



**Montenegro**  
**COUNCIL OF THE AGENCY FOR ELECTRONIC MEDIA**  
**Number: 01 – 766**  
**Podgorica, 5 July 2011**

**RULEBOOK**  
**ON THE CONDITIONS AND PROCEDURE FOR AWARDING BROADCASTING LICENCES**

Podgorica, July 2011

Pursuant to Article 103 of the Electronic Media Law ("Official Gazette of Montenegro," No. 46/10), at the meeting held in 5 July 2011, the Council of the Agency for Electronic Media adopted the following

**Rulebook  
on the conditions and procedure for awarding broadcasting licences**

**Basic provisions**

**Article 1**

- (1) This rulebook regulates the procedure and terms and conditions for awarding broadcasting licences.
- (2) The broadcasting licences are awarded by the Agency for Electronic Media (hereinafter referred to as: Agency), in compliance with the procedures and criteria prescribed by the Electronic Media Law and this rulebook.

**Article 2**

- (1) The purpose of this rulebook is to contribute to the protection of media pluralism, public interest and fair and efficient competition in the electronic media market.
- (2) All terms used in this rulebook have the meaning as defined by Article 8 of the Electronic Media Law (hereinafter referred to as: Law).

**Article 3**

- (1) The Agency awards the licence for broadcasting programme by means of digital or terrestrial broadcasting, cable, Internet or satellite transmission systems.
- (2) The broadcasting of programmes by means of global information network (Internet webcasting) is not subject to licensing.

**Article 4**

- (1) The Agency awards broadcasting licences on the basis of:
  - 1) public tender for awarding the rights to broadcast by means of frequencies envisaged for analogue of digital terrestrial broadcasting by the Radio-Frequency Allocation Plan;
  - 2) request for awarding licences for broadcasting by means of electronic communication network without radio-frequencies.
- (2) Prior to launching a public tender, the Agency is obliged to obtain the data on availability of frequencies or free resources in a digital terrestrial broadcasting multiplex, allocated for broadcasting radio and TV programmes, from the regulatory authority for electronic communications.

**Awarding broadcasting licences on the basis of a public tender**

**Article 5**

- (1) The Council of the Agency for Electronic Media (hereinafter referred to as: Council) launches a public tender for awarding the right to broadcast by means of frequencies envisaged for analogue or digital terrestrial broadcasting by the Radio-Frequency Allocation Plan (hereinafter referred to as: public tender).
- (2) The public tender contains the following elements:
  - 1) subject of the public call (data on the service zone and associated radio-frequencies and/or the number of radio and television programmes which acquired the right to transmission in the multiplex and the data on the service zone covered by the multiplex);
  - 2) selection criteria with scoring methodology;
  - 3) technical requirements related to production and broadcasting of radio and/or television programme;
  - 4) the level of fee for processing of applications to public tender;
  - 5) the level of deposits, not exceeding one-quarter of the annual fee for programme broadcasting;
  - 6) licence validity period;

- 7) deadline for application, not be shorter than 30 days after the public tender has been launched;
  - 8) deadline for adoption of decision, not exceed 60 days after the expiry of application deadline;
  - 9) list of documentation submitted along with the application;
  - 10) other terms and conditions for application to public tender.
- (3) When launching a public tender, the Council may define:
- 1) programme priorities for each frequency resource offered (radio-frequency or multiplex capacity);
  - 2) frequency resources earmarked for non-profit broadcasters.
- (4) The public tender is published in the "Official Gazette of Montenegro", on the website of the Agency and in at least one daily newspaper published in Montenegro.

#### **Article 6**

- (1) The criteria for adoption of a decision on the public tender referred to in Article 5 of this Rulebook must be objective, measurable and non-discriminatory, and related to:
- 1) scope and structure of the content proposed by the applicant (diversity, share of in-house production, local thematic content, European audiovisual works, independent production);
  - 2) financial indicators related to the possibility of profitable operation and survival in the market.
- (2) The criteria referred to in paragraph 1 of this Article may be general and specific.

#### **Article 7**

- (1) General criteria include programme-related and financial criteria.
- (2) General programme-related criteria include the following:
- a) Compliance of the planned weekly schedule, including the programming segments and programme structure, with the secondary legislation prescribing programme standards and other regulations relevant to the broadcasting field, as well as with the programme priorities of public interest defined by the specific terms and conditions of the tender;
  - b) Overall level of skills and experience of the planned programme staff, estimated on the basis of the organizational structure, education and work experience of the staff in charge of the programming.
- (3) General financial criteria include the:
- 1) economic capacity of an applicant – the amount of capital is estimated;
  - 2) economic power of an applicant – structure and sources of funding are estimated (liquidity measures, solvency measures, indebtedness measures, etc.);
  - 3) business success of an applicant (profit rate, internal rate of return, return on capital employed, etc.);
  - 4) business plan – feasibility study is evaluated, including a detailed overview of projected revenues and expenditures in the following five years, market and competition analyses, etc.

