[BG] Bulgarian media authority rules against distribution of private channels via public service platforms

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On 30 July 2015, the Bulgarian media regulator, the Council for Electronic Media (CEM), decided that the agreement between the Director General of the public service radio broadcaster BNR and the private broadcaster 'Web Radio and TV OOD' concerning the distribution of five of the latter's radio stations via the BNR website infringed Bulgarian law. This decision will also have a significant future impact on public service television because the relevant provisions also apply to Bulgarian National Television (BNT).

On 17 July 2015, Bulgarian National Radio (BNR) launched a new live streaming platform on its website, via which the 17 BNR public service channels and five other private stations can be listened to worldwide. According to the BNR press release, it is the first time that such a wide variety of channels has been transmitted via an Internet platform in Bulgaria. Via the link 'Слушай БНР' ('Listen to BNR') on the public service broadcaster's website (www.bnr.bg), users can listen to the three national BNR channels 'Horizont', 'Hristo Botev' and 'Bulgaria', as well as a further eight regional BNR stations that are also broadcast terrestrially. Six specialist music stations from BNR's online portfolio ('Indi', 'Duende', 'Punk Jazz', 'Folklor', 'BG Pop' and 'Klassika') are also available via the site, along with the five radio stations of private broadcaster 'Web Radio and TV OOD': 'Digital Radio Smooth', 'Digital Radio Rock', 'Digital Radio Pop', 'Digital Radio DJ' and 'Digital Radio Hip-Hop'.

The CEM discussed the agreement between BNR and 'Web Radio and TV OOD' at two meetings before deciding that it infringed Articles 46 and 47 of the Bulgarian Broadcasting Act (RFG). Under Article 46(2) RFG, BNR and BNT may sign agreements with other media service providers for the 'supply, retransmission and exchange of programmes and channels'. In addition, BNR and BNT can, of course, under Article 47(1) RFG, continue to produce channels and programmes themselves, commission independent producers and participate in co-productions. Firstly, according to the CEM, the BNR Board of Directors had not consented to the agreement with 'Web Radio and TV OOD' under the terms of Article 62(2) and (3) RFG. Its consent would need to be obtained. As in similarly important cases, in order to obtain such consent, a detailed, clear and exhaustive explanation would need to be provided, clarifying, among other things, why the

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content and the way it was presented could not be offered by the public service broadcaster itself using its own technical, human and copyright-protected resources. Secondly, the criteria for selecting a private company to work with would need to be set out, as well as the conditions under which editorial independence and ex-post checks would be guaranteed.

The CEM also ordered BNR, on the basis of Article 47(4) RFG, to update and extend its internal rules on participation in co-productions and programmes with independent producers. In particular, rules should be drawn up guaranteeing standards of editorial independence and ex-post checks. Steps should also be taken to prevent the private broadcaster using the public service broadcaster to establish or commercially strengthen its own brand. Finally, BNR should draw up rules on the digitisation of its sound recordings and other items of cultural heritage in order to protect the national cultural memory.

РЕШЕНИЕ РД-05-105 на Съвета за електронни медии от 30 юли 2015

http://www.cem.bg/actbg/5107

Council for Electronic Media decision no. RD-05-105 of 30 July 2015

Съобщение за печата: БНР Player стартира с 22 програми от 17 юли 2015

http://bnr.bg/post/100581281/bnr-player-startira-s-22-programi

Press release: BNR Player launches with 22 channels on 17 July 2015

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