor” containing the comments and statements:
 - a. encouraging or spreading or enabling instigation or spreading of hatred or discrimination on certain grounds (nationality);
 - b. highlighting belonging to a certain ethnic group as a form of discrimination against such individuals.

This broadcaster was ordered not to air contents violating guaranteed freedoms and rights of individuals and citizens or instigating national, racial or religious intolerance or hatred. This broadcaster was also ordered to avoid using or enabling or tolerating the use of offensive terminology which might be associated with a certain societal group.

The broadcaster acted as per the orders from the warning.

- **Blue Moon** d.o.o., Podgorica (02 November 2011) a commercial broadcaster of TV MBC was issued a **warning** for broadcasting the following shows: “Astrology Live“, “Astro num cafe“ and ads for hotlines:
 - a. giving individual advice to audience;
 - b. fortune telling, interpretation of individual horoscopes and similar contents which do not fall under any legally regulated activity, and where the participation of audience is conditioned by payment of text messages, telephone calls or other forms of commercialisation;

- c. entertainment programmes solely interpreting horoscopes and similar contents with participation of audience;
- d. programmes solely or predominantly consisting of tele-voting, texting, e-mailing and similar messages (TV chat and similar contents);
- e. advertising hotlines and texting as contents which according to the Rulebook on Programme Standards in Electronic Media may only be aired within limit hours.

This broadcaster failed to comply with the Director's decision but lodged an appeal with the AEM Council as the second instance body for the given case.

The AEM Council, as the second instance body, dismissed the appeal and confirmed the Director's decision and ordered the broadcaster to comply with the standards set by the Law, AEM's acts and the licence granted.

This broadcaster was also ordered to pay particular attention to the rules of distribution of programmes outside the limit hours.

The broadcaster acted as per the order from this warning and placed a bulk of the contested contents within the limit hours.

During the appellate procedure the issue was raised of justification of certain provisions imposing obligations on broadcasters to air such contents in the limit hours, thus denying the possibility of generating revenues vital for their survival in the current circumstances. As a special aspect of this problem, the need to introduce such "strict" rules was challenged both for broadcasters within Montenegrin competences, and for foreign broadcasters whose programmes are available via different services with conditional access or on-demand AVM services (KDS/DTH/IPTV/MMDS). The dilemma raised before AEM is indicative of the need to raise awareness among the broadcasters both as regards the importance of standards for protection of minors and the structure and scope of rights available through (terrestrial) television or via the system with conditional access enabling different degrees of parental control.

- **Televizija Vijesti** d.o.o., Podgorica (08 November 2011), a commercial broadcaster of TV Vijesti was issued a warning on the account of airing a video recording of the murder of Aleksandar Pejanović in their news "Vijesti u pola 7" and "Vijesti u pola 11", because broadcasting of such contents:
 - a. threatens safeguarded rights and freedoms of individuals and citizens (either as victims, witnesses or families of victims and suspects/accused or other persons affected by tragic events or persons involved in criminal proceedings on any grounds) as well as respect for privacy and dignity, by publishing information of their private lives without their knowledge and consent and without the unambiguous existence of a justified public interest or interest of the public to know;
 - b. may cause damages to mental or moral development or welfare of minors and other vulnerable persons (persons who have sustained traumas due to tragic events), on the account of the scenes of violence, consequences of violence, without observing the duty for consistent application of professional and ethical standards of journalists code of ethics to inform the public in an appropriate manner and the need to show sympathy, eliminating the risk of sensationalism.

This broadcaster was ordered, when airing contents and features containing disturbing scenes of death and violence, to pay special attention to the damaging impact on minors and

other vulnerable social groups. Also, they were ordered to exercise due care when journalists present information referring to pending criminal proceedings.

The broadcaster acted as per orders.

5. Support to campaigns of public interest

In 2011, the AEM endeavoured through its actions to assist the campaigns recognised as the topics of societal concern. To that effect, AEM responded positively to the initiatives of organisers and informed broadcasters that such thematic spots will not be calculated in the allowed quota of daily ads. This additionally motivated broadcasters to provide for more frequent airing of spots and more forceful promotion of such campaigns.

The campaigns supported in such a way include:

- **“VET is the KEY”**, by Ministry of Education and Sport and the VET Centre to promote vocational education and training, such occupations and professions, and improve the image of VET schools in general. The campaign aims at popularising VET among the young and foster enrolment for occupations such as waiter, chef, bar tender and a farmer, since these occupations and profiles stand a good future and rely on priority development axis in Montenegro – tourism and agriculture;

- **“Let’s Clean Morača”**, launched by the Special Antiterrorist Unit of the Police Directorate, also supported by the Environmental Protection Agency, NGO Green Home, and the OSCE Mission to Montenegro;

- **“Report Corruption – A Good Choice”** and **“Report Corruption – There Is Always a Way”**, carried out by the Directorate of Anti-Corruption Initiative to raise awareness of corruption and prompt citizens to report suspected corruption to the relevant authorities.

- the **Tax Administration’s campaign**, to inform the public of the tax policy and the importance of the tax system for the state, highlighting the importance of issuing fiscal receipts.

- the **Police Directorate’s campaign**, to present to the public the capabilities and competency of the Special Antiterrorist Unit to respond to crisis following the current European and NATO standards.

With the adoption of the Rulebook on Commercial Audiovisual Communication in June 2011, the provision entered into force which stipulates that the total advertisement time does not take into account notifications, announcements or calls for public works and charitable and humanitarian actions, carried out without remuneration, as well as airing of free ads of state bodies and organisations, local bodies and public services promoting the activities and measures relevant for citizens, for the majority of citizens or a minority social group.

6. Protection of copyright and related rights

Development and fostering of competition in the AVM market in Montenegro is gaining in importance and intensity. The supply of foreign, in particular regional TV channels within the packages offered by Montenegrin KDS/MMDS/IPTV/DTH operators gives a strong impetus to local TV stations to enhance their programmes and struggle to increase viewership. The efforts to become and stay competitive are closely linked with the production or purchase of appealing entertainment and sport programmes, and protection of acquired copyright, especial exclusive rights.

On several occasions the AEM Council considered the observance of copyright and related rights by broadcasters and operators in Montenegro. Against this backdrop, the issue of unauthorised airing of programme contents (mostly sport programmes, serials, etc) that only certain entities are entitled to broadcast within Montenegrin territory and using a certain platform was particularly discussed. Starting from the environment in which Montenegrin market of AVM services

is developing, and cognizant of the AEM's obligations as regards the enforcement of legislation governing the protection of intellectual property rights, AEM Council on several occasions reviewed the measures and the schedule for their implementation aiming at better implementation of the relevant legal framework.

As a part of activities related to protection of copyright and related rights in the field of radio and TV programme distribution to end users, in March 2011 AEM hosted a meeting on the unauthorised use and provision of services of radio and TV programme distribution. The meeting was attended, apart from AEM members, also by the Ministry for Information Society and Telecommunication, the Ministry of Sustainable Development and Tourism and operators.

The attendees highlighted two issues of special importance for operators in Montenegro: unauthorised provision of commercial distribution services (by hotels and hospitality establishments) and existence of non-licensed distribution systems within Montenegrin territory.

The operators pointed out to substantial problems in functioning of the distribution market aggravating the status and competitive position of licensed operators. Starting from the position that AEM should regulate the market, and not the licensed distributors, they asked for the support in protecting their interests. It was noted that, in addressing the issue of unauthorised distribution by hotels, apart from sanctions, also education is in order presenting to hotel owners and operators the advantages of legal distribution (e.g. on-demand video as a part of the package of hospitality services).

The Ministry of Sustainable Development and Tourism, i.e. the Tourism Inspection stressed their readiness to invest utmost efforts before the commencement of the tourism season to take actions to suppress this form of "grey economy", and that the initiatives by AEM and operators to facilitate their efforts in this sense would be particularly appreciated.

