



Contents

Events

Press releases

Media on media

Vacancies

Free Media Help Line

Advertising market in BiH: the influence of unfair competition and lack of transparency on the public credibility of media houses

By: *Adnan Bilal*

Ties between advertising industry and media rating measuring – impact on media market in BiH

By: *Nataša Tešanović*

Who should be writing and recommending laws on commercial advertising?

By: *Ekrem Dupanović*

Recommendations for the advancement of media legislative: ownership transparency as democratisation mechanism in bih society

By: *Lejla Turčilo*

Import of television programs from abroad: regulation of copyrights and broadcasting of advertising content in BiH

Interview with Helena Mandić, Communication Regulatory Agency



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Editorial

What is the situation of the Media Industry and advertising market in BiH?

The advertising market of Bosnia and Herzegovina, when compared to the advertising markets of neighboring countries, is still underdeveloped, and television, as the most important medium in the BiH advertising market and the overall media industry, has been recording a decline in marketing revenues for years now. By inconsistent pricing policies the media outlets, especially major television stations, contribute to the reduction of budgets of larger advertisers in BiH, which is why the total value of the advertising market decreases by each new fiscal year. In addition, advertising market in BiH loses its value due to the unregulated copyright issue for video content, as well as by advertising in the neighboring countries media, which rebroadcast their program in BiH.

Undeveloped market infrastructure in our country serves a large number of registered media, and the data on their ratings, reading and listening, which are the basis for advertising, lack credibility in the wider media community due to the existence of numerous irregularities and even unlawfulness¹ in the work of authorized audience measurements in relation to radio listenership and television viewership. The application of fair competition and advertising rules is necessary in order to establish a balance between media pluralism, freedom of information and free market. Unfortunately, the BiH market and the entire media industry, lack the transparent and fair rules. At the same time, due to hidden political and economic impacts, the media industry and the responsible state institutions have not taken adequate steps yet to create the necessary changes in this area.

Advertising in BiH is defined by set of laws (Law on Communications, Consumer Protection Act, Trade Law, Law on Restriction of Use of Tobacco Products, Food Law, Drug Law, and Law on Inadmissible Advertising) and regulations under the jurisdiction of CRA (Commercial Communications Code). Even though certain legal infrastructure exists, it is evident that it generates huge loss for the advertising and media industry. Due to lack of financial resources, journalists and other media professionals work in poor conditions, media reporting is losing on quality, and media houses are more vulnerable to political and economic influence, which reduces their public credibility.

In the 50th edition of E – Journalist we will examine the following questions: what are the problems of the advertising market in BiH and what are the consequences of these problems, why do representatives of the media industry do not consider the ratings of authorized audience measurements credible, and whether only the adoption of the Law on advertising in BiH can eliminate the shortcomings and problems that precipitate the value of the market? The authors of the texts are: Professor at the Faculty of Political Science in Sarajevo **Lejla Turčilo**, Director of Alternativa TV **Nataša Tešanović**, Executive director of Marketing at Federalna TV **Adnan Bilal** and Chief editor of Media marketing **Ekrem Dupanović**. Additionally, we spoke with Broadcasting Director Assistant at Communication Regulatory Agency of BiH **Helena Mandić**.

Arman Fazlić, E-journalist Editor

¹ One example of non-compliance with the law is failure to implement the [decision](#) of the Competition Council in March 2016, which established that “economic entity” Audience Measurement “Ltd. Sarajevo, abused the dominant position in the relevant market while providing services of measuring TV ratings in Bosnia and Herzegovina”

Events

16 Dec 2017

Banja Luka: Presentation of the idea of rosters of media professionals dedicated to professional approach in relation with gender – based violence

15 Dec 2017

Measuring results and figures on Clientelism Index in Media in 2017 presented in Banja Luka

12 Dec 2017

Anamarija Jelonjić, Mustafa Karahmet, Nikola Vučić, Mersiha Drinjaković and Maja Memić win prize awards on reporting about gender – based issues and associated topics

08 Dec 2017

Two – day training for the Regional Platform promoting freedom of media and journalists' safety with the focus on financial management held in Konjic

01 Dec 2017

Syrian journalists visit radio stations throughout BiH

1 Dec 2017

“Reporting on gender – based violence issue”, a workshop for female and male editors held in Sarajevo

27 Nov 2017

“Blogger community fighting the gender based violence”, one – day workshop held in Sarajevo

