



Montenegro
COUNCIL OF THE AGENCY FOR ELECTRONIC MEDIA
Number: 01-537
Podgorica, 19 May 2015

RULEBOOK
ON ALLOCATION OF MONEY FROM THE AGENCY'S
FUND FOR SUPPORT TO COMMERCIAL RADIO BROADCASTERS

May 2015

Pursuant to Article 270a paragraph 3 of the Road Traffic Safety Law ("Official Gazette of Montenegro", No. 33/12 and 58/14), at the meeting held on 19 May 2015, the Council of the Agency for Electronic Media adopted the following

**RULEBOOK
ON ALLOCATION OF MONEY FROM THE AGENCY'S
FUND FOR SUPPORT TO COMMERCIAL RADIO BROADCASTERS**

Article 1.

- (1) This Rulebook prescribes the conditions, criteria and procedure for allocation of money from the Agency's Fund for Support to Commercial Radio Broadcasters (hereinafter referred to as: Fund) and the manner in which this money should be used.
- (2) The money from the Fund constitutes state aid and is allocated in the form of compensation for the provision of service of general economic interest, in line with the Decision of the European Commission of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State Aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest ("Official Gazette of Montenegro", No. 35/14 and 02/15).

Article 2.

- (1) The terms used in this Rulebook shall have the same meaning as defined by Article 8 of the Electronic Media Law.
- (2) All terms used in the masculine gender for natural persons in this Rulebook shall include the same terms in the feminine gender.

Article 3.

- (1) The Fund shall be financed from the fees collected for the use of radio receivers in motor vehicles amounting to €2, as prescribed by the Road Traffic Safety Law.
- (2) The fee referred to in paragraph 1 of this Article shall be paid to the bank account of the Agency for Electronic Media (hereinafter referred to as: Agency) and belong:
 - 95% to the Fund;
 - 5% to the Agency.

Article 4.

- (1) The purpose of allocation of money from the Fund is to provide support to commercial radio broadcasters, aimed at improving the scope, structure or diversity of the in-house programme production.
- (2) In the process of defining the scope and structure of the in-house production, the provisions of the Rulebook on Conditions for Determination of Contents Considered to be In-House Production ("Official Gazette of Montenegro", No. 11/12) shall apply.
- (3) The allocation of funds from the fund shall be done through:
 1. annual grants for stimulation of the share of in-house production in the overall programming structure (hereinafter referred to as: Annual Grant);
 2. programming grants for increasing the scope, structure and diversity of contents dedicated to the thematic fields of public interest (hereinafter referred to as: Programming Grant).

(4) The allocation of money from the Fund shall be done in line with the following principles:

- 1) freedom, professionalism and independence of the electronic media;
- 2) prohibition of censorship;
- 3) free and equal access to money from the Fund;
- 4) development of competition and pluralism;
- 5) objectivity, prohibition of discrimination, and transparency.

Article 5.

(1) The allocation of money from the Fund shall be done by the Council of the Agency for Electronic Media (hereinafter referred to as: Agency Council) every six months, on the basis of a public call for allocation of money from the Agency' Fund (hereinafter referred to as: public call).

(2) The public call referred to in paragraph 1 of this Article shall include the information on:

- a) types of grants for allocation of money from the Fund;
- b) amount of money from the Fund to be allocated under the public call for certain types of grants;
- c) thematic fields of public interest the contents produced in-house are dedicated to, which will be financed or co-financed from the programming grants;
- d) selection criteria with scoring methodology;
- e) timetable for disbursement of money allocated under the public call;
- f) application deadline, not shorter than 15 days from the date of publication of the public call;
- g) deadline for adoption of a decision, not longer than 15 days after the expiry of application deadline;
- h) other criteria for application to the public call.

(3) The public call shall be published on the website of the Agency.

Article 6.