The Ministry of Information Society and Telecommunication, as the responsible agency for preventing unauthorised development of communication networks, appealed on operators to lodge objections to give grounds for response of relevant inspection services. At the same time, they expressed readiness to cooperate actively with Tourism Inspection in suppressing such occurrences.

To that effect, and in line with the conclusions adopted, in late March 2011 AEM lodged with the Ministry of Sustainable Development and tourism a request to conduct inspection checks over hotel entities on the account of unauthorised use and radio and TV programme distribution in their establishments in order to assess the scope of the problem and tackle it.

It was underscored on the occasion that provision of on-demand AVM services, which includes radio and TV programme distribution to end users and viewing programmes on demand (video-on-demand) or viewing of programmes payable individually (pay-per-view) is governed by the Electronic Media Law and is subject to a licensing procedure. Hence, the use and/or provision of such services may be secured only by entities licensed for provision of AVM services on demand. Consequently, any inclusion of certain radio and TV programmes or specific AVM contents (films or similar formats) in the offer of hotels and other hospitality establishments is possible only through regulating the rights of use with the entity holding the distribution right within Montenegrin territory. The regulation of rights is confirmed by an agreement with an authorised cable (KDS/MMDS/DTH/IPTV) operator or documentation on purchase of decoding cards for certain satellite signals before making them part of the hotel or hospitality establishment offering. The law stipulates that the provider of AVM services on demand may perform distribution of coded satellite programmes only if having concluded the distribution agreement with the owner of such programmes allowing decoding for subsequent re-broadcast. Also, the law stipulates that provider of AVM services on demand will not be regarded as having acquired the right to distribution of such programmes by simple purchase of a decoding card intended for individual use of subscribers.

In their response as per this request, the Ministry of Tourism and Sustainable Development rejected to take actions relinquishing jurisdiction given that they believe AEM is competent to take actions as per such requests.

The reason which, in AEM's opinion, led to this conflict in authorities lies in the fact that the very legislation for protection of intellectual property rights is largely ambiguous, particularly given the fact that Montenegrin legislation is currently being harmonised with the EU acquis and case law, leading to frequent restructuring of state administration, inspection services, misdemeanour proceedings, etc., without a systemic understanding of the consequences of specific legal modifications (see the comment on the amendments to the Inspection Supervision Law below).

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In July 2011 the AEM Council hosted a meeting with KDS/MMDS/DTH/IPTV operators concerning protection of copyright and related rights in distribution of radio and TV programmes to end users. The meeting was attended by the members of the AEM Council and representatives of operators.

The meeting discussed the current practice of operators and the diligence in meeting the terms stipulated by licences issued for radio and TV programme distribution to end users. The AEM Council indicated the necessity of respecting copyright and related rights by broadcasters and operators in Montenegro. In this context, special attention is dedicated to unauthorised broadcasting of contents that only specified entities have the right to broadcast within Montenegrin territory and using a specified platform.

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At the request of the Association of Cable Operators, a meeting was held in September 2011 gathering operators, commercial broadcasters and the AEM to come up with a solution to overcome the problems related to airing some foreign TV channels or specific programme contents within them.

The association of Operators presented the problems they experienced with the users of their services for darkening screen for certain programme contents. In this context, the issue of unauthorised airing of contents that only some entities have the right to broadcast within Montenegrin territory was particularly discussed drawing special attention on the obligation of operators, after receiving a timely notification, to take all necessary measures to fully respect the acquired broadcast rights for given programme contents (dark screen for the channel broadcasting protected programme contents, etc.).

Following an open and constructive discussion, it was concluded that all participants in the process will give their maximum contribution to overcome the current situation with the interest of citizens as end users in mind.

At the sessions held on 8 and 12 September 2011, the AEM Council discussed the notification of broadcasters of TV B92 to deny the consent for distribution of this programme to all operators in Montenegro. Given the justification provided by the broadcaster and the responses of Montenegrin operators, broadcasters and audience, the AEM Council reinforced the importance of consistent application of the Law on Copyright and Related Rights in this field in order to avoid the circumstances which might affect the negative trends in the offer of these services and the ultimate dissatisfaction of viewership and users stalling the market development.

Recognising the interest of viewers to have access to attractive programme contents, the AEM Council underscored the importance of developing on-demand AVM services. Nevertheless, the AEM Council reminded that the supply offered by broadcasters and cable operators may not be based on disregard for copyright and related rights regarding broadcasting or distribution of certain TV channels, particularly the contracts where it is specifically stipulated that operators have broadcast rights only for own production of certain TV channels. To that effect, the AEM Council underscored the consistent application of acquired rights and assumed obligations related to distribution of certain TV channels (domestic or foreign).

Never questioning the freedom of broadcasters and operators to create the contents of own services and the adoption of necessary business decisions on this account, the AEM Council expressed its expectations that broadcasters and operators with their responsible relation to own viewers and service users, will contribute to objective information, better understanding and awareness raising regarding how significant the observance of such rights is for the development of own services and the market supply.

Given the environment in which Montenegrin AVM services market is developing, and taking into account the obligations AEM has in enforcement of copyright and related rights in the field of AVM services, the AEM Council reiterated their commitment and full support to the efforts to set forth and implement measures for consistent implementation of the current legal framework. Also, AEM expressed its readiness to get involved or support initiatives aimed at fostering the current provisions and their full implementation.

STATE OF PLAY IN THE MARKET OF RADIO AND TV PROGRAMME DISTRIBUTION TO END USERS

In line with the AEM licences, the right of distribution of radio and TV programmes to end users, within the approved service zone, is enjoyed by seven operators, four of them cable operators, and one each MMDS, IPTV and DTH operator.

On 31 December 2011, there were in total **122,734** distribution connections for radio and TV programmes via various KDS/MMDS/DTH/IPTV platforms.

Compared to the number of connections in late September 2011 there is an upward trend in the number of users of radio and TV programme distribution. Over three months, the increase was 4,022 new connections or **3.39%**.

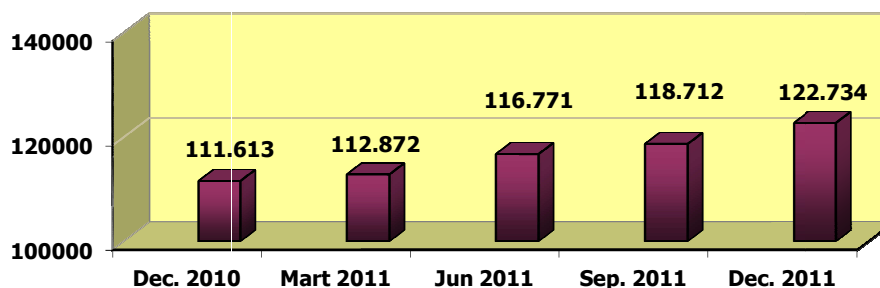


Chart 1: Number of connections (KDS/MMDS/DTH/IPTV)

If it is presumed that all or the greatest share of data on connections refers to users from the category of households and when compared with the official data on the number of households in

Montenegro³, it may give an approximate picture of what is the primary technology which Montenegrin households use for reception of radio and TV programmes.

It leads to the conclusion that **36.99%** of households in Montenegro use only terrestrial (analogue), i.e. free of charge reception of radio and TV programmes. On the other hand, the remaining households, **63.01%**, have opted for the use of one of alternative radio and TV programme distribution platforms. The said percentage is statistically corrected compared to the percentage from September 2011 since it was calculated on the base of 194,795 households, established by the 2011 census.