Press releases

13 Dec 2017

Regional Platform condemns most recent threats against media houses and journalists in Serbia, Croatia and Bosnia and Herzegovina

5 Dec 2017

BHJA call on the police and prosecutor's office officials to launch effective investigation regarding death threats against journalists in BiH

5 Dec 2017

BH journalists demand the dismissal of Dženan Selimbegović

Media on media

20 Dec 2017

Council of Europe Board of Culture officials requires from member countries to strengthen and reinforce the status of journalists

5 Dec 2017

Desir expresses concerns regarding the safety of journalists in BiH and Croatia

28 Nov 2017

New guideline of the International Association of women in radio and television provides practical advices for female journalists on how to minimize the risk while being engaged with sensitive and dangerous stories

Advertising market in BiH: the influence of unfair competition and lack of transparency on the public credibility of media houses

By: Adnan Bilal

Taking into consideration that advertising in Bosnia and Herzegovina has been defined through various set of laws (Law on Consumer Protection, Law on Communication, Trade Law, Law on Food, Law on the Restricted Use of Tobacco Products, Law on Medicaments, Law on the Ban on Advertising) and regulations under the competence of the Communication Regulatory Agency of (BiH) (The Code on Commercial Communications), the passing of the Law on Advertising has emerged as necessary and required tool. However, passing of this Law (Law on Advertising) shall not sort out numerous problems regarding further destruction of media and advertising market field in Bosnia and Herzegovina.

Comparing with advertising markets in neighboring countries, commercial advertising market in BiH is still considered vastly undeveloped. Bearing in mind that there is a significant number of media houses in BiH that compete with each other, in order to receive modest financial budget amounts of money, advertising market in Bosnia and Herzegovina is hence often referred to as “the little pond with too many crocodiles around”. Specificity of transitional countries is seen through weak development of the advertising structure in the market, with TV commercial advertising still dominating in this particular field and BiH is no exception here. There are many reasons why media and commercial advertising market in BiH have been on a decline in BiH, comparing to neighboring countries. One of the biggest problems in the process of media development of media industry is the unsolved problem and issue of commercial advertising in media programs from neighboring countries that re-broadcast their program through cable, satellite and IPTV signal, which altogether results in budget reducing of the international advertisers in BiH media market. According to official information of audience measurement (from March 2017) implemented on the entire population in Bosnia and Herzegovina, the total share of viewership of local TV stations in total viewership is less than 50%, while the share of local TV stations for specific target groups that represent most interesting groups to international commercial advertisers is merely 40% (Information source: Audience Measurement doo.). If we make a comparison here, the information regarding the audience viewership of TV stations in neighboring markets, the domination of local TV stations is very obvious. According to official audience measurement (also from March 2017) in Republic of Croatia, the total share of local TV stations viewership in total viewership scope, is more than 80% (Information source: AGB Nielsen).

First entities were among the first to experience the reduced money flow from commercial advertising in Bosnia and Herzegovina were printed media houses. Apart from this problem, they also faced declined public buying power. Due to significant diversity and different interests in segmented media market in BiH, the decline had thus become evident in other media branches as well. In an unequal market competition of media houses in BiH, the commercial advertising prices displayed a key factor with companies as far as decision making of budget dispersing system is concerned, and this budget was on a decline from year to year.

Due to the lack of required and necessary financial means, journalist and other media staff decide to accept very poor working conditions which results in a poor quality of media reporting and production of media contents, creating thus media dependability from wide political influences. The survival on the market of great number of media houses, as a result



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of a decreased incomes deriving from commercial advertising, has been conditioned by editing deference by political and business officials at the state, Entity or local governing levels.

Media houses should promote a pluralism of opinions, instead of being used as a mean of their owners whose main goal is profit making. The way present media houses fulfill their democratic role depends mainly on economic and political factors that shape media environment and media market.

In order to avoid the situation where media houses work less for the general public interest and work more for the interest of certain political and economic lobbies, it is crucial to pass the law that would, (to some extent), separate interests of media entrepreneurs (owners) from media contents, political interests and ties with media owners with different lobbies.

Unlike developed media markets where liberal business derived from respecting and obeying legal procedures and market rules, the case in Bosnia and Herzegovina has been quite different.

Local media houses should, as part of Regulatory framework, promote media independence and economic efficiency. Media business operations control and the implementation of fair – based rules by the competition and commercial advertising rules, is indeed necessary in order to establish the balance between media pluralism and free media market.

