[BG] Bulgarian Programmes Addressed to Audience outside of Bulgaria

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On 7 June 2011 the Council of Ministers submitted a new Bill to amend the Закон за електронните съобщения (Electronic Communications Act - ЗЕС) to the Parliament.

Some of its provisions impose new rules on entities which create radio and television programmes in Bulgaria with the purpose to transmit those programmes only abroad. In this connection, in the Transitional and Final Rules of the Bill, some new provisions also to the Закон за радиото и телевизията (Radio and Television Act of 1998 lastly amended in State Gazette No 28 of 5 April 2011 - ЗРТ) are added.

A new section is created in chapter 7 of the ЗРТ titled "Registration of Radio and Television Operators Creating Programmes Addressed to Audience Outside the Republic of Bulgaria". There are two groups of such operators: those who want to transmit their programmes in Bulgaria and abroad and those who want to create programmes that will be transmitted only beyond the territory of Bulgaria.

According to the proposal the operators from the first group shall be registered under the general rules for the registration of Bulgarian radio and television operators and for the operators belonging to the second group special rules shall be provided. The latter shall submit to the Council for Electronic Media (CEM) an application accompanied by the same set of documents as the operators from the first group except the following:

1. A certification that the applicant does not have any financial obligations to the State of Bulgaria;

2. A declaration that the applicant does not hold any interests, shares or rights or any other kind of participation in radio and television operators in excess of the permissible limit according to the anti-trust legislation of the Republic of Bulgaria;

3. A declaration that the circumstances under Art. 105 para 4 ЗРТ do not apply for the applicant (this article rules which persons are ineligible to apply for such registration);

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4. Preliminary copyrights licensing contracts concerning the use of protected works in the programme and preliminary neighbouring rights licensing contracts regarding the dissemination of programme services of others.

The CEM cannot limit the territory in which a programme shall be disseminated. According to the proposal the certificate for the registered programme also will not contain any information on the territory in which the programme will be transmitted.

At the same time enterprises that are re-broadcasting these programmes making the up-link from Bulgaria to another territory shall provide to the CEM evidence for a settlement of the copyrights and neighbouring rights concerning the dissemination of the programme and protected works incorporated in it.

The conclusion is, that according to the recent Bill the CEM will not exercise any effective control whether the radio and television operators follow copyrights and neighbouring rights of protected works used in their programmes re-broadcast outside of Bulgaria, but will control the enterprises that make the up-link of the programme every six months.

Проект - Закон за изменение и допълнение на Закона за електронните съобщения (Обн., ДВ, бр. 41 от 2007 г.; изм. и доп., бр. 109 от 2007 г., бр. 36, 43 и 69 от 2008 г., бр. 17, 35, 37 и 42 от 2009 г.; Решение № 3 на Конституционния съд от 2009 г. - бр. 45 от 2009 г.; изм. и доп., бр. 82, 89 и 93 от 2009 г. и бр. 12, 17, 27 и 97 от 2010 г.)

http://parliament.bg/bills/41/102-01-36.pdf

Bill to amend the Electronic Communications Act

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