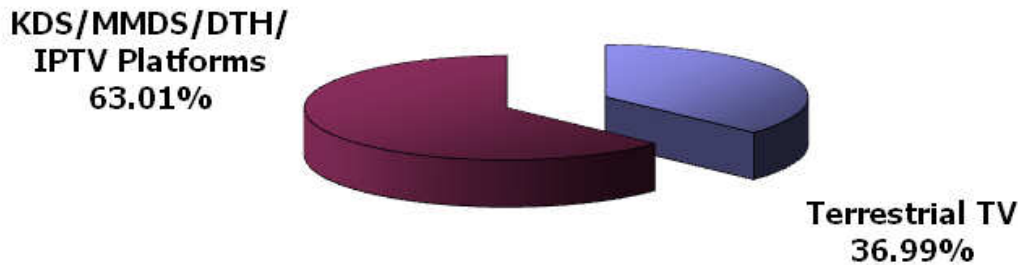


Chart 2: Structure of households from the point of view of primary platforms for reception of radio and TV programme

With its 40.91% share, the IPTV platform retains the leading position on the market of radio and TV programme distribution to end users. It is followed by the DTH distribution (30.03%), MMDS (16.25%) and KDS platform (12.81%). The market is structured as shown in the chart below:

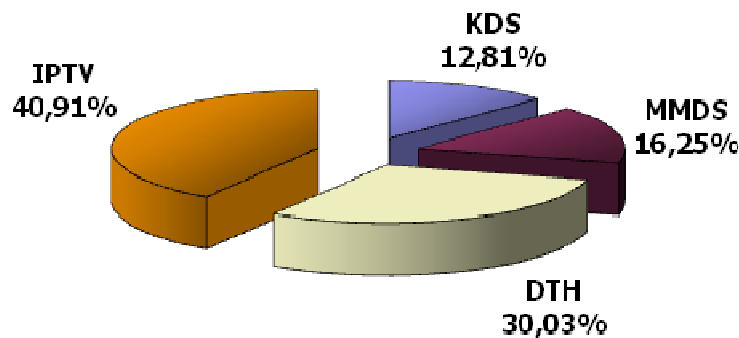


Chart 4: Market share of KDS/MMDS/DTH/IPTV platforms

The demand for distribution of radio and TV programmes differs depending on the geographic region⁴ of Montenegro. Seen as a share of total households, the demand is greatest in the coastal region, as much as 82.04%. It is followed by the central region with 66.333%, and finally the northern region with mere 38.88% households using the operator services.

Breaking down such data by the primary technology used by households in certain regions for receiving radio and TV programmes, it may be concluded that the terrestrial (analogue) reception is still predominant in the northern region.

³ 2011 census – Source: Monstat: Census of Population, Households and Homes in Montenegro 2011

⁴ Northern region: Andrijevica, Berane, B.Polje, Kolašin, Mojkovac, Plav, Pljevlja, Plužine, Rožaje, Šavnik, Žabljak
Central region: Cetinje, Danilovgrad, Nikšić, Podgorica
Coastal region: Bar, Budva, H.Novi, Kotor, Tivat, Ulcinj

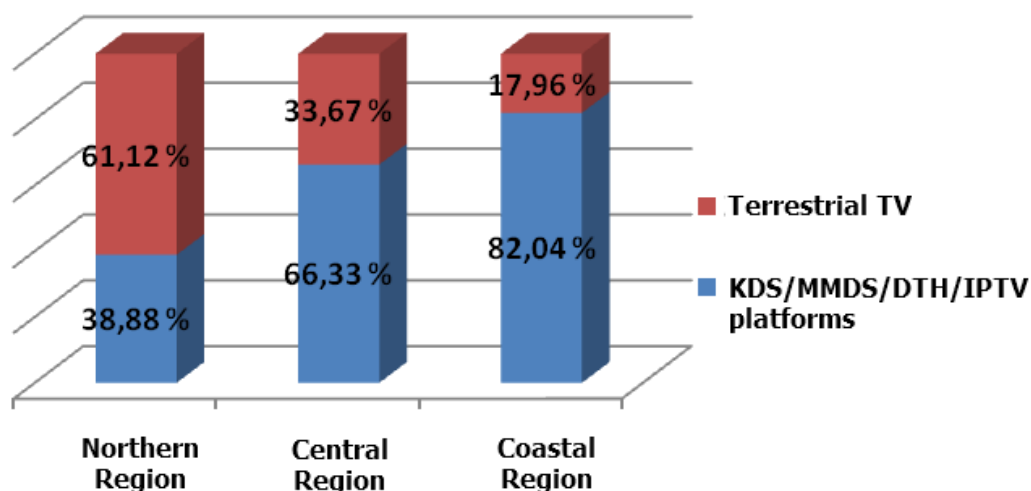


Chart 5: Breakdown of households by the primary reception platform – by region

Over the period observed the average price of the basic package amounted to €9.37 (the highest €10.00, the lowest €5.95). On average, a basic package offers 62 TV channels (the upper extreme 100, the lower extreme 30). Four operators do not offer radio channels as a part of their basic package, while the remaining two operators offer 4, or 14 radio channels to their users.

Two operators do not have additional packages in their offer, while the remaining four operators on average offer 5 additional packages (the upper extreme 7, the lower extreme 4). The average price of an additional package is €5.53 (ranging between €21.50 and €2.50).

The demand for additional packages also differs by regions. Expressed as a share of the total number of basic package users, the demand for additional packages in the central region is 37.57%, in the coastal region 37.42% and much lower in the northern region with 23%.

Looking at the offer of additional packages, most frequently they include film and sport contents, and adult contents. The best selling additional package for the whole Montenegrin territory is HBO (33.74% of total additional packages). It is followed by ARENA sport package (27.79%), and PINK package (15.49%).

Seen as a share of the total radio and TV programme distribution to end users, i.e. the number of basic and additional tiers sold, a household opting for this type of service pays on average €10.73 a month.

PARTICIPATION IN ACTIVITIES RELEVANT FOR THE AUDIOVISUAL MEDIA SECTOR

In July 2011 the Government of Montenegro prepared the **Draft Law amending the Inspection Supervision Law** stipulating that the inspection control in Montenegro is carried out by a single administrative body, apart from the areas of defence and security, civil protection and rescue, transport of hazardous materials and explosives, as well as in the area of administrative inspection.

The review of the draft law (subsequently adopted by the Parliament)) reveals that its provisions are in conflict with the provisions contained in the Electronic Media Law and the Law on Copyright and Other Related Rights. More specifically, it brings into question the manner of implementation of AEM's rights and obligations as regards the oversight over the application of these laws in audiovisual media sector, i.e. in broadcasting.

Namely, the Electronic Media Law envisages the AEM overseeing the implementation of this Law through its authorised official, in line with the law governing inspection supervision. Thus, in line with the *lex specialis* Electronic Media Law, it is solely the AEM, as the independent regulator for AVM services, exercising public authorities in terms with this Law, which is entrusted with inspection supervision in the AVM field.

The Law on Copyright and Other Related Rights envisages that, among others, an independent regulatory body for broadcast services oversees the implementation of this law, i.e. the AEM. Also, it is stipulated that inspection supervision in the area of protection of copyright and other related rights, within AEM's remit, is exercised through an authorised official of the independent regulator for broadcast services, i.e. the AEM (Art 199). The law also envisages measures which may be imposed in the exercise of inspection supervision.

Previous provisions of the Law on Inspection Supervision (Official Gazette of the Republic of Montenegro 39/03, Official Gazette of Montenegro 76/09) envisaged for inspection supervision, in terms with this and other laws, to be carried out by line ministries and administrative agencies, as well as, on exceptional basis, by entities entrusted with or assigned these tasks (Art 2).

It was also stipulated that the entity which was entrusted with or assigned the inspection tasks, would exercise such tasks through a person with special authorities and responsibilities meeting the requirements for performing the tasks of an inspector, stipulated in law (Art 4a) as well as that such a person, in exercising the tasks of an inspector, would enjoy all the obligations, authorities and responsibilities of an inspector, in terms with the law (Art 4b).

Hence, until the adoption of the 2011 amendments, the three laws were fully reconciled.

Now, as envisaged by the amended Inspection Supervision Law, "inspection supervision, in terms with this law and other legislation" shall be exercised by the administrative body in charge of inspection supervision (inspection body)". Exceptions are envisaged for state administration, defence and security, civil protection and rescue, transport of hazardous substances and explosives, where inspection supervision is entrusted to relevant state administration bodies, u in terms with this law and a separate law (the Draft Law, Art 1).

