

Pursuant to Article 95 item 3 of the Constitution of Montenegro I hereby pass the following

ENACTMENT

ON PROCLAIMING THE DIGITAL BROADCASTING ACT

("Official Gazette of Montenegro", no. 34/11 of 12.07.2011 and 31/12 of 15.06.2012)

I hereby proclaim the Digital Broadcasting Act, passed by the Parliament of Montenegro in its 24th convocation, at its ninth session of the first regular (spring) sitting in 2011, on July 5th, 2011.

Number: 01-870/2
Podgorica, 07.07.2011

President of Montenegro,
Filip Vujanović, sgd.

Pursuant to Article 82 paragraph 1 item 2 and Article 91 paragraph 1 of the Constitution of Montenegro, the Parliament of Montenegro in its 24th convocation, at its ninth session of the first regular (spring) sitting in 2011, on July 5th, 2011, passed the following

DIGITAL BROADCASTING ACT

I. BASIC PROVISIONS

Scope

Article 1

This Act regulates the method and conditions for digital terrestrial broadcasting, the procedure of switchover from analogue to digital broadcasting and other matters of importance for digital broadcasting. Regulations regulating the field of electronic communications and electronic media shall apply accordingly to the matters relating to digital broadcasting, which are not regulated under this Act.

Definitions

Article 2

Particular expressions used in this Act shall have the following meaning:

- 1) analogue broadcasting is transmission and receiving analogue television and/or radio signal through terrestrial transmitters in accordance with the relevant international standards;
- 2) digital terrestrial broadcasting is transmission and receiving digital television and/or radio signal through terrestrial transmitters in accordance with the relevant international standards;
- 3) digital receiver is a device for receiving, decoding and transforming digital television signal into a form suitable for reproduction of image, sound and other data, which may be a separate device, a device installed into television set or other device;
- 4) Standard Definition Television (SDTV) is a service with the standard quality of image and sound, in accordance with the relevant recommendations of the International Telecommunication Union (ITU recommendations);

- 5) High Definition Television (HDTV) is a service providing image and sound with more quality compared to the standard quality, by increasing the number of analyzing lines per image, changing the method of image analysis, increasing the ratio of image pages to 16:9, as well as changing the colorimetric characteristics of image, in accordance with the relevant recommendations of the International Telecommunication Union (ITU recommendations);
- 6) multiplex is a standardized set or stream of digital signals expressed in MB/s containing several television and/or radio programs and/or other data which is at the same time transmitted and broadcasted and whose streams are bundled;
- 7) multiplex transmitter network operator (network operator) is a legal or physical person managing electronic communication network for digital terrestrial broadcasting;
- 8) multiplex transmission network operator (multiplex operator) is a legal or physical person providing public electronic communication services of multiplexing and transmission of multiplexed signals to multiplex transmitter network (network);
- 9) multiplex access is a service provided by a multiplex operator through any electronic communication network, from the access point to the network;
- 10) total multiplex transmission capacity is the largest quantity of data per time unit through which digital signals can be transmitted;
- 11) Single Frequency Network (SFN) is a network with several digital terrestrial radio transmitters, which have synchronized time and frequency and that broadcast the same signal at the same frequency;
- 12) Multiple Frequency Network (MFN) is a network of digital terrestrial radio transmitters broadcasting signals at different frequencies;
- 13) Integrated Digital Television (IDTV) is a TV set containing all components for receiving and displaying digital television and/or radio signal.

II. PLANNING, DEVELOPMENT AND USING NETWORKS AND THE RIGHT TO MULTIPLEX ACCESS FOR DIGITAL TERRESTRIAL BROADCASTING

Network planning

Article 3

Network planning for digital terrestrial broadcasting shall be carried out in accordance with the Plan for Allocation of Radio-Frequencies for Digital Terrestrial Broadcasting (hereinafter referred to as: the Allocation Plan).

The Allocation Plan shall provide for the technical requirements and the method of using individual radio-frequencies and geographic areas.

The Allocation Plan shall be passed by the Agency for Electronic Communications and Postal Services (hereinafter referred to as: the Agency).