#### **Article 8**

- (1) Specific criteria are related to every individual frequency resource the application to public tender refers to, including the following:
- a) specificity of the programme for the concrete frequency resource – a degree in which the planned schedule, including the programming structure and segments, is already present in the area covered by this frequency resource is estimated, as well as the contents defined as the public interest priority by the terms and conditions of the tender;
  - b) manner of meeting financial liabilities related to the use of concrete frequency resource – capacity to provide funds necessary to meet the liabilities related to the use of frequency resource the application to tender refers to.

#### **Article 9**

The technical requirements referred to in Article 5 of this Rulebook are related to meeting the conditions ensuring quality production, transmission and broadcasting of programme in compliance with recommendations of the International Telecommunication Union, as prescribed by separate bylaws of the Agency and the regulatory authority in charge of electronic communication.

### **Article 10**

- (1) The public tender is open to all legal and natural persons provided that:
  - 1) they are registered with the competent authority or court for production and broadcasting of radio or television programme they intend to broadcast by means of radio-frequencies, and
  - 2) they had met all financial liabilities towards the Agency, regardless of their basis, before they applied to tender.
- (2) The application to public tender (hereinafter referred to as: tender application), is submitted to the Agency using a separate form included herein (Form 1).
- (3) The tender application form includes the data on:
  - 1) legal or natural person that applies to public tender (applicant);
  - 2) ownership structure of the applicant;
  - 3) the stake of applicant and the stakes of its owners in other providers of audiovisual media services;
  - 4) organizational structure the applicant intends to meet technical and programme conditions for programme production and broadcasting with;
  - 5) structure and scope of programme the applicant intends to produce and broadcast;
  - 6) radio frequencies or service zone ensured through the multiplex the tender application refers to.
- (4) The tender application form includes a statement confirming that the data provided by the applicant are true and correct, as well as that:
  - 1) the awarding of licence will not result in unauthorized media concentration;
  - 2) it is not a person not entitled to broadcasting licence as per the provisions of the Electronic Media Law and other valid legislation;
  - 3) it is not undergoing bankruptcy proceedings;
  - 4) its founders do not include foreign legal entities registered in the countries where it is not possible to determine the origin of the start-up capital.
- (5) The broadcasters that apply to a tender for awarding broadcasting rights for the purpose of extension of already awarded licence are obliged to submit the tender application in compliance with the articles 10, 11 and 12 of this Rulebook.
- (6) Along with the tender application, the broadcasters referred to in paragraph 5 of this Article are obliged to submit the following documents:
  - 1) amendments to the existing general and programme documents;
  - 2) amendments to the technical documentation on the basis of which the valid licence has been awarded;
  - 3) if there are no amendments referred to in points 1 and 2 of this paragraph, a certificate is submitted confirming that there are no changes compared with the existing documentation.
- (7) The tender application, with the supporting documents, must be submitted in such a form ensuring that no pages can be either added or removed after its submission.
- (8) The tender application is submitted in the following manner:
  - 1) three copies are submitted to the Council, one of which is the original signed by a responsible person.
  - 2) in a closed package with the full name and head office of the applicant and the following note: "Do not open – Application to public tender for awarding broadcasting rights".

