[BG] Copyright Protection in Media Regulation

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According to the *Закон за радиото и телевизията* (Bulgarian Radio and Television Act - RTA) one of the general principles of broadcasting activity is the consideration of copyrights and related rights within programmes. This is regulated in the provision of Art. 10, para. 1, point 8 of the RTA.

According to Art. 9, para. 1 RTA the providers of media services distribute programmes only in the circumstances of preliminarily settled copyrights and related rights. This is the reason why one of the requirements for the registration or licensing of a new radio or television programme is for the candidate to present to the Council for Electronic Media the respective contracts for the licensing of copyrights.

However, the wording of the provision in which this requirement is laid down is ambiguous and opens a big door for those broadcasters that prefer to reduce the costs for their programmes. The exact phrase of Art. 111, para. 1, point 9 RTA is "preliminarily contracts for licensed copyrights for protected works in the programmes and for licensed related rights for the distribution of someone else's programmes."

Based on this, some candidates state that the law does not oblige them to present preliminarily licensing contracts for related producers and performance rights. The Council for Electronic Media accepts such an interpretation of the law and allows registration and licensing of programmes without preliminarily settled related rights with the producers and artists, respectively with their collecting societies. In this way the Council allows the broadcasters to begin the distribution of a programme in breach of Art. 9, para. 1 and the principle of Art. 10, para.1, point 8 RTA.

Subsequently, the Council has to check if the broadcaster has concluded all necessary contracts for licensing the content of its programme, and if it establishes that the broadcaster distributes a programme without settled copyrights and related rights the Council has to impose a financial sanction. The Ministry of Culture is also empowered to penalise broadcasters for the distribution of a programme in violation of the Copyright and Related Rights Act. However, both administrative bodies state that the number of their staff is insufficient to exercise effective control over the huge number of broadcasters that break the

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law. This situation makes some categories of rightsholders as producers and artists feel discriminated by the law because their rights are not equally treated as the rights of authors and broadcasters.

Recently, the Council of Ministers appointed a special working group with the purpose of preparing a draft of a new electronic media act. Principally its work is focused on some other problems concerning the media sector but it could be a good opportunity for more adequate rules on the preliminarily control for copyright and related rights settlements.

Публичен дебат за нов закон, регламентиращ дейността на електронните медии, ще се проведе в Министерския съвет

http://www.government.bg/cgi-bin/e-cms/vis/vis.pl?s=001&p=0212&n=793&g=

Further information about the public discussion and the minutes of the meetings of the working group from the summer 2010

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