(1) The content produced in-house, which will be financed from the programming grants, may belong to the following thematic fields:

- a) cultural diversity and preservation of tradition;
- b) development of civil society and volunteerism;
- c) national minorities in Montenegro;
- d) science, arts and education;
- e) children and youth;
- f) environmental protection and sustainable development;
- g) health, health culture and healthy lifestyle;
- h) protection of rights and dignity of minorities and fight against discrimination, stereotypes and prejudice;
- i) social integration of vulnerable social groups (people with disabilities, intellectual impairments, visual impairments, unemployed people, elderly people, single parents, victims of family violence, drug addicts);

- j) European integration of Montenegro;
 - k) consumer protection;
 - l) fight against corruption and organized crime;
 - m) fight against addiction.
- (2) The content referred to in paragraph 1 of this Article shall not be sponsored or include advertising.

Article 7.

- (1) The money from the Fund shall not be allocated for the content produced in-house the costs of which have been fully covered by broadcasters from donations, sponsorships, or grants extended by domestic and foreign institutions.
- (2) The content produced in-house that shall not be taken into consideration for allocation of money is the following:
- a) programmes of all genres without a clear script and previously prepared content;
 - b) direct coverage or deferred broadcasting of sporting events, with the exception of sporting events for people with disabilities;
 - c) unedited direct coverage or deferred broadcasting of political or other events;
 - d) direct coverage or deferred broadcasting of religious ceremonies and services;
 - e) quizzes, with the exception of educational quizzes;
 - f) interactive entertainment programmes;
 - g) top lists;
 - h) service information.

Article 8.

- (1) The selection criteria of the public call shall be objective, measurable and non-discriminatory, and related to:
- 1) in-house production (share, production complexity, topic);
 - 2) number of employees;
 - 3) contribution to the improvement of selection of the content dedicated to vulnerable groups, especially people with visual impairments;
 - 4) radio-frequency coverage area of the commercial radio broadcaster.
- (2) In addition to the criteria referred to in paragraph 1 of this Article, the criteria for allocation of money from the programming grant may also be related to:
- 1) topicality of the issue the proposed content focuses on;
 - 2) feasibility and justifiability of the execution plan and the proposed budget for content production;
 - 3) improvement of the culture of social and political dialogue;
 - 4) enabling interactivity and participation of audience;
 - 5) share of self-financing;
 - 6) previous experience in the production of similar content.

Article 9.

- (1) The call is open to commercial radio broadcasters that met all due financial liabilities towards the Agency before applying to the public call.
- (2) The money that may be allocated to a broadcaster from the Fund during one year shall not exceed:
 - 35% of the total annual income in the year preceding the year when the public call was launched, for the broadcasters with the total annual income in excess of €35,001;
 - 40% of the total annual income in the year preceding the year when the public call was launched, for the broadcasters with the total annual income between €10,001 and 35,000;
 - 50% of the total annual income in the year preceding the year when the public call was launched, for the broadcasters with the total annual income between €5,000 and 10,000;
 - 100% of the total annual income in the year preceding the year when the public call was launched, for the broadcasters with the total annual income lower than €5,000.
- (3) Notwithstanding paragraph 2 of this Article, the data from the Business Plan (five-year projection) on the total income projection for the first year, submitted to the Agency in the licensing process, shall be taken as a basis for defining the highest amount that may be allocated at the annual level for the broadcaster that does not have a financial statement for the year preceding the launching of the public call because of the date of establishment.

Article 10.

- (1) The application to the public call for allocation of annual grants (hereinafter referred to as: Annual Grant Application) shall be submitted to the Agency on a separate form, which is an integral part of this Rulebook (Form 1).
- (2) The form of the Annual Grant Application shall include:
 - 1) main information on the applicant;
 - 2) data on the structure and scope of radio programme during the public call procedure;
 - 3) data on the planned structure and scope of the radio programme the Annual Grant Application is submitted for;
 - 4) data on the structure of the source of financing of programme production (total funds necessary, the funds provided from other sources, and the funds the application refers to).
- (3) The form of the Annual Grant Application also includes the applicant's statements verifying that:
 - the data is true and accurate, and
 - the money has not been provided from other sources, including the Fund, for the activities from the application for money from the Fund, i.e. that there will be no double financing.
- (4) Along with the Annual Grant Application, it is also necessary to submit:
 - 1) planned programme base, for a period of one year, with a detailed daily, weekly and monthly programme schedule, in compliance with Article 56 of the Electronic Media Law;
 - 2) financial statement submitted to the competent tax authority, for the year preceding the year when the public call was launched;