## **Article 11**

- (1) Along with the tender application, the following documents are submitted:
- 1) valid evidence of registration with the competent authority or court for broadcasting radio or television programme, or evidence that the registration has been extended;
  - 2) decision of the Ministry of Internal Affairs and Public Administration on registration of non-governmental organization, if the application is submitted by a non-governmental organization;
  - 3) original or a certified copy of the Articles of Incorporation and Statute submitted to the competent authority referred to in points 1) and 2);
  - 4) organizational chart giving an overview of structure and classification of jobs intended to meet the technical and programme requirements for programme production and broadcasting;
  - 5) financial statements for the two years before the public tender was launched;
  - 6) business plan for the newly established companies (five-year projection);
  - 7) programme base including daily, weekly and monthly schedule of general or specialized television or radio programme, prepared in compliance with Article 56 of the Law (main elements of the schedule should be defined in terms of contents, airtime and proposed time of broadcasting, together with the notes on the planned changes and their timing);
  - 8) description of the planned structure of in-house production (type/genre, airtime and a short description of content);
  - 9) description of the planned structure of programme in languages of national minorities (name, airtime and a short description of content);
  - 10) description of the planned structure of acquired programming (name, airtime and a short description of content);
  - 11) description of the planned structure of European audiovisual works (name, airtime and a short description of content);
  - 12) description of the planned structure of programme produced by independent producers (name, airtime and a short description of content);
  - 13) description of the planned structure of retransmitted programmes (name, airtime and a short description of content);
  - 14) authorization for retransmission or deferred transmission of the programme produced by others;
  - 15) studio equipment project;
  - 16) preliminary contract with the user/owner of the facilities where the studio and transmission equipment will be installed or equivalent certificate;
  - 17) certificate that there are no ongoing legal proceedings against the legal person that submits an application (certificate of the Commercial Court not older than six months);
  - 18) certificate that there are no ongoing legal proceedings against the responsible person of an applicant for the abuse of authority or economic criminal offences or other crimes for the commission of which a prison sentence has been prescribed (certificate of the Basic Court not older than six months);
  - 19) copy of evidence of payment of fee for the processing of tender application.
- (9) Applicants may submit other documents they believe to be of importance for a decision on awarding the broadcasting rights.

## **Article 12**

- (1) The studio equipment project referred to in Article 11 paragraph 15 of this Rulebook must contain the following documents:
- 1) decision on appointment of a responsible designer adopted by the applicant;
  - 2) certificate confirming that the responsible designer has passed the professional exam for development of technical documentation for telecommunications networks;

- 3) decision on appointment of a professional supervisor of the project adopted by the applicant;
  - 4) certificate confirming that the professional supervisor of the project has passed the professional exam for development of technical documentation for telecommunications networks;
  - 5) terms of reference;
  - 6) list of norms, regulations and standards used for project development;
  - 7) short description of technical facilities (studio, production control room, etc.);
  - 8) short description of technical acoustic processing of technical facilities;
  - 9) short description of electrical, air-condition, audio, video and other installations;
  - 10) short description and specification of technical equipment, including a cost estimate;
  - 11) short description of environmental impact, and elaboration of measures for prevention or reduction of negative impact if there is any;
  - 12) short description of qualities and standards the equipment planned for installation meets.
- (2) The technical documentation must be in A4 format, certified by signatures and stamps of the authorized person of an applicant, responsible designer and professional supervisor of the project submitted by applicant for development of technical documentation.
  - (3) The binding of the technical documentation must be such that no pages can be either added or removed after the certification.

#### **Article 13**

- (1) Within 10 days after the expiry of tender application deadline, the Agency Council will publish on the Agency's website a list of applicants whose applications were complete and submitted in a timely manner.
- (2) The name, head office and other data of an applicant to tender will be classified until their public opening of tender applications.
- (3) The Agency Council will adopt a conclusion dismissing every incomplete and untimely tender application.

#### **Article 14**

- (1) Within 60 days after the expiry of tender application deadline, the Agency Council will adopt a decision on awarding the broadcasting rights on the basis of the selection criteria with scoring methodology, which are a part of the public tender.
- (2) The Council will not award the broadcasting rights if it determines that the awarding of a licence would result in unauthorized media concentration as per the law.
- (3) If an applicant is a broadcaster that already covers the approved electronic media service zone using a radio-frequency or through a digital terrestrial multiplex, the Council will not award the same broadcaster the right to broadcast using another radio-frequency or by means of another digital terrestrial multiplex enabling it to cover a larger part of the same service or the entire service zone.
- (4) The Council will conduct a comparative analysis in case when two or more applicants apply for a single frequency resource.
- (5) If an applicant is the broadcaster applying for an extension of its broadcasting licence, when adopting a decision on awarding the broadcasting rights the Council will take into consideration the activities of the licence holder during the validity of its licence.
- (6) In the case referred to in paragraph 5 of this Article, the Council will give preference to the existing broadcaster if it meets all criteria defined by the tender.

#### **Article 15**

- (1) In the procedure of awarding the broadcasting rights, the Council adopts a decision, which is final.
- (2) An administrative dispute may be instigated against the decision referred to in paragraph 1 of this Article.
- (3) The Council publishes a document on awarding the broadcasting right in the "Official Gazette of Montenegro," on the Agency's website in at least one print media outlet published in Montenegro.

