

[MK] Public Debate over the New Media Law

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The public debate over the draft of the new Закон за медиуми и аудиовизуелни медиумски сервиси (Law on Media and Audiovisual Media Services - “Draft Law”) has brought to the fore several crucial problematic areas. The Draft Law consisting of 166 Articles has been published and has been open to public debate since 30 April 2013.

For the first time in the young Macedonian democracy, media regulation will be imposed on the print media and on websites, in addition to the existing broader legal framework comprising Criminal Law, Competition Law and the Law on Libel and Defamation (see IRIS 2012-10/22), which already apply to media companies and their products.

The Draft Law is intended to transpose the framework of the Audiovisual Media Services Directive 2010/13/EU into Macedonian law. The necessity of amendments within the audiovisual and media sector was highlighted in the “Macedonia 2012 Progress Report” of the European Commission.

One of the main problematic areas is censorship. Article 4 of the Draft Law envisages “permitted censorship”. The Organization for Security and Co-operation in Europe (OSCE) stated in its “Legal Analysis of the Draft Law”: “This shows a mistaken understanding of what restrictions on freedom of expression are: they should not be seen as censorship - censorship should be banned without qualification - as legitimate restrictions still do not give the right to exercise the process known as censorship, such as pre-control of publications, need to ask permission for certain content beforehand and so on.”

The self-regulatory Association of Journalists of Macedonia (AJM) reacted on the grounds of the lack of regulation of advertising for Government and State institutions. According to the Association, this is one of the biggest threats to media freedom in the country: “If these government advertising campaigns remain out of the scope of the law, possibilities arise for the Government to influence the editorial policy of media outlets and to destabilise the market”.

Another important stipulation of the Draft Law is the obligation on all website and print media outlets to register with the new media regulation authority - the Media Agency. This distinctly exceeds the common media regulation practice in democratic societies, so both OSCE, the AJM and media stakeholders believe that

this would impose unnecessary restrictions on the internet sector, which could seriously affect freedom of expression. Hence, the OSCE urges a complete cancellation of this obligation: “The main objections to the Draft Law concern printed and electronic publications and the requirements made on them for registration. These provisions should be deleted completely as there is no need for registration of such publications in addition to what follows from other laws (for tax and business purposes) and any registration requirements may have a chilling effect on freedom of the media.”

Another widely criticised part of the Draft Law is the nine-year mandate of the seven members and eight-year mandate of the director of the Media Agency. Not only are the mandates considered too long, but, in addition, the member salaries, amounting to four times the average salary in the country, are seen as excessive. Furthermore, the members of the Agency’s Council will be nominated mainly by the ruling political powers: three members appointed by the Parliament, another three by the city mayors and only one by a self-regulatory association of journalists.

The OSCE also addresses the sanctioning policy proposed in the Draft Law, especially in view of the ultimate measure, the revoking of licenses: “Any sanctions must be applied in a gradual and escalating manner, with revocation of the license only being an ultimate sanction in extreme cases.” The Draft Law in its current version does not provide for this implementation of the principle of proportionality.

The public debate is still in progress. Accordingly, there are no dates set as far as the finalisation or even adoption of the Draft Law is concerned.

Закон за медиуми и аудиовизуелни медиумски сервиси

https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view&itemid=oY7NDb1PHisLPRSVXBsmyw==&type=1

The OSCE’s Legal Analysis of the draft Law on Media and Audiovisual Media Services of the former Yugoslav Republic of Macedonia

<http://www.osce.org/fom/102135>

Здружение на новинарите на Македонија (ЗНМ) ЗАБЕЛЕШКИ на Нацрт-законот за медиуми и аудиовизуелни медиумски услуги објавен на 08.04.2013 година, предлагач Министерството за информатичкоопштество и администрација

<http://www.znm.org.mk/drupal-7.7/sites/default/files/Analzia%20na%20Nacrt%20zakonot%20za%20mediumi%20ZNM%20maj%202013.pdf>

