

[RS] RATEL imposed “Must Carry” obligation to operators

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At the beginning of October, the Regulatory Agency for Electronic Communications and Postal Services (RATEL) imposed a “must carry” obligation on all media content distribution operators (Cable, DTH and IPTV) which are listed in their Register of operators. Pursuant to RATEL’s decision, the operators will be obliged to distribute “free of charge” the commercial TV media service providers which are holders of the terrestrial “free to air” licenses at a national level, that is to say, TV Pink, Happy TV, PRVA TV and O2.tv.

Article 106 of the Law on Electronic Media prescribes that the Regulatory Authority for Electronic Media (REM), periodically — at least once every three years — determines the list of media service providers that shall be in the “must carry” regime in order to protect the public interest and media pluralism, taking into account the principles of proportionality and transparency, and providing that obligations imposed on operators are not unreasonable. A request to impose the “must carry” obligations on the operator, together with the list of TV channels in the “must carry” regime, are submitted to RATEL. RATEL acts pursuant to Article 101 of the Law on Electronic Communications and examines whether a significant number of end users are using the media content distribution service of a particular operator as “the only or primary way of receiving media content”, and adopts the “must carry” decision.

The current “must carry” decision is controversial for several reasons: first of all, the REM determined that all commercial free-to air TV channels at national level are in the “must carry” regime without any proof that they really are fulfilling the function of “public interest”; secondly, RATEL determined that all operators (more than 90) are obliged to distribute “must carry” TV channels, although the majority of them could hardly fulfil the law’s criteria that a significant number of the end users are using their service as the only or primary way of receiving media content at national level; finally, REM has also produced a situation whereby the “must carry” obligation excludes TV stations from exercising the right to ask operators for copyright and related rights fees for the “re-transmission” of their content, which is contrary to the current copyright regulations.

Решење о утврђивању обавезе преноса ТВ програма 10.10.2017

<http://bit.ly/2An9YpO>

“Must carry” decision