### **Article 16**

- (1) The deposit paid by a person who has not acquired the right to broadcast as per the public tender for awarding the broadcasting rights will be returned within seven days from passing the final decision as per the tender.
- (2) For the person who has acquired the right to broadcast as per the public tender for awarding the broadcasting rights, the deposit amount will be factored into the broadcasting fee amount.
- (3) The deposit is not refundable to the broadcasting licence holder who:
  - 1) in writing, before the deadline set for commencing broadcasting, notifies the AEM that they would not broadcast or use radio frequency awarded as per the licence;
  - 2) fails to commence broadcasting within the time stipulated.

### **Article 17**

- (1) Within 15 days after adoption of a decision on awarding the broadcasting rights by the Agency Council, the Agency Director will award broadcasting licences to the applicants to tender who acquired the right to broadcast.
- (2) Following the public tender procedure for awarding the broadcasting rights, the Agency Director is obliged to:
  - 1) make publically available, in the same manner as the public tender, a list of persons the broadcasting licence has been awarded to;
  - 2) submit a copy of the awarded broadcasting licence to the regulatory authority in charge of electronic communications.

### **Awarding the broadcasting licences upon request**

### **Article 18**

The Agency Director awards the broadcasting licence on the basis of a request submitted by:

- 1) a legal or natural person registered with competent authority or court for broadcasting radio or television programme, intending to use electronic communications networks without radio-frequencies to broadcast that programme;
- 2) a public service broadcaster.

### **Article 19**

- (1) When a broadcaster intends to use electronic communications networks for broadcasting of radio or television programme without radio-frequencies, it submits a request for broadcasting licence (hereinafter referred to as: request for licence) to the Agency on a separate form included herein (Form 2).
- (2) Along with the request referred to in paragraph 1 of this Article, the following documents are submitted:
  - 1) valid evidence of registration with the competent authority or court for broadcasting of radio or television programme, or evidence that the registration has been extended;
  - 2) decision of the Ministry of Internal Affairs and Public Administration on registration of non-governmental organization, if the application is submitted by a non-governmental organization;
  - 3) original or a certified copy of the Articles of Incorporation and Statute submitted to the competent authority referred to in points 1) and 2);
  - 4) organizational chart giving an overview of structure and classification of jobs intended to meet the technical and programme requirements for programme production and broadcasting;
  - 5) financial statements for the two years before the public tender was launched;
  - 6) business plan for the newly established companies (five-year projection);
  - 7) programme base including daily, weekly and monthly schedule of general or specialized television or radio programme, prepared in compliance with Article 56 of the Law (main

elements of the schedule should be defined in terms of contents, airtime and proposed time of broadcasting, together with the notes on the planned changes and their timing);

- 8) description of the planned structure of in-house production (name, airtime and a short description of content);
  - 9) description of the planned structure of programme in languages of national minorities (name, airtime and a short description of content);
  - 10) description of the planned structure of acquired programming (name, airtime and a short description of content);
  - 11) description of the planned structure of European audiovisual works (name, airtime and a short description of content);
  - 12) description of the planned structure of programme produced by independent producers (name, airtime and a short description of content);
  - 13) description of the planned structure of retransmitted programmes (name, airtime and a short description of content);
  - 14) authorizations for retransmission or deferred transmission of the programme produced by others;
  - 15) studio equipment project prepared in compliance with Article 12 of this Rulebook;
  - 16) preliminary contract with the user/owner of the facilities where the studio and transmission equipment will be installed or equivalent certificate;
  - 17) certificate that there are no ongoing legal proceedings against the legal person that submits an application (certificate of the Commercial Court not older than six months);
  - 18) certificate that there are no ongoing legal proceedings against the responsible person of an applicant for abuse of authority or economic criminal offences or other crimes for the commission of which a prison sentence has been prescribed (certificate of the Basic Court not older than six months);
  - 19) evidence of payment of fee for the processing of tender application.
- (3) The application referred to in paragraph 1 of this Article includes a statement confirming that the data provided by the applicant are true and correct, as well as that:
- 1) the awarding of licence will not result in unauthorized media concentration;
  - 2) it is not person not entitled to broadcasting licence as per the provisions of the Electronic Media Law and other valid legislation;
  - 3) it is not undergoing bankruptcy proceedings;
  - 4) its founders do not include foreign legal entities registered in the countries where it is not possible to determine the origin of the start-up capital.
- (4) Along with the request referred to in paragraph 1 of this Article, the applicants may submit other documents they believe to be of importance for a decision on awarding the broadcasting rights.
- (5) The binding of the request for licence with the supporting documentation must be such that no pages can be either added or removed after its submission.
- (6) Two copies of the request for licence are submitted to the Agency, one of which is an original signed by the authorized person.