- 3) certificate that there are no ongoing bankruptcy proceedings against the applicant for the Annual Grant, which shall not be older than 30 days from the launching of the public call;
- 4) certificate that there are no ongoing liquidation proceedings against the applicant for the Annual Grant, which shall not be older than 30 days from the launching of the public call;
- 5) certificate that the accounts of the applicant for the Annual Grant are not frozen as a result of forced collection, which shall not be older than 30 days from the launching of the public call;
- 6) schematic overview of the organization and job classification in the organizational structure;
- 7) proposed budget, submitted on a separate form, which is an integral part of this Rulebook (Form 2).

Article 11.

- (1) The application to the public call for allocation of programming grants (hereinafter referred to as: Programming Grant Application) shall be submitted to the Agency on a separate form, which is an integral part of this Rulebook (Form 3).
- (2) The form of the Programming Grant Application shall include:
 - 1) main information on the applicant;
 - 2) data on the structure and scope or radio programme during the public call procedure;
 - 3) data on the content the Programming Grant Application is submitted for;
 - 4) content production plan;
 - 5) data on the structure of the source of financing of programme production (total funds necessary, the funds provided from other sources, and the funds the application refers to).
- (3) The form of the Programming Grant Application also includes the applicant's statements verifying that:
 - the data is true and accurate, and
 - the money has not been provided from other sources, including the Fund, for the activities from the application for money from the Fund, i.e. that there will be no double financing.
- (4) Along with the Programming Grant Application, it is also necessary to submit:
 - 1) financial statement submitted to the competent tax authority, for the year preceding the year when the public call was launched;
 - 2) certificate that there are no ongoing bankruptcy proceedings against the applicant for the Programming Grant, which shall not be older than 30 days from the launching of the public call;
 - 3) certificate that there are no ongoing liquidation proceedings against the applicant for the Programming Grant, which shall not be older than 30 days from the launching of the public call;
 - 4) certificate that the accounts of the applicant for the Programming Grant are not frozen as a result of forced collection, which shall not be older than 30 days from the launching of the public call;

- 5) schematic overview of the organization and job classification in the organizational structure;
 - 6) proposed budget for implementation of the execution plan, submitted on a separate form, which is an integral part of this Rulebook (Form 2).
- (5) For every individual content, an applicant for Programming Grant is obliged to submit:
- a) Description of the content the application refers to (point 3 Form 3);
 - b) Content production plan (point 4 Form 3);
 - c) Financial structure for content production (point 5 Form 3);
 - d) Budget for the content production plan (Form 2).

Article 12.

- (1) An applicant may submit other documentation considered to be of relevance in the decision making process.
- (2) The application, along with supporting documentation, shall be submitted:
 - a) in the electronic format, on a CD;
 - b) in the hard-copy format bound in such a way that no pages can be either added or removed after the application has been submitted.
- (3) The application shall be submitted to the Agency in duplicate, one of which is the original signed by the responsible person.

Article 13.

- (1) The Agency Council shall adopt a conclusion rejecting:
 - a) incomplete and untimely application to the public call;
 - b) application of the broadcaster whose broadcasting licence has been temporarily suspended by the Agency;
 - c) application of the broadcaster that has not paid its financial liabilities to the Agency;
 - d) application of the broadcaster subject to ongoing bankruptcy or liquidation proceedings;
 - e) application of the broadcaster whose accounts have been frozen in the forced collection proceedings;
 - f) application of the broadcaster that was instructed, as the beneficiary of the Fund, to return the money allocated from the Fund under one of the previous two public calls, because of the violation of this Rulebook or stipulations of the contract on allocation of money from the Fund.
- (2) Administrative proceedings may be initiated against the conclusion referred to in paragraph 1 of this Article.

Article 14.

- (1) Within 15 days from the expiry of the deadline for application to the public call, the Agency Council shall adopt a decision on allocation of money from the Fund on the basis of the selection criteria with scoring methodology, which are integral part of the public call.
- (2) In case that the total budget requested by grant applications exceeds the budget envisaged by the public call, the Agency Council shall allocate the money from the Fund, on the basis of a comparative analysis, to the applicants with higher scores.