Furthermore, with the entry into force of this Law, the provisions of special laws and other legislation governing the competences of state administration bodies and entities in charge of inspection supervision are repealed, with the exception of the fields listed above. It means that the above mentioned provisions of the Electronic Media Law and the Law on Copyright and Other Related Rights ceased to be in effect, with the respective authorities transferred to the future Inspection Administration. An important aspect of the issue is also which body should act in the

second instance for considering appeals against the decisions passed in the course of inspection control. Current provisions of the amended Inspection Supervision Law do not give a readily discernible answer to this question.

Since the adopted amendments repealed the provisions concerning the “authorised officials” it remains unclear which body should perform the inspection tasks in the field of AVM services, i.e. which body is to perform such tasks in this important field governing the operation of national public broadcasters (Radio of Montenegro and TV of Montenegro), local public broadcasters (14 radio and 3 TV stations), commercial broadcasters (42 radio and 20 TV stations), and on-demand AVM service providers (7 KDS/MMDS/IPTV/DTH operators).

Given the above, AEM attempted to draw attention to the questions and ambiguities stemming from the proposed provisions and sent a request to the law sponsor to revise the relevant provisions to avoid problems in the implementation of the two systemic laws in the AVM sector. AEM’s suggestions were not taken into account; hence, more attention should be devoted to this issue on the occasion of the next amendments to the Electronic Media Law.

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During the public discussions of the **Draft Law amending the Law on Games of Chance**, AEM reminded of Article 136 of the Electronic Media Law, envisaging that, with a view of fostering media pluralism, production of commercial broadcasters and safeguarding diversity of electronic media in Montenegro, a share of the revenues of games of chance shall be provided in the amount and in the manner established by the special law governing games of chance. Apart from the above, the Law contains provisions on the purpose and criteria for awarding funds. Thus, an attempt was made to, at least partly, ensure continuity of the practice introduced by the 20002 Broadcasting Law aiming to secure a mechanism supporting electronic media in meeting their obligations imposed by the electronic media legal framework.

The thing to be kept in mind is that the need to have continuity with the 2002 model was not reinforced by the model propounded by the 2010 Electronic Media Law. Namely, the model offered by the new law failed to enhance the previous system. In AEM’s opinion, in no way should any model of support to electronic media be a basis for or give rise to discrimination through selective support to one type of media only, and in particular not to be a basis for non-transparent and unstable provision of fund by applying the model.

To that effect it is particularly important to stipulate provisions concerning:

- an entity or a body to be in charge of planning, disposal and administration of such funds, as well as a clear mandate on this issue;
- the criteria for defining the amount of funds to be secured from precisely specified sources, such as the national Budget.

AEM indicated another important issue that should be taken into account when considering the draft – the provision on prohibition of advertising games of chance in “print and electronic media intended for children and the young”.

We drew attention to the need of modifying the provision as regards electronic media. Given that protection of minors in the area of AVM services is one of major AEM’s tasks, it was underscored that in drafting the new provisions the ones contained in the Electronic Media Law and the pertinent secondary legislation should be taken into account. Thus, with the adoption of complementary provisions in the two laws, the overall framework for protection of minors in broadcast services will be improved.

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In late September and early October a public discussion was held on the **Draft Strategy for Information Society Development 2011 - 2016**. The final session was held during the 2011 INFOFEST where the AEM members took part and gave their comments and suggestions, all largely adopted in the final Strategy draft.

The AEM welcomed the fact that the 2011-2016 Strategy for Information Society Development – Montenegro as a digital society, recognised the need to adopt new strategies for electronic communication and information society development, as well as uniting them with the strategy for broadband infrastructure development and access to high speed internet. Given the importance of the issues covered, particularly their impact on the AVM services development, AEM highlighted the great importance of having compatible solutions and the schedule for their implementation. To that effect, AEM found it a positive thing that the Strategy compiles all goals, tasks and activities referring to these three areas.

The advantage of the Strategy is that it recognises the sectors of key importance for the information society development, such as the development of technical assumptions and development of supply and demand for various types of services in the area of education, administration, health care, information and other relevant areas of life and work for citizens/consumers.

With this in mind, we welcomed the definition of the media and the broadcasting sector as one of the key national strategic pillars in development of ICT and the information society as such.

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In October 2011 AEM received the notification from the Directorate of Anticorruption Initiative that it is one of the responsible agencies for the implementation of the updated Action Plan for the implementation of the 2010-2011 Anti Corruption and Organised Crime Strategy.

Working on the premises that a clear definition of the issue of corruption in the public is one of utmost tasks in fight against corruption, it is clear that the media have a major role in the process. The media, particularly the public ones, have a role to secure objective information and public oversight of societal activities. In case of any direct or indirect, political or economic pressures on their work, and conflict of interest situations and corruption, this to a great extent brings into question the possibility of meeting the expectations of the public, recognised by the Strategy, referring to “objective reporting of manifestations, promotion of achievements, and drawing attention to damaging consequences this phenomenon has on society at large”. Since, the Strategy recognised that “the very nature and financial power of organised crime imposes the ever present danger of having influence over media to create public opinion and divert attention away from the activities of certain criminal groups”.

Given the above, the AEM’s standpoint is that it is utterly justified for the measures securing the transparency of ownership in the media and prevention of illicit media concentration to be included as measures for the Strategy implementation.

Accordingly, it was deemed that should the activities towards their securing be recognised and undertaken, certain measures stipulated in the Action Plan (measures 235-238) should be reconsidered to align them with the legal framework and international standards related to media sector regulation, primarily freedom of expression. In doing so, special attention is focused on the

rights and obligations of AEM as the regulator, as envisaged by Art. 129-135 of the Electronic Media Law, and RTCG, as the national public broadcast service and other Montenegrin media.

In line with the request from December 2011, DACI was provided with a report on the implementation of the Updated Action Plan for 2010-2020 Anti Corruption and Organised Crime Strategy (covering the period July - December 2011) with justification and recommendations for reassessing certain measures.

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In November 2011, AEM took part in the public discussion of the **Draft Law on Audiovisual Activities**. Apart from taking part in the round table discussing the Draft LAW, the AEM provided written comments to the draft discussed.

Welcoming the adoption of the Law to further promote and enhance the development of audiovisual activity in Montenegro, we drew attention to the fact that the new draft should not, without well-justified reasons, introduce new administrative and other barriers for the entry into and survival at the AV services market, particularly when it comes to media services. This was underscored given that proposed Draft envisages a number of obligations fully justified and logical in case of cinemas, but not the media (and in some cases also distributors of AVM contents).

Since the Law refers also to broadcasters as entities performing AV activity, AEM reminded of the necessity to amend the legal provisions by recognising the importance of introducing digital technologies also in case of broadcasters and providers of on-demand AVM services (e.g. cable, MMDS, IPTV distribution), as well as the need to include AEM as the regulator for the sector of AVM services, in certain activities relevant for the sector.

It was particularly stressed that, given that radio and TV station broadcasters, as providers of on-demand AVM services are registered with AEM and the data from the register are made available to the Ministry of Culture, that the justification of their re-registration or re-licensing should be reconsidered.

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Between 27 and 29 May 2011, the members of AEM participated to the international 4th Montenegrin Media Dialogues, organised by the NGO Economic Laboratory for Transition Research (ELIT) - Podgorica, the magazine "Media Dialogues" and Radio Bijelo Polje, under the auspices of the Ministry of Culture and the Municipality of Bijelo Polje.

The event presented papers of some thirty or so authors from former Yugoslav republics published in the magazine for media and society research "Media Dialogues". The working part of the event, split in two sessions, discussed the digitalisation of media, copyright, media concentration, and the influence of the media on the mental, social and moral development of children.

INTERNATIONAL COOPERATION

In the spirit of developing and strengthening good relations and continuous exchange of experiences on regulatory aspects form within its competences, in 2011 AEM continued to attach great importance to cooperation with regulators in the countries of the region and Europe both on bilateral grounds, but also multilaterally. Acknowledging the material and financial circumstances in which AEM operated in 2011, the participation of AEM representatives was limited to a fewer number of events and activities abroad.