#### **Article 20**

- (1) Upon receipt of a request for licence and supporting documents, the Agency will examine them in order to determine if the conditions for awarding the broadcasting licence have been met.
- (2) If the data submitted with the request for licence are incomplete or inaccurate, the Agency will return such a request to the applicant, to be completed or amended within eight days.
- (3) If the applicant fails to complete the request for licence within eight days from the receipt of the Agency's notification concerning the incompleteness of the request, the Agency Director adopts a conclusion dismissing such a request.



- (4) An appeal against the conclusion referred to in paragraph 3 of this Article may be lodged with the Council within 15 days after the receipt of the conclusion.

#### **Article 21**

Within 15 days after submission of the request for licence, the Agency Director awards the broadcasting licence to the applicants whose request and supporting documentation were complete and in compliance with the conditions prescribed by the law, this Rulebook and other documents of the Agency.

#### **Appeal against a decision on awarding the broadcasting licence**

#### **Article 22**

- (1) An appeal against the decision on awarding the broadcasting licence, adopted by the Agency Director, may be lodged with the Council within 15 days after the receipt of the decision.
- (2) The Council adopts a decision on the appeal referred to in paragraph 1 of this Article within 15 days after the receipt of the appeal.
- (3) The Council's decision referred to in paragraph 2 of this Article is final and an administrative dispute may be instigated against it.

#### **Content of the broadcasting licence**

#### **Article 23**

- (1) The broadcasting licence must include the following data on:
- 1) licence holder (name, head office/residence, registration number/tax number, unique citizen number for natural persons...);
  - 2) name of radio or television programme, with the designation of general or specialized programming;
  - 3) the structure of programme and other programme-related obligations in compliance with the application to the public tender or the request for licence,
  - 4) type of electronic communications networks for distribution of radio and/or television programme;
  - 5) radio-frequencies awarded following a public tender, in cases when analogue broadcasting systems are used for the provision of AVM service by radio stations and/or television channels;
  - 6) broadcaster's access to transmission capacities of separate radio stations or television channels within a multiplex, in cases when digital broadcasting systems are used to broadcast radio and/or television programmes
  - 7) identification sign of radio or television programme;
  - 8) deadline for the beginning of broadcasting;
  - 9) licence validity;
  - 10) fee level and manner of payment;
  - 11) other rights and obligations of a licence holder.
- (2) Broadcasters are obliged to report any change of data referred to in paragraph 1 of this Article by submitting a request for amendment to broadcasting licence.
- (3) The Agency retains the right to change the terms and conditions of the awarded licence in compliance with the law, for the purpose of a more efficient application of the law and its general documents.
- (4) In the case of amendment to a broadcasting licence in compliance with paragraph 3 of this Article, the broadcaster is exempt from the fee prescribed by a separate document regulating the level, manner of determination and payment of the fees for provision of audiovisual media services.

#### **Rights and obligations of licence holders**

#### **Article 24**

- (1) Acquiring the right to broadcast television and/or radio programme, a legal or natural person acquires the status of a broadcaster and the right to broadcast its programme to an unlimited number of users directly, using radio-frequencies and/or by means of the electronic communications networks.
- (2) In order to be involved in the production and broadcasting of radio and/or television programme, a broadcaster must meet the following technical, office and programme requirements, prescribed by a separate document adopted by the Council.
- (3) A broadcaster that acquired the right to broadcast using radio-frequencies is obliged to obtain a decision of the regulatory authority in charge of electronic communications on the approval to use radio-frequencies.
- (4) In compliance with the valid regulations of Montenegro, a broadcaster is obliged to obtain all other documents necessary for development and maintenance of studio and transmission equipment, which are precondition for the provision of radio and television service.
- (5) Broadcasters are obliged to observe the obligations related to programme content and other obligations prescribed by the Law and bylaws of the Agency.
- (6) The broadcasters are obliged to notify the Agency in writing of any changes of data on the organizational, programme or technical operation, defined in the process of submission of application to public tender or the request for licence.

#### **Article 25**

- (1) The broadcasters shall not broadcast any programmes or part thereof without providing evidence that the rights and obligations related to copyrights and neighbouring rights have been regulated in compliance with law.
- (2) The evidence referred to paragraph 1 of this Article includes an agreement or written consent of the programme owner, regulating the rights and obligations of a broadcaster as regards the broadcasting of the copyright protected programme.
- (3) Upon request, the broadcasters are obliged to submit for examination the documents referred to paragraph 2 of this Article to the Agency, which will consider them classified documents.