Article 15.

- (1) The Agency Council shall decide on the allocation of money from the Fund by adopting a decision, which shall be final.
- (2) Administrative proceedings may be initiated against the decision referred to in paragraph 1 of this Article.
- (3) The Agency Council shall publish a report on allocation of money from the Fund on the website of the Agency not later than 15 days after the adoption of the decision referred to in paragraph 1 of this Article.

Article 16.

- (1) Not later than 15 days after the adoption of the decision referred to in paragraph 1 of Article 16, the Agency Director shall conclude a contract on the allocation of money for stimulation of the share of in-house production in the overall programming structure (hereinafter referred to as: Annual Grant Contract) with the applications for annual grant that obtained the right to money from the Fund.
- (2) The Annual Grant Agreement shall include:
 - a) reference number of the issued broadcasting licence and the indication of the coverage area of the radio programme;
 - b) share of in-house production in the overall programming structure;
 - c) amount of money allocated;
 - d) timetable for disbursement of money allocated under the public call;
 - e) deadlines and manner of reporting on spending the money from the Fund, with the supporting documentation;
 - f) conditions for termination of contract and refund of money;
 - g) obligation to keep separate accounting and take measures aimed at avoiding and refunding excessive compensations;
 - h) term of the contract;
 - i) other rights and obligations.
- (3) Integral parts of the Annual Grant Contract shall be the following:
 - a) programme base, for a period of one year, with a detailed daily, weekly and monthly programme schedule, in compliance with Article 56 of the Electronic Media Law, description of the content submitted with the Annual Grant Application;
 - b) structure and scope of radio programme;
 - c) forms for reporting on spending the money from the Fund.

Article 17.

- (1) Within 15 days from the adoption of the decision referred to in Article 16 paragraph 1 of this Rulebook, the Agency Director shall sign a contract on allocation of money for the purpose of increasing the scope, structure and diversity of the content dedicated to the thematic fields of public interest (hereinafter referred to as: Programming Grant Contract) with the applicants for programming grants that have qualified to receive the money from the Fund (hereinafter referred to as: Fund Beneficiaries).
- (2) The Programming Grant Contract referred to in paragraph 1 of this Article shall also include:
 - a) reference number of the issued broadcasting licence and the indication of the coverage area of the radio programme;

- b) format and a short description of the content the production and broadcasting of which are subject to this contract (title of the content, number and duration of individual programmes);
 - c) name of the thematic field;
 - d) timetable for broadcasting of the content;
 - e) amount of money allocated;
 - f) timetable for disbursement of money allocated under the public call;
 - g) deadlines and manner of reporting on spending the money from the Fund, with the supporting documentation;
 - h) conditions for termination of contract and refund of money;
 - i) obligation to keep separate accounting and take measures aimed at avoiding and refunding excessive compensations;
 - j) term of the contract;
 - k) other rights and obligations.
- (3) As its integral part, the Programming Grant Contract shall have the following:
- d) description of the content submitted with the application (point 3 Form 3);
 - e) content production (point 4 Form 3);
 - f) forms for reporting on spending the money from the Fund.

Article 18.

The money allocated on the basis of the contracts referred to in Articles 16 and 17 of this Rulebook shall be disbursed according to the following timetable:

- the first instalment amounting to 50% of the allocated funds shall be transferred within three days from the signing of the Contract;
- the second instalment amounting to 50% of the allocated funds shall be transferred after the approval of an interim report on spending the money from the fund.

Article 19.

