

[MK] Amendments to the Electronic Communications Law for a smoother DTT-introduction

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With the analogue switch off deadline set for 1 June 2013 the Macedonian authorities have a quite challenging task to reform the legislative framework, which shall allow smooth transition from analogue into digital broadcasting without endangering media pluralism.

The latest amendments to the Law on Electronic Communication proposed by the Government set out rules which will allow the transmission of TV channels by a multiplex (MUX) operator under principles regulated by law. The existing Law on Broadcasting and the Law on Electronic Communications proved to be a very rigid piece of legislation, which does not encourage investment in the Digital Terrestrial Television (DTT) sector. The process of digitalisation itself could encourage media pluralism, but if wrongly implemented, it could be misused to reduce this pluralism or even to affect the right to freedom of speech.

However, the newly proposed amendments offer much more clarity in the introduction of DTT-services and promise a transparent process of MUX-management. With regard to concentration rules, vertically integrated systems will also not be allowed in the future. Taking into consideration the weak economic power of the highly defragmented broadcasting market on the one hand and the powerful telecom companies on the other, allowing vertical integration could seriously affect media pluralism in the country: the MUX-operators could become gate keepers, who would have an exclusive right to decide what programme service will be re-transmitted. Now the Broadcasting Council, the media regulatory authority, will have the decision making power in view of the content composition of the MUX. According to Art. 120-a, para 2 the MUX-operator is obliged to work according to "the Plan for Allocation and Distribution of the Transmission Capacities of Digital Terrestrial Multiplex, adopted by the Broadcasting Council." This provision clearly prohibits certain MUX-operators to act as a gate keeper of the digital transmission facilities.

The new legislation envisages the Public Enterprise Macedonian Broadcasting, which operates two MUX, to air free-of-charge and in uncoded form the national and regional terrestrial commercial broadcasters during the simulcast period, which will end on 1 June next year. The MUX operator is obliged to make public on its website all conditions and prices for access to its network. According to the

amendments, the regulatory body for electronic communications grants permission for the usage of frequencies, aimed to the transmission of those TV-programme services, which have been licensed by the Broadcasting Council. Moreover, the new MUX-operator will have to run a separate accounting of its DTT-activities.

Although these amendments offer solutions to the open issues of access to digital networks and the content of the MUX, some other questions of digitalisation remain unanswered. The new media law - which is still in a preparatory stage - will have to offer proper solutions to the issue of digital licensing, on defining the model on how to subsidise the vulnerable groups and to reduce the digital divide. The most common question raised by the broadcasters is how much they will have to pay to the MUX-operator for distribution through digital networks. On the other hand, when the analogue TV-signal will be switched off, the demand for set-top-boxes will increase, which in return will also increase the selling prices of the receiver equipment. The public mechanisms for competition protection must maintain a healthy competition on the market of set-top-boxes and their interoperability must be guaranteed.

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