#### **Beginning of programme broadcasting**

#### **Article 26**

- (1) The broadcaster that acquires the broadcasting licence for the first time is obliged to commence broadcasting programme on all awarded frequencies within the stipulated deadline, no later than 120 days after the licence has been awarded.
- (2) The broadcasters extending their service zone on the basis of a public tender are obliged to commence broadcasting their programme on the awarded frequencies within the stipulated deadline, no later than 60 days after the licence has been awarded.
- (3) In case of failure to observe the deadlines referred to in paragraphs 1 and 2 of this Article, the Agency Director will revoke the broadcasting licence.

#### **Article 27**

- (1) A broadcaster that acquired the licence to broadcast using electronic communications networks without radio-frequencies is obliged to conclude an agreement with the operator of at least one such network and submit it to the Agency no later than 30 days after the receipt of the licence.
- (2) The broadcasters are obliged to submit any agreement with the electronic communications network operators concluded after the expiry of the deadline referred to in paragraph 1 of this Article to the Agency no later than 15 days after conclusion of the agreement.

#### **Licence validity period**

#### **Article 28**

- (1) The broadcasting licence is awarded for a period of 15 years.

- (2) By way of exception from paragraph 1 of this Article, for the sake of timely switchover from analogue to digital terrestrial broadcasting systems, the licence may be awarded for a shorter validity period, which may not be shorter than two years.
- (3) In the case of a transfer of the broadcasting licence, an amended licence is awarded for a period no longer than by the expiry of the licence validity period.
- (4) If a licence is awarded for the broadcasting of a national or regional network's programme, the licence is awarded for a period no longer than by the expiry of the licence validity period of the affiliated broadcaster that expires first.

## **Fees**

### **Article 29**

The level, manner of determination and payment of fees the broadcasters pay in the procedure of awarding and using the broadcasting licences are prescribed by a separate document of the Council regulating the level, manner of determination and payment of the registration fees and the fees based on the awarded licence for provision of AVM services.

## **Amendments to broadcasting licence**

### **Article 30**

- (1) The broadcasters are obliged to request in writing the Council's consent to all significant changes they plan to make in the structure of radio or television programme they broadcast.
- (2) Along with the request referred to in paragraph 1 of this Article, the broadcasters are obliged to submit a copy of evidence of payment of fees for the processing of requests for amendment to the broadcasting licences.
- (3) Significant changes in the structure of programme, referred to in paragraph 1 of this Article, includes any change greater than 10 percent of the programme structure on the basis of which the broadcasting licence has been awarded.
- (4) The Council may withhold its consent to changes in the structure of a broadcaster's programme if it determines that it would result in the lack of certain type of programming in its service zone, for which the broadcaster was awarded the licence to broadcast using the frequencies envisaged for analogue broadcasting by the Frequency Allocation Plan or in case when it acquired the right to access a digital terrestrial multiplex.
- (5) The Council will adopt a decision on the request for consent to significant changes in the programme structure within 15 days after its submission.
- (6) On the basis of the decision referred to in paragraph 5 of this Article, the Agency Director will adopt a decision on amendment to the broadcasting licence.

### **Article 31**

- (1) The broadcasters are obliged to notify the Agency in writing of any change in the ownership structure.
- (2) The broadcasters must obtain prior consent of the Council to any change in the ownership structure greater than a 10 percent stake.
- (3) Along with the request for prior consent referred to in paragraph 2 of this Article, a broadcaster is obliged to submit a copy of evidence of payment of fee for the processing of request for amendment to the broadcasting licence.
- (4) The Council may withhold the prior consent to change in the ownership structure greater than 10 percent stake, if such a change implies that the broadcaster's founders would include foreign legal persons registered in the countries where it is not possible to determine the origin of start-up capital or if it would result in unauthorized media concentration as per Articles 132 and 133 of the Law.
- (5) The Council will adopt a decision on the request for consent to changes in the ownership structure greater than a 10 percent stake within 15 days after it has been submitted.
- (6) On the basis of the decision referred to in paragraph 5 of this Article, the Agency Director will adopt a decision on amendment to the broadcasting licence.

- (7) If it is determined, after the licence had been awarded, that the person referred to in paragraph 4 of this Article is one of the co-owners of a broadcaster, the Agency Director will revoke the licence.
- (8) In the case of death of a natural person who is a licence holder or co-owner with a stake in the broadcaster higher than 10 percent, the Agency must be notified of all changes after the inheritance proceedings.
- (9) New owner(s) of the broadcaster in the case referred to paragraph 8 of this Article are obliged to submit to the Agency a written request for the ownership structure change with a signed and certified statement that, in the capacity of the new owners of the broadcaster, they will continue to use the rights and meet the obligations and conditions stipulated by the awarded licence.
- (10) Following the receipt of the request referred to in paragraph 9 of the Article, the Council will adopt a decision on giving consent to changes in the ownership structure.