The Allocation Plan shall be in accordance with the plan for determining purpose of radio-frequency spectrum.

Network operator

Article 4

Any legal or physical person that has obtained approval for broadcasting programs through digital terrestrial broadcasting network and approval to use frequencies, in accordance with the regulations regulating the field of electronic media, i.e. electronic communications, shall have the status of a network operator.

Multiplex operator

Article 5

Any legal or physical person that provides public electronic communication services of multiplex management, based on registration in accordance with the provisions of the law regulating the field of electronic communications, shall have the status of a multiplex operator.

For distribution of radio and/or television programs, a multiplex operator shall obtain approval for distribution from the regulatory authority in the field of electronic media in accordance with the regulations regulating the field of electronic media.

Rights and obligations of a network operator and a multiplex operator

Article 6

A network operator shall deliver at least one contract concluded with a multiplex operator to the Agency within 90 days upon obtaining approval to use frequency.

A network operator may also be a multiplex operator if it conducts registering, i.e. obtains approval in accordance with Article 5 of this Act.

A multiplex operator may also be a network operator if it obtains approval in accordance with Article 4 of this Act.

A network operator that is at the same time a multiplex operator shall keep separate accounting for the activities of multiplex management and network management.

Multiplex capacity division

Article 7

With the aim of more rational use of multiplex capacities, it is possible to conduct division into capacity intended for provision of audiovisual media services and electronic communication services.

Multiplex division referred to in paragraph 1 of this Article shall be conducted by the Agency, upon consent of the regulatory authority in charge of the field of electronic media.

The quality of services referred to in paragraph 1 of this Article shall meet the service quality parameters stipulated under the regulations in the field of electronic communications and electronic media.

A multiplex operator providing audiovisual media services and electronic communication services shall keep separate accounting for the activity of providing audiovisual media services and the activity of providing electronic communication services.

Multiplex access

Article 8

Prior to accessing to allocated multiplex capacity, radio and television programs must be encoded in accordance with the encoding standard ITU-T H.264/AVC (MPEG-4 Part 10).

Transmitter networks

Article 9

For the purpose of digital broadcasting of signals of the national broadcasting services, Radio and Television of Montenegro (*Radio i Televizija Crne Gore*) is awarded the right to access the first network multiplex with coverage of the entire territory of Montenegro, without conducting public call procedure, for transmission of two television programs in the standard quality (SDTV).

Access to network multiplex with local coverage shall be awarded without conducting a public call procedure for the purpose of digital broadcasting of signals of the local public broadcasting services in the territory of local government units.

The legal persons for transmission and broadcasting of broadcast and other telecommunication signals (hereinafter referred to as: the Broadcasting Center) founded by the Government of Montenegro (hereinafter referred to as: the Government) shall carry out transmission and broadcasting of programs of the national public broadcasting services referred to under paragraph 1 of this Article.

The right to multiplex access for the first network with coverage for the entire territory of Montenegro for providers of audiovisual media services, as well as for other networks, shall be realized through a public call, in accordance with the law regulating the field of electronic media.

The public call referred to under paragraph 4 of this Article shall clearly state the conditions for using capacities for audiovisual media service providers during the switchover period, in order to create conditions for introduction of high definition television (HDTV).

III. PROVISION OF FUNDS FOR DIGITAL TERRESTRIAL BROADCASTING

Funds for digital terrestrial broadcasting

Article 10

For the purpose of providing conditions for digital broadcasting of signals of the national public broadcasting services of the Radio and Television of Montenegro:

- 1) development of the first network will be carried out for coverage of the entire territory of Montenegro, that is at least for 85% of the population of Montenegro and
- 2) funds will be provided for coverage of the increased costs for electricity in the switchover period (simultaneous operation of analogue and digital terrestrial systems) for the first network operator.

The funds referred to in paragraph 1 of this Article shall be provided from the Budget of Montenegro and other sources of financing (donation of European Commission, loans and other).

IV. SWITCHOVER PERIOD

Simultaneous broadcasting

Article 11

The switchover period, under this Act, shall be the time period during which broadcasting of television and/or radio programs in digital technology will be initiated and conducted simultaneously with the broadcasting of television and/or radio programs in analogue technology.