Apart from regular international activities and participation of AEM to international events, last year was marked by AEM's partnership on the international project "Digital TV of Southeast Europe" - SEE Digi.TV (www.see-digi.tv) and its becoming a member of the Mediterranean Network of Regulatory Authorities (www.rirm.org).

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As hosted by the Mediacentre Sarajevo, the Regulatory Agency for Communications (RAK) and the US Embassy to BiH, a conference was held in Sarajevo on 18 and 19 February 2011 - "**Media Transformation – digitalisation and development of new media in the Western Balkans**".

It was attended by some 80 members of different media from BiH and the region (Croatia, Serbia, Montenegro, Macedonia and Albania), members of regulatory agencies, experts for media digitalisation from Southeast Europe and others. The two-day event was divided into 4 thematic sessions: digitalisation experiences in Europe; digitalisation experiences in the region; impact of new media on the media production; new media and new audience. As invited by the US Embassy in Podgorica (which covered the costs of participation), the event was attended by a member of AEM staff and journalists of several Montenegrin media.

The conference particularly focused on the key challenges and opportunities of digitalisation, the expected contribution of the process to culture, opportunities offered by introducing digital technologies: promotion of cultural diversity, spreading of culture using new technologies, and information of public importance assisting in preservation of cultural heritage. The progress made by the countries of the region in the digitalisation process and the trend that, due to technological convergence, the pooling of different media contents is ever more present were also discussed.

Another specific aspect of the conference was reflected in media coverage of the event done online in real time. For the duration of the event, the desk composed of young journalists and students of journalism in BiH gathered, selected, processed and published information photographs, video and other multimedia contents on the Mediacentre website and social networks. This coverage experiment of a kind was very successful, in the opinion of the media desk and the organisers.

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At the invitation of the Council of National Broadcasting Agency of Serbia (RRA), in April a member of AEM participated to the **meeting with the members of regulatory bodies from the region (Bosnia and Herzegovina, Macedonia, Slovenia and Croatia)**, held in Beograd, Serbia (08 April 2011).

The event helped share the experiences of regulatory bodies regarding overseeing the broadcast services as regards reality shows, their proper labelling, protection of minors against their

contents, the actions of regulatory authorities in such cases, and the need to adopt specific secondary legislation in this field.

Regulators agreed that such a type of cooperation should become customary, given the large number of shared topics, including protection of minors, political representation, implementation of EU legislation and the issue of copyright in cable broadcasts.

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The EU-Montenegro Subcommittee Meeting on Innovation, Human Resources, Information Society and Social Policy met in Brussels on 13 April 2011, where Montenegrin and EC officials presented the progress made in legal harmonisation and its implementation in the given areas. An AEM member took part in the meeting when discussing information society and the media.

The EC welcomed the adoption of the Electronic Media Law and Montenegro's readiness to introduce changes in line with the 2010 EC and Council of Europe recommendations and encouraged Montenegrin authorities to consult the EC on any intended amendments. The Montenegrin side was invited to further consider all changes needed to ensure full alignment with the European regulatory framework and submit to EC services the draft secondary legislation for comments. The reinforcement of AEM's administrative capacities was particularly welcomed, especially its monitoring department.

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An international conference on **"Media in Southeast Europe"** was held in Berlin on 12 May 2011, as organised by the Friedrich Ebert Foundation from Berlin. A member of AEM attended the event, as invited by the organisers who also covered for the travel and accommodation expenses.

The conference was dedicated to main challenges related to the print, electronic and online media giving recommendations for future improvement of the situation related to the legal framework and functioning of the media at the time when several countries of the region are preparing for EU accession.

The members of the Friedrich Ebert Foundation, the Institute for European Media Law, the EU, the European Parliament, the Council of Europe, the German Bundestag, Article 19, the Regional Cooperation Council, International Press Institute, Media Organisation of Southeast Europe, European Association of Newspaper Publishers, European Journalist Centre, regulatory authorities from the region, and editors and journalists of public and commercial media from Southeast Europe took part in the event.

The conference presented main findings of the study on **"Media in Southeast Europe – a comparative study of media law and policy"**, prepared by the Institute for European Media Law from Brussels for the needs of the Friedrich Ebert Foundation, assisted by experts from the countries covered by the study.

The conference proceeded to discuss other issues relevant for the media sector in Southeast Europe, but also the EU and Council of Europe member states. Media policies and strategies in the context of EU enlargement process, media freedom in Southeast Europe, challenges faced by commercial media and public broadcast services were among the issues discussed, as well as some other issues relevant for media operation and freedom.

Concerns were voiced as regards the situation in the media sector in several EU members states (Hungary, Italy) and the drafting of the European Parliament's report on freedom of expression in the EU announced, as well as active monitoring of the situation by the EC.

In the context of enlargement, the progress Montenegro made in meeting the criteria for launching accession negotiations was mentioned, in particular the improvement made in the area of freedom of expression and decriminalisation of defamation. Montenegro was cited as a positive example in the efficiency of such an approach.

Lack of proper investigation in cases of violence against journalists, the need to work more intensively and extensively on journalist education, a large number of court cases against journalists, the amount of fines, operation of regulatory authorities, transparency of ownership concentration etc were singled out as main challenges in the region.

The conclusions proposed similar events to be held in the countries covered by the "Media in SEE – a comparative study of media law and policy" to present in detail the study findings and discuss matters tabled at the conference study.

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Hosted by the Office of the Representative on Freedom of the Media with the OSCE, in cooperation with the OSCE Mission to BiH, and supported by the OSCE Office in Albania, the OSCE Mission to Kosovo, the OSCE Mission to Montenegro, the OSCE Mission to Serbia and the OSCE Mission in Skopje, the **First OSCE Southeast Europe Media Conference** was held on 13 and 14 October in Sarajevo, BiH.

Close to one hundred international and local experts and members of the media in Southeast Europe attended the conference and discussed current developments in the field of media freedom and challenges posed before the region.

The conference focused on independence of the media implying topics such as: the state of public service broadcasting, legislative constraints limiting the freedom of the media, violence against and intimidation of journalists, and employment terms for journalists.

At the invitation of organisers, who covered the travel and accommodation costs, the conference was attended by a member of AEM as a panellist in the session devoted to challenges relevant for development and application of a legal framework.

The conference adopted the Declaration "On the Road to Media Freedom" stressed the need to develop and maintain self-regulatory mechanisms independent from the authorities, based on highest standards of professional conduct, to improve the quality of journalism and to offer an adequate and proportionate response to journalists' mistakes and violation of media ethics. Among other things, it was stressed that public authorities at all levels should openly and resolutely acknowledge and ensure independence of public service broadcasters, both editorial and financial "as it is crucial for ensuring a well-functioning democracy and serve as a backbone for the freedom of media".

It was pointed out that professional journalists should strive to be accurate and objective, and respect codes of ethics, as transparent self-regulation mechanisms offer sufficient remedies to persons whose reputation was damaged and contribute to increasing the professionalism and credibility of media.

Urging for strict adherence to laws governing the role and operation of media, the Declaration also highlighted the need to strengthen journalists' unions and to improve employment conditions and recruitment of journalists.

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The conference on “**Political Parties and the Media in a Democracy**” was held in Zagreb, Croatia (14-16 October 2011). The event was organised by the Regional Political Party Initiative of the National Democratic Institute (RPI NDI), in cooperation with the Olof Palme International Centre, the SDP of Croatia and the Association for Development of Social Democracy “Novo društvo” from Croatia. At the invitation of the organisers, who covered for the travel and accommodation costs, a member of AEM attended the conference and presented the state of play and legal framework in which media in Montenegro operate.

The event enabled members of different organisations (members or staff in political parties, MPs, journalists, university professors, etc.) to exchange views on challenges for the development of the media system in a democratic society or, as it has shown, in “emerging democracies”. The shared problems were recognised, different in scope and structure, but nevertheless problems faced by all media and individual bodies and organisations dealing with the media. Some among these are self-censorship, pressure on the media, influence on their financial or editorial independence.