### **Article 32**

- (1) The broadcasters are obliged to request the Council's consent in writing if they intend to assign, lease or transfer in any other way, either temporary or permanent, their broadcasting licence.
- (2) Along with the request referred to in paragraph 1 of this Article, the broadcasters are obliged to submit a copy of evidence of payment of fee for the processing of request for amendment to the broadcasting licence.
- (3) The Council may withhold the consent for transferring the broadcasting licence, if a transfer of the licence:
  - 1) results in unauthorized media concentration as per Articles 132 and 133 of the Law, or
  - 2) if the new owners of a broadcaster include foreign legal persons registered in the countries where it is not possible to determine the origin of start-up capital;
  - 3) if the new owners of a broadcaster include a political party, organization of coalition, as well as a legal entity established by a political party, organization of coalition.
- (4) The Council will adopt a decision on the request referred to in paragraph 1 of this Article within 15 days after it has been submitted.
- (5) On the basis of the decision referred to in paragraph 3 of this Article, the Agency Director will adopt a decision on amendment to the broadcasting licence.

### **Article 33**

- (1) The broadcasters are obliged to request, in writing, the Council's consent to the programme networking for the purpose of parallel broadcasting of two or more radio or television programmes, for a period of three hours a day.
- (2) Along with the request referred to in paragraph 1 of this Article, the broadcasters are obliged to submit a copy of evidence of payment of fee for the processing of request for amendment to every individual broadcasting licence.
- (3) The Council may withhold its consent to programme networking of broadcasters if the programme networking would:
  - 1) interfere with the provision of AVM services by other broadcasters;
  - 2) result in the broadcasting of programme violating the provisions on media concentration prescribed by the law or anti-monopoly provisions prescribed by separate regulations.
- (4) The Council will adopt a decision on request for programme networking within 15 days after it has been submitted.
- (5) On the basis of the decision referred to in paragraph 4 of this Article, the Agency Director will adopt a decision on amendment to the broadcasting licence of every broadcaster establishing a network.
- (6) In the event of amendment to the broadcasting licences in compliance with paragraph 4 of this Article, the broadcasters establishing a network share the fee stipulated by a separate document defining the level, manner of determination and payment of fees for provision of audiovisual media services.

### **Article 34**

- (1) The broadcasters are obliged to request, in writing, the Council's consent to networking at regional or national level.
- (2) Along with the request for consent to regional or national networking, the broadcasters are obliged to submit the following documents:
  - 1) common programme base of the networked broadcasters, including the data on in-house production of each of the broadcasters participating in the network and the common in-house production of the networked broadcasters;
  - 2) agreement on the manner of implementation of the common programme base;
  - 3) copy of the evidence of payment of fee for the processing of request for amendments to every individual broadcasting licence, and
  - 4) copy of evidence of payment of fee for the processing of request for licence to broadcast the common programme.
- (3) The Council may withhold the consent for the regional or national networking if the common programme base submitted fails to ensure that:
  - 1) each of the broadcasters in the network broadcasts at least one hour of in-house production a day, between 7 a.m. and 10 p.m., on the territory it has been awarded broadcasting licence for, and
  - 2) common in-house production of the networked broadcasters, not including the in-house production of the individual broadcasters in the network referred to in the indented line above, does not exceed 10 percent of the programming broadcast by the network.
- (4) The Council will adopt a decision on the request for regional or national networking within 15 days after it has been submitted.
- (5) On the basis of the decision referred to in paragraph 4 of this Article, the Agency Director will adopt the following:
  - 1) decision on the amendments to the broadcasting licence of each of the broadcasters networked;
  - 2) decision on awarding the broadcasting licence to a regional or national network, whose common programme is considered to be a single radio or television programme in terms of programme requirements and limitations.
- (6) In the process of awarding broadcasting licences to regional or national networks, the networked broadcasters share the fee stipulated by a separate document defining the level, manner of determination of payment of fees for the provision of audiovisual media services.
- (7) The broadcasters establishing a network are obliged to submit to the Agency a decision on appointment of an editor in charge of the common programme not later than 15 days before they start to broadcast their common programme.