Financing costs of the holders of the right to multiplex access during the switchover period

Article 12

During the period of simultaneous analogue and digital program broadcasting, the broadcasters in a specific broadcasting site, that obtained the right to multiplex access, shall be exempt from payment of the right to multiplex access service to the first network multiplex operator.

The sites referred to in paragraph 1 of this Article shall be the sites for which the broadcaster has obtained approval for broadcasting in analogue technique.

Obligations of audiovisual media service providers during the switchover period

Article 13

The period of simultaneous analogue and digital program broadcasting for public broadcasting services and audiovisual media service providers in a specific broadcasting site, that have acquired the right to multiplex access, shall start upon provision of technical conditions for digital broadcasting of programs from the same broadcasting site.

A network operator shall inform the Agency on provision of technical conditions for digital broadcasting of programs from the same broadcasting site referred to under paragraph 1 of this Article three days prior to the beginning of the digital broadcasting.

Simultaneous analogue and digital program broadcasting referred to under paragraph 1 of this Article from the same broadcasting site may last for maximum six months.

Audiovisual media service providers shall inform the public on the switchover period as well as on the termination of analogue program broadcasting.

Upon expiry of the period of simultaneous analogue and digital program broadcasting from the same broadcasting site, an audiovisual media service provider shall terminate program broadcasting through analogue systems from that location, as well as other broadcasting locations with overlapping service zone.

The method for informing the public referred to under paragraph 4 of this Article and the instruction on practice for end users during the switchover period shall be stipulated by the public administration authority in charge of electronic media, in cooperation with the public administration authority in charge of electronic communications.

V. SUPERVISION

Supervision over implementation of the Act

Article 14

Supervision over implementation of this Act shall be carried out by the public administration authorities in charge of the electronic communication services and electronic media services and the regulatory authorities in charge of the field of electronic communications and the field of electronic media, in accordance with this Act and the regulations regulating the field of electronic communications and the field of electronic media.

VI. TRANSITIONAL AND FINAL PROVISIONS

Switchover period

Article 15

Period of switchover from analogue to digital broadcasting of television programs in Montenegro shall commence upon the effective date of the Plan for Allocation of Radio-Frequencies for Digital Terrestrial Broadcasting.

A switchover from analogue to digital television broadcasting shall be completed until 17 June 2015. Exceptionally of paragraph 2 of this Article, simultaneous analogue and digital television program broadcasting shall start not later than six months before the expiry of the deadline referred to in paragraph 2 of this Article.

Rights and obligations during the switchover period

Article 16

Legal and physical persons that possess approval for using frequency on the effective date of this Act shall terminate broadcasting of their television programs in analogue technique not later than 17 June 2015.

The first network

Article 17

As of the effective date of this Act the Broadcasting Center shall acquire the status of the first multiplex operator and the first network operator, without conducting a tender procedure for allocation of radio frequencies.

The Broadcasting Center shall, not later than by the expiry of the deadline referred to in Article 15 paragraph 3 of this Law, provide coverage of 85% of population through first network.

The Broadcasting Center shall file a request with the Agency for approval to use frequencies intended for the purpose of digital television and it shall be registered as a multiplex operator, within 30 days as of the effective date of this Act.

The Broadcasting Center shall file a request to the regulatory authority in charge of the field of electronic media for issuing approval for distribution of audiovisual media services, within 30 days as of the effective date of this Act.

Agency

Article 18

The Agency shall pass the plan for allocation of radio-frequencies for digital terrestrial broadcasting within three months as of the effective date of this Act.

The Agency shall conduct analysis of the market of services provided by the Broadcasting Center within three months upon termination of the switchover period.

Adoption of regulations

Article 19

Bylaws for implementation of this Act shall be adopted within six months as of the effective date of this Act.

Effective date

Article 20

This Act shall come into effect eight days from the day of its publishing in "Official Gazette of Montenegro".

Number 10-3/11-1/4
EPA 591 XXIV
Podgorica, July 5th, 2011

Parliament of Montenegro in its 24th convocation
President,
Ranko Krivokapić, sgd.