The event noted that despite the economic crisis and lack of democratic tradition, the media deserved an increasing attention including support, and not pressures. Should such support be absent, it would jeopardise their development and sustainability and would result in long-term democratic and societal disturbances. It is clearly shown that, instead of being seen as a potentially strong allies, media are seen as adversaries and frequently handled with lack of respect and understanding for their essential (financial and editorial) independence. Instead of all parties working on developing/strengthening trust, it seems to be easier to insist on the story of the bad media or politicians then seek ways to improve the work of both.

The participants noted lack of understanding of what constitutes a good media policy. Namely, majority of discussions were based on collecting and presentation of non-comparable data, without any serious intention to analyse the significance of the data gathered and what should be done to overcome evident problems or attain the goals set.

The conference gave a very helpful and comprehensive overview of a set of international standards that should be borne in mind in policy-making, monitoring and evaluation of any media policy, measure or results (UNESCO, Council of Europe....). This would improve the quality of participation of all stakeholders in the process of overall assessment of democratic development/progress of a certain country. Given the EU integration process and a very complex negotiation process awaiting most of the countries (current candidate countries or prospective candidates) it seems to be the right time to ask whether the key participants in the process understand what is or what will be their role and whether they would be able to fulfil it in a responsible, professional and transparent manner.

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Upon the invitation of the President of the Broadcasting Authority of Malta, AEM participated to the **13th plenary session of the Mediterranean Network of Regulatory Authorities** on 24 and 25 November 2011 in Malta. Apart from members from twelve Mediterranean countries and the officials of two European organisations, the event was attended by representatives of AEM, which joined this association on the occasion.

The meeting discussed the challenges of audiovisual regulation in the Mediterranean, particularly in the light of introducing new broadcast services, reality shows and their influence on the society and thematic programmes and placement of products within such programmes.

The conference concluded with the Declaration on Reality Television being signed by all members of the association aiming to promote dialogue between professionals in the audiovisual field and the civil society and protection of fundamental rights of the participants to such programmes, as well as their proper monitoring.

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The **33rd Meeting of the European Platform of Regulatory Authorities (EPRA)** was held in Ohrid, Macedonia, between 25 and 27 May 2011. The meeting was attended by 136 delegates from 47 countries, including the AEM representative.

The information, opinions and experiences were exchanged on the following themes and specific issues discussed in two plenary sessions and three thematic working groups: content regulation in the conditions of coexistence of traditional and new media; independence of regulatory authorities in modern circumstances; product placement; radio in the digital environments, and topical issues regarding EU spectrum policy.

A very dynamic development of technologies is constantly and increasingly more posing challenges before the AVM services Directive. Creation of new broadcast and reception facilities (Connected/Smart TV), as well as numerous new services (video on demand, catch-up TV, magazine video sites, aggregator sites, video hosting and exchange sites) constantly bring to light the issue whether all these separate services have been covered by existing norms and whether these are applicable to all existing services. As regards the issue of a regulatory framework, i.e. the extent to which it would cover various existing and constantly emerging new forms and facilities of AVM services, some interesting thoughts on strategies of action and practical experiences were presented. One of the regulatory authorities (French CSA) considers that the purpose of regulating the broadcast contents (protection of general values, protection of vulnerable groups, etc) could rather be achieved by focusing on the development of general principles and their application *mutatis mutandis* on special types of media (Internet vs. AVM), simultaneously strengthening the self-regulation and co-regulation mechanisms. In the implementation of the said Directive other regulatory authorities (for instance the Dutch RA) place focus on classification of criteria for AVM services on demand, endeavouring to provide for a legal framework wide enough to all individual services. UK is characterised by its co-regulation approach, while the representatives of the Italian regulator stress the fact that some topical provisions outdate quickly confronted with constant technological innovations and objectively put into question the practical applicability of existing standards and norms.

Substantial attention is dedicated to the exercise of independence of the regulatory authorities. Based on the notion that independence is not just a feature but a fundamental principle and the reason for existence of regulatory agencies in this field, various practical experiences and views were presented whose basic common denominator is the greater or lesser gap between the formal and the actual (*de facto*) independence. In this context, various forms of pressures by the government, but also by the opposition, non-governmental institutions and bodies, businesses, etc were mentioned, stipulating that very often their combined action is the greatest problem of all. The need for a constant dialogue of the regulatory authorities with the government, the parliament, the media and other interested parties was indicated as one of the effective solutions for preserving the regulator's independence.

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As organised by the General Audiovisual Council from Belgium, **34th Meeting of the European Platform of Regulatory Authorities (EPRA)** was held between 05 and 07 October in Brussels.

During the two-day event, 150 representatives of regulatory authorities from 46 countries (including members of AEM), as well as invited experts exchanged views on audiovisual media regulation. The regulation of new media, with a particular focus on video-on-demand services, the protection of minors and the cooperation between broadcasting regulators in Europe were recurring motives in the discussion.

The three parallel working groups organised within the event focused on latest developments with regard to product placement, the relationship between regulation and the economic viability of digital terrestrial television platforms, and the protection of minors in a changeable situation on the AVM services market.

The second day started with the panel discussion on efficient operation of regulatory authorities, and the issues like different approaches of regulatory authorities to electronic media programme monitoring, and the positive practice and current challenges in the field were discussed.

The representatives of the monitoring sector of European regulatory authorities presented their experiences, the methods and techniques used to monitor AV contents, both those broadcasted by the traditional electronic media and the services offered by new non-linear media.

The meeting concluded that the main challenges faced by regulatory authorities in monitoring the media was a huge number of radio and TV broadcasters and limited human resources. The lack of coordination at the European level regarding monitoring standards for on-demand AVM services, and the fast-paced market changes constitute an ever-increasing problem.

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The AEM members attended the international seminar "**Southeast Europe 20 years on: Transformation from State to Public Broadcasting**", held on 14 November 2011 in Sarajevo. The event was jointly organised by the EC DG Enlargement and the Regional Cooperation Council (RCC) Secretariat, with the support of the European Association of Public Service Media in South East Europe and the European Broadcasting Union (EBU).

The seminar was organized in response to the EC's Speak Up! Conference on freedom of expression and the media, held in Brussels in May 2011, that dedicated significant space to issues of importance to the public service media.

The event gathered directors general of public service media, senior government officials, representatives of regulatory authorities and civil society (media organisations) from South East Europe, as well as relevant international organisations. The state of public service media in South East Europe 20 years into the democratic transition was analysed, with a view to outline a future course of action in support of their freedom, independence and sustainability. The seminar conclusions gave guidance as to the recommended course of action towards the freedom, independence and sustainability of public broadcasters.

Over 50 representatives of 13 SEE members of the RCC took part in the discussion. AEM also took part, invited by the organisers who covered for the travel and accommodation expenses.

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Last year, the **OSCE Mission to Montenegro** financed the **project focusing on modernisation and capacity development of the AEM's Monitoring Sector**. The project offered valuable support to continuous development and modernisation of the Monitoring Department, as well as the promotion and implementation of programme standards in the AVM sector in Montenegro.

The project worked with foreign and local experts training the Monitoring Department staff and the software development and database needed to monitor electronic media, and English language courses.

The work with the foreign expert was organised in cooperation with the independent regulatory authority of France, the General Audiovisual Council, whose Programme Department Director, Maryse Brugière, shared their practical experiences in monitoring electronic media with AEM staff.

The local experts with long-standing experience in media monitoring analysed the programme contents of Montenegrin media, the application of programme standards, and dealt also with the issues of media monitoring methodology and technique.

The project is expected to continue this year, supported by the OSCE Mission to Montenegro.

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In late 2011, **UNESCO Statistics Institute** proposed to AEM to take part, in the capacity of an active member, in the work of the **international working group on media statistics (WGMS)**. The WGMS activities will focus on preparing an international survey related to media statistics to cover the areas of great interest for AEM, including concentration of media ownership, linguistic diversity in national information programmes, journalist training, digital media, etc.