### **Broadcasting licence extension procedure**

#### **Article 35**

- (1) The broadcasting licence awarded on the basis of a public tender may be extended following a new public tender for the frequency resources including the ones the valid licence refers to.
- (2) The licence holder referred to in paragraph 1 of this Article is obliged to submit to the Agency a request for extension of licence no later than six month before the expiry of the licence validity period.
- (3) After adoption of a decision on the new public tender referred to in paragraph 1 of this Article by the Council, the Agency Director will adopt the following:
  - 1) decision on the extension of licence, if the Council decided to award the broadcasting right to a broadcaster for the purpose of licence extension;

- 2) decision on revocation of licence, if the Council decided not to award the broadcasting right to a broadcaster for the purpose of licence extension.

### **Article 36**

- (1) The broadcasting licence awarded on the basis of a request may be extended if the licence holder submits a request for licence extension to the Agency no later than six months before the expiry of the licence validity period.
- (2) Along with the request referred to in paragraph 1 of this Article, the broadcaster is obliged to submit the following documents:
  - 1) certificate confirming that all data from the originally submitted request remain the same, or
  - 2) new completed request for broadcasting licence, updated and with supporting documentation.
- (3) The Agency Director will adopt a decision on the extension of broadcasting licence within 15 days after the submission of a request for its extension.

### **Termination of licence**

#### **Article 37**

- (1) The broadcasting licence will cease to be valid:
  - 1) with revocation of the licence;
  - 2) with expiry of licence validity period;
  - 3) at the written request of the licence holder;
  - 4) in case of liquidation of broadcaster as a legal entity.
- (2) The Agency Director will revoke the licence by written decision if:
  - 1) the broadcaster fails to pay the fee in line with the licence;
  - 2) the broadcaster fails to rectify the irregularities regarding unlawful media concentration within the time stipulated;
  - 3) due to the violation of this Law, the broadcaster was pronounced the measure of temporary revocation of licence on two consecutive occasions;
  - 4) when submitting the application to public tender or request for licence, the broadcaster presented false data or failed to provide data relevant for decision-making;
  - 5) the broadcaster failed to broadcast within the time period cited in the licence;
  - 6) within 30 days from being awarded the licence the broadcaster failed to make available the contract with an operator of at least one electronic communications network;
  - 7) for unjustified reasons, the broadcaster interrupts broadcasting for more than 10 consecutive days or 15 days with interruptions within one calendar year;
  - 8) the regulatory body for electronic communications revoked the licence for the use of radio-frequencies from the broadcaster if terrestrial broadcasting systems were the only electronic communications network for radio or television broadcasting;
  - 9) in other cases envisaged by the Law.
- (3) In the cases referred to in paragraph 1, points 2, 3 and 4 of this Article, the Agency Director will adopt a decision on termination of licence.
- (4) An appeal against the decision referred to in paragraphs 2 and 3 of this Article may be submitted to the Council within 15 days after the decision has been submitted.
- (5) The Council is obliged to adopt a decision on the appeal referred to in paragraph 4 of this Article within 15 days after the receipt of the appeal.
- (6) The decision referred to in paragraph 5 of this Article is final and an administrative dispute may be instigated against it.

### **Article 38**

- (1) In case that a broadcaster is subject to bankruptcy proceedings, it is obliged to inform the Agency about that no later than 14 days after the adoption of a decision on initiation of the bankruptcy proceedings.
- (2) The broadcaster is obliged to inform the bankruptcy administrator about its liabilities towards the Agency.

### **Article 39**

If the data from the broadcasting licence are changed, or the broadcasting licence is amended, extended or transferred in compliance with this Rulebook, the Agency will amend the data in the relevant register.

## **Transitional and final provisions**

### **Article 40**

With this Rulebook entering into force, the Rulebook on the Procedure of Awarding Licences for Transmission and Broadcasting of Radio and TV Signals ("Official Gazette of the Republic of Montenegro," No. 16/07) shall be repealed.

### **Article 41**

- (1) The Agency Director will award broadcasting licences to the commercial broadcasters operating on the basis of the licences for transmission and broadcasting of radio and TV signals, awarded in compliance with the Broadcasting Law and the decision on licences for the use of radio-frequencies, allocated in compliance with the Electronic Communications Law, no later than 29 July 2011.
- (2) The broadcasting licences referred to in paragraph 1 of this Article will be awarded with the validity period defined by the licences awarded in compliance with the Broadcasting Law.

## **Entry into force**

### **Article 42**

This Rulebook enters into force on the eighth day upon its publication in the "Official Gazette of Montenegro".

Number: 01 - 766  
Podgorica, 5 July 2011

**Chairman  
of the Council of the Agency for Electronic Media**

**Ranko Vujovic**