- (1) The allocated money may only be spent:
- a) in compliance with the provisions of the Contract, this Rulebook and the Rulebook on the State Aid List;
 - b) to cover the costs related to production of the content subject to the contract.
- (2) As per the provisions of this Rulebook, the eligible costs are the following costs included in the approved budget:
- 1) costs related to gross salaries and other remunerations calculated and paid proportionally to the activities defined by the signed contract;
 - 2) travel expenses related to the activities defined by the contract, not exceeding the amount prescribed by the Decree on Compensation of Costs to Civil Servants and State Employees ("Official Gazette of Montenegro," N. 26/12);
 - 3) overhead (utility and telecommunication services, office and other supplies), not exceeding 15% of the costs related to gross salaries and other remunerations.
- (3) The costs referred to in paragraph 2 of this Article shall be paid before the expiry of contract and the evidence shall be provided by submitting the following documentation:

- 1) document on setting up a working party tasked with the activities defined by the signed agreement;
- 2) employment contracts for members of the working party;
- 3) certified pay sheets;
- 4) decision on business trip;
- 5) travel order with supporting documentation;
- 6) copy of the statement of account from which the costs have been paid.

Article 20.

The broadcaster that has been allocated money from the Fund is obliged to keep separate accounting for the activities related to the production of content of public interest, which enables the bookkeeping of income, expenditures and business results related to this activity separate from the income, expenditures and business results related to other activities.

Article 21.

- (1) A beneficiary of the Fund is obliged to submit a report on spending the money from the fund (hereinafter referred to as: Report) to the Agency within the timeframe and in the manner prescribed by the contract.
- (2) The report may be interim or final.
- (3) The interim report shall be submitted upon expiry of one half of the term of the contract.
- (4) The final report shall be submitted within 15 days after the expiry of the term of the contract.
- (5) The report shall be comprised of:
 - a) programming report;
 - b) financial report.
- (6) The reports referred to in paragraph 5 of this Article shall be submitted on separate forms prescribed by the Agency and published on the Agency's website.

Article 22.

- (1) A beneficiary of the Fund is obliged to keep the entire documentation (accounting, financial, legal, administrative, etc.) and the data and information related to spending of the allocated financial support in the period of five years after receiving the last payment under the contract on allocation of financial support.
- (2) The broadcast content shall be recorded in compliance with the Instructions for Recording of the Material Broadcast by the Electronic Media, adopted by the Agency and published on the Agency's website.

Article 23.

- (1) If they wish to extend a deadline for carrying out their obligations under the contract, the beneficiaries of the Fund are obliged to obtain a written consent from the Agency, not later than 30 days before the expiry of the deadline prescribed by the contract.
- (2) A beneficiary of the Fund has the right to request consent for extension of a deadline for carrying out the obligations under the contract by no more than three months, submitting a new execution plan.

Article 24.

- (1) The Agency Director shall adopt a decision on termination of contract if, after having received two written warnings, a beneficiary of the Fund:

- a) violates the obligations related to submission of report referred to in Article 21 of this Rulebook;
 - b) violates the obligations and terms related to spending of the allocated money, prescribed by the contract and this Rulebook.
- (2) The decision referred to in paragraph 1 of this Article shall define the obligation and part or total amount of the allocated money the beneficiary of the Fund shall be obliged to return to the Fund within seven days from the receipt of the decision (refund).
- (3) A complaint against the decision referred to in paragraph 1 of this Article may be submitted to the Agency Council, within 15 days from its receipt.

Article 25.

- (1) The Agency Director shall adopt a decision on refund in case that:
- a) the amount of allocated and transferred money is higher than necessary to cover net expenses of a broadcaster related to the activities defined by the signed contract, or
 - b) a broadcaster spent the allocated and transferred financial support contrary to the terms and conditions of the signed contract and this Rulebook.
- (2) The decision referred to in paragraph 1 of this Article shall define the obligation and the amount of the allocated money a beneficiary of the Fund is obliged to return to the Fund within seven days from the receipt of the decision (refund).
- (3) A complaint against the decision referred to in paragraph 1 of this Article may be submitted to the Agency Council, within 15 days from its receipt.

Article 26.

- (1) A report on spending the money from the Fund is an integral part of the annual Financial Report of the Agency for Electronic Media, which is published on the website of the Agency.
- (2) The money that remains unallocated after a call or is refunded shall be included in the part of the Agency's Financial Plan for next year that is related to the Fund.

Article 27.

This Rulebook shall come into effect on the eighth day after its publication in the "Official Gazette of Montenegro".

Chairman
of the Council of the Agency for Electronic Media
Ranko Vujović