Recognising the importance of such a survey and Montenegro's participation in the WGMS work, AEM assumed the obligation to participate in its work and coordinate relevant activities at the national level. An AEM member will take part in WGMS meetings planned for 2012.

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In June 2011, AEM signed with the EU Delegation to Montenegro a Grant Agreement (CRIS No. 267 792) to implement the SEE Digi.TV project (Digital Television in Southeast Europe). The project was approved within the SEE Transnational Cooperation Programme 2007 – 2013, as financed through the structural funds of ERDF, IPA and ENPI.

The total project costs are 160,200 EUR. Out of these, 136,170 EUR (or 85% of estimated justified costs) will be funded by IPA, while the remainder will be provided by AEM and the Agency for Electronic Communication and Postal Services.

SEE Digi.TV should speed up digitalization of the broadcasting services, and contribute to a wider use of ICT broadband services.

The involvement of different stakeholders, especially broadcasters and the industry, is particularly important and the positive impacts of the project should be reflected also in a broader business environment. Given the long-term perspective, the project should address issues of digital divide and social inclusion, and contribute to creating the region of equal opportunities for access to ICT broadband services by different groups of users, both in urban and in rural areas.



Jointly for our common future

The overall objective of the SEE Digi.TV project is harmonization of the activities in the target SEE region related to introduction of Digital Broadcasting services, which shall:

- (a) Speed-up the overall process of analogue switch-off in the region and further development to more efficient technologies,
- (b) Maximize harmonization of the legislative and technical frameworks with the EU digitalization process,
- (c) avoid policy, technology and market fragmentation,
- (d) Develop regional proposal for optimal use of freed frequency spectrum for new ICT broadband services,
- (e) Address the management of digital dividend.

SEE Digi.TV is based on distribution of TV signal and the New services to all the users in the SEE region, regardless of their sex or ethnic background. In addition, the project will contribute to environmental sustainability because the new digital broadcasting technology, both transmission and reception, has much lower energy consumption. The project duration is 25 months.

The AEM and the Agency for Electronic Communications and Postal Services will be the partner organisations in Montenegro. In addition, 12 other organisations from nine countries (Austria, Italy, Slovenia, Albania, Bosnia and Herzegovina, Croatia, FYROM and Serbia) will be our partners on the project.

The SEE Digi.TV project aims to integrate and coordinate territorial development linked with the analogue to digital switchover process and prevent possible negative social, economic and technical implications in case this process should fail on the national and regional level.

Specific project objectives are as follows:

1. Support to Montenegro in its active participation in minimising the inequalities in the analogue to digital switchover process in SEE region by providing harmonized legal, technical, economic and information campaign approaches and actions.
2. Support to Montenegrin regulatory authorities in a swift and efficient implementation of analogue to digital switchover aimed at improving quality and accessibility of digital TV infrastructure and access to ICT based services.

Within the **first project segment (Transnational project and financial management)**, AEM members gave their active contribution to the overall management of financial, administrative, technological and operational aspects of the project by participating in the Steering Committee and

Executive Board and implementing the obligations assumed in a timely manner and in line with the project plan and budget.

The **kick-off meeting for the SEE Digi.TV** was held in **Ljubljana, Slovenia** on 18 and 19 April 2011. The meeting was hosted by the Post and Electronic Communications Agency of the Republic of Slovenia, the Lead Partner of the SEE Digi.TV project. It was attended by participants from all project partners (including AEM), and also the Steering Committee and Executive Board meetings were also held.

The main objective of the meeting was to reach a common understanding on what shall be delivered as a result of the project, as well as how, by whom and when it should be done.

The project implementation documentation has been discussed and adopted at the meeting. The establishment of the Project Steering Committee and Project Executive Board ensured a successful official launch of the project.

Shortly after the Kick-off meeting, **the second meeting was held in Vienna**. The Executive Board meeting was held between 17 and 19 May 2011. It was organized by the Austrian Regulatory Authority for Broadcasting and Telecommunications RTR (Rundfunk & Telecom Regulierungs GmbH) as one of the partners on the project, and AEM was also represented at the meeting.

The main goal was to align the approach for implementing activities according to the project plan. Moreover, the Project office presented mechanisms for monitoring the project progress. The aim of the Vienna meeting was to present the current project status and progress since the Ljubljana kick-off meeting. The members of the Lead Partner APEK and the Project Office presented important elements to be borne in mind when monitoring progress with a special focus on change management (documentation, administrative changes, etc.), the data management system and reporting by the project partners.

The meeting discussed the topics envisaged at the Ljubljana kick-off meeting referring to: the first report by the ERDF partner, exchange of information on progress as per specific work packages (WP), ongoing activities in IPA countries related to signing IPA agreements, and the dates for the next meeting.

As agreed, the following event within the project was held **in Budva on 27 and 28 September**, hosted by the AEM and the Agency for Electronic Communications and Postal Services. **The First Technical Meeting and the regular Executive Board meeting** were held on the occasion.

During the two-day event, the members of regulatory authorities for media and electronic communications from Montenegro, Serbia, Bosnia and Herzegovina, Croatia, Macedonia, Albania, Slovenia, Austria, Italy and Hungary and their partner organisations (31 in total), focused particularly on the key project sections to analyse the current state of play and draft recommendations for enhancing the legal, technical and economic framework conducive to successful digital TV broadcasting.

The meeting also discussed the issues and solutions for timely and proper public information of all relevant aspects of the process.

As invited by the Italian partner Informest, the SEE Digi.TV project partners convened on **17 and 18 November 2011 in Gorizia** (Italy) and discussed the progress achieved in October and November 2011, and the details of activities planned for the coming several months.

The meeting primarily aimed at presenting the current state of the project, i.e. specific outcomes as per specific activities, as agreed on the previous meeting held in Budva on 26 and 27 September for WP3, WP4, WP5 and WP6.

Most attention was devoted to the analysis and guidelines developed within the legal, technical and economic work packages, whose completion is expected in late 2011 and early 2012.

Aiming for effective communication and work coordination, a document management system was designed and put to use as a part of the project website (www.see-digi.tv), enabling the project partners to archive and track documents in a simple and easily accessible manner.

Within the **work package 2 (Communication activities)**, in October 2011 the **Communication Plan** was developed, approved by the EU Delegation to Montenegro. It makes an integral part of the project, and aims at providing for good coordination among the partners and all stakeholders.

Within the **work package 3 (Legal Framework)**, the **Regulatory Framework Analysis** was developed as a comparative analysis of legal provisions for analogue to digital switchover in SEE countries partners on the project. The analysis gives a good basis for developing regional guidelines for drafting national legal frameworks in SEE countries that should contribute to more successful implementation and harmonisation of activities in broadcasting and reduction of digital divide.

In November 2011, the **Funding Framework Guidelines** were adopted. The document gives guidance for drafting the digital switchover funding frameworks in SEE countries participating to the project, the analysis identified the vulnerable groups in the process and proposed assistance measures to speed up the process.

The deliverable within the **work package 4 (Technical Framework)** is the **Technical Framework Assessment**, as a detailed report on current technical systems focusing on the use of technology in analogue to digital switchover process.

Within the **work package 5 (Economic Framework)** the **Analysis of national A/D switchover strategies** of the project partners was developed. The document is very important for further digital switchover in the region, given that pertinent national strategies give an insight into how the process is to be conducted and based on which technologies. Such information is relevant for a harmonised development of other work packages – legal, technical, economic, and public information ones.

All adopted documents are posted on the project website www.see-digi.tv.

TRANSPARENCY OF AEM'S WORK

Pursuant to the Free Access to Information Law, in 2011 AEM responded to the requests for information held by the Agency.

No appeal has been lodged against AEM's decisions denying access to information constituting a business secret.

In the vast majority of cases the request refer to documents either already posted on AEM's website (data of persons responsible within broadcasting entities etc.) or not held by AEM at all (issues related to self-regulatory body, RTCG documents, financial statements of individual broadcasting entities etc.).

An important tool for securing transparency of AEM's work is the regular and timely posting and updating of information on the AEM's website - www.ardcg.org.

In 2011 the total of 135 active new documents were posted, 102 under various sections, and 33 on the homepage. Taking into account all their versions and updating of individual documents, the total number of documents posted exceeds 200. Apart from the above, the total of 70 documents offering statistical data, making part of the permanent website structure, were corrected and updated.

In 2011 the website www.ardcg.org had the total of **85,600 hits**, or on average 7,134 visitors a month. The greatest number of visits was recorded in December 2011 (8,214), while the lowest was in May and June 2011 (6,100 and 6,249 respectively).

By comparing the number of pages viewed, the number of clicks and the number of visitors, we come to a calculation that an average visitor viewed close to 4 pages during one visit and clicked on more than 10 links.

The most frequently viewed and downloaded documents are the data concerning the AVM service providers, broadcasters and cable operators, the total number of viewings or downloads in 2011 was 24,174 with the average of 237 viewings per document.

Via its website www.ardcg.org, in 2011 the AEM received 13 objections to issues within its remit. The greatest share of objections referred to shown programme contents which by virtue of the topic or time of showing could have a harmful impact on minors. Also, a certain number of objections referred to unpopular measure of darkening screens with specific programme contents offered by cable operators, pursuant to obligations stemming from legislation protecting copyright and related rights.

AEM's FINANCIAL PERFORMANCE IN 2010

In 2011, AEM had the total revenues of €1,148,452.91, and total expenditures of €623,958.13, thus having the positive balance of €524,494.78.

Given that not sooner than in second half of 2011 did the AEM start collecting fees as per broadcasting licences, the total collection rate by the end of the year was not satisfactory (54.5%), indicating that pertinent revenues did not provide a stable source of income for AEM in 2011.

In addition, it should be borne in mind that the collection rate would have been even lower had it not been for the tripartite agreements signed in late December 2011 by the AEM, the Agency for Electronic Communications and Postal Services and 19 broadcasters as per the State Aid Programme approved by the Government in early 2011.

The State Aid Programme (Government act no. 03-2061 of 10 March 2011) envisaged for the government to assume the debt of electronic media towards the Agency for Electronic Communications and Postal Services (the total amount of €1,008,709.08) and the Broadcasting Centre d.o.o. Podgorica (the total amount of €3,438,930.56). In doing so, the state aid grantees were the commercial broadcasters/radio and TV (assuming the debt on the account of fee for use of frequencies, as well as for leasing infrastructure and transmission and broadcasting capacities) local public broadcast services (assuming debt only on the grounds of infrastructure lease and transmission and broadcasting capacities). The adopted programme envisages that the amount of debt broadcasters/media paid in 2009 and 2010 will be regulated by a special act to be concluded between broadcasters/media on one hand, and the Agency for Electronic Communications and Postal Services, on the other.

At the request of AEM, the Agency for Electronic Communications and Postal Services provided the review of data on the amount of debt paid by individual broadcasters in 2009 and 2010 and for which they have the right of disposal, as state aid grantees. Given the above, in late December 2011 an agreement was reached (on conclusion of tripartite agreement between the two agencies and individual broadcasters) so that the funds paid by the 19 broadcasters in 2009 and 2010 allocate to cover debts they have towards regulatory authorities.

Hence, out of the total of €237,263.98, which is the amount paid in 2009 and 2010, the Agency for Electronic Communications and Postal Services retained €59,811.70, while the AEM was remitted €177,452.28 according to the following payment schedule:

- by the end of 2011 the total of €98,994.16 and
- at the time of payment of 2010 subsidy by the Government of Montenegro, pursuant to the Decision of the State Aid Commission (no. 01-19/1 of 23 February 2011), and not later than by 30 June 2012 the total of €89,865.62 will be paid. The payment of funds was already implemented in February 2012.

Table 1: 2011 Revenues

Type of revenue	Plan	Realised	Index
Registration fee	52,702.00	-	-
Broadcasting fee	618,276.00	566,155.36	91.6
Fee for provision of on demand AVM services	435,756.00	424,984.66	97.6
Donations	-	18,546.56	-
Other business revenues	-	136,960.68	-
Interests	-	1,805.65	-

Table 2: 2011 Expenditures

Type of expenditure	Plan	Realised	Index
Gross staff salaries	433,190.00	363,478.43	83.9
Other remuneration for staff	25,170.00	18,537.00	73.6
Gross remuneration for Council members	85,957.00	77,646.26	90.3
Business travel and membership fees to int.org.	29,400.00	15,567.32	53.0
Supplies and services	49,050.00	28,747.67	58.6
Maintenance of fixed assets	12,600.00	10,747.15	85.3
Other business costs	138,260.00	52,029.10	37.6
Charity and sponsorship	10,000.00	7,449.00	74.5
Interest subsidies	25,000.00	23,733.51	94.9
Depreciation	30,000.00	26,022.69	86.7
Reserves	40,431.00	-	-

More detailed information on AEM's financial performance in 2011 are provided in the **2011 FINANCIAL PERFORMANCE REPORT OF THE AGENCY FOR ELECTRONIC MEDIA**, available at the AEM's website www.ardcg.org.

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In 2011, the State Audit Institution (SAI) audited the AEM's 2010 Financial Statements (the Audit Report is available at the websites of AEM www.ardcg.org and SAI www.dri.co.me). The Audit Report is unconditioned and AEM received several recommendations how to improve financial performance of the regulatory authority.

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Audit Report of the AEM 2010 Annual Financial Statement, SAI noted that, in auditing the Agency for Telecommunications and Postal Services in 2007, it was established that AEM procured the 369m² of business premises through negotiation without prior public call for bids, for the needs of the Broadcasting Agency, now AEM. The SAI Report further notes that, given that the auditor was not provided with the document repealing the Conclusion of the Government of Montenegro no. 03-2568 of 19 April 2007, the Agency for Electronic Communications and Postal Services failed to act pursuant to the said Conclusion since the purchased premises were not made available to the AEM.

Namely, on its 22nd session held on 12 April 2007 the Government passed the conclusion giving its approval for the Agency for Telecommunications and Postal Services to buy business premises to be used by this Agency, the Broadcasting Agency and the BCM. However, in 2007 the Agency for Telecommunications and Postal Services invited tenders for purchasing business premises for their needs only. On the other hand, the Government Conclusion on resolving the office space for the Broadcasting Agency has not been followed to this date, nor have funds been appropriated to that effect.

Given the SAI conclusions, over the past year the AEM Council carried out a number of activities and meetings towards a durable solution for AEM's business premises.

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In its Audit Report on AEM 2010 Annual Financial Statements, at the part with their Opinion and proposed measures and recommendations towards Improving auditee's performance, SAI noted the following:

“The AEM together with the RTCG as the largest single user of the said receivables should reconsider the possibility of instigating court proceedings for enforced collection of the outstanding broadcasting fee revenues, and should the uncertainty or irrationality of the collection of these claims be established, we recommend the competent authority within AEM (the Council) to pass the decision on their removal from out-of-the-budget records.”

The 2002 Broadcasting Law regulated the method of broadcasting fee collection as one of essential requirements for broadcasting system operation, in particular national public broadcasters. It was envisaged for broadcasting fee to be paid by each household and each legal entity with their seats within the national territory where the infrastructure is in place for reception of at least one radio or TV programme. The collection was done by the Broadcasting Agency through agreements with other legal entities (Crnogorski telekom a.d. and EPCG a.d.).

Given the above, in particular the SAI recommendation, the AEM Council sent a request to the RTCG, as the largest user of such funds accrued through broadcasting fee, for their opinion of the possibility of launching judicial proceedings for enforced collection of receivables on the account of broadcasting fee. It particularly highlighted the need for the RTCG Council to express their opinion of their readiness and ability to share the costs of the preparation and implementation of court proceedings for collection of outstanding debt as per broadcasting fees. By the end of 2011 AEM did not receive any response from the RTCG Council on this matter.