There are unregulated occurrences in media market, including vertical integration between media and other associated commercial advertising market parties, distribution networks or telecommunication operators. Lack of warranties, as far as the ownership transparency over media houses and other associated commercial advertising market parties is concerned, which disabled the review regarding the nature of the relationships and their influence on media houses integrity. Legal provisions limiting foreign ownership over media houses turn out to be inefficient in this particular case as well.

Passing the set of laws and regulations in Bosnia and Herzegovina does not necessarily mean their implementation and application at once. There are many cases in reality to support this thesis. One of these cases include the case of ignoring and disrespecting the decision passed by the Competition Council of Bosnia and Herzegovina regarding the duties and obligations of owners of specialized sport TV channels „Sport Club “to ensure and allow other TV channels to operate under same conditions, which resulted in an unequal positions of other parties involved in this process, thus creating and encouraging illegal competition in this market area.

The question of transparency of ownership and regulation of eventual integrations, between media houses and other associated commercial advertising market parties (commercial advertising agencies, research agencies for audience viewership measuring, including viewership on radio and internet web sites), distribution networks or telecommunication operators, represents the key and crucial issues here, especially during the period where media houses owners (entrepreneurs) hide behind various off – shore companies registered abroad. Therefore, there is a significant possibility of conflicts of interest occurring in BiH in this particular field, including many frauds in media and commercial advertising mar-

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Vacancies

Journalist / TV show host. Deadline for application 29 Dec 2017

[Details](#)

Vacancy for journalists' contribution in informing and promotion of Goals of Sustainable Development

Deadline for application 31 Dec 2017

[Details](#)

British Council encourages students of journalism from throughout the world to apply for the Intensive Training which is to be held in Scottish Parliament on 5 – 6 July 2018. Deadline for application 28 Feb 2018.

[Details](#)

Free Media Help Line

Actual cases:

1. BHT – Interview with Sebjia Izetbegovic, general manager of the Clinical Center of the University of Sarajevo was not broadcasted on 25 Oct 2017 (as planned), although it had previously been announced for this particular date and time. Instead the interview was broadcasted on 4 Nov 2017 without prior announcement and with pre-determined and well-planned answers. Members of BiH Association of Journalists Board of Directors issued a press release demanding full responsibility of all responsible members of Editing Collegiums of the Information and News Political Program, including the members of BHT1 management and the entire management of Public RTV Service of BiH for professional misconduct and failures during the preparation and additional planning of the above mentioned and controversial interview.

2. Journalists Sanel Kajan and Arijana Saračević Helać - After being posted on Dnevnik.hr, a regional web site on 30 Nov 2017, the text (article / post) titled: "This is how Bosniak journalists openly express their hate; This is with whom we should live together; Disgusting reactions by the Bosniak public regarding general Praljak case", journalists Sanel Kajan and Arijana Saračević Helać, as well as other journalists that publically expressed their opinions and after the death of Praljak in the courtroom of the Hague Tribunal, numerous threats have been directed against these journalists, offending and insulting their dignity and honor. These threats consisted vast hate speech and encouraged violence as well. Free Media Help Line contacted the Herzegovina – Neretva Canton Ministry of Interior Affairs officials and demanded to be provided with the information regarding death threats in particular.

3.3. Journalists Sanela Prašović Gadžo and Arijana Saračević Helać - Dzenan Selimbegovic, Deputy of the Secretary of SDA Chairman of the Presidency addressed public insults against Sanela Prašović Gadžo and Arijana Saračević Helać, local female Journalists via face book (social media), describing them publically as "second hand and wasted female persons". Free Media Help Line sent a protesting letter to the officials of the Presidency Secretariat.

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Although the aim of the Strategy of transfer from analogue to digital ground radio diffusion that had been accepted and passed was to provide minimum 85% of the population in BiH to 1 Oct 2011, with digitally revived ground TV signal, Bosnia and Herzegovina still remained as the only country where the process of digitalizing has not been completed yet.

The persistence of public broadcasters in Bosnia and Herzegovina has reached its critical stage considering that there has not been political will in order to find the solution for stable financing. The situation in public broadcasters in many ways define general situation in the market and media freedoms and liberties. The decision passed by the CRA Council from September 2013, regarding the passing of the amendments of Codes on commercial communications, displayed an outstanding sample, regarding this particular issue. By passing this Decision, the Regulator (CRA) was allowed to reduce the time limit for commercial advertising use (during the programs broadcasted by public services) from six to four minutes per hour.

Despite the fact that the third, rather disputable decision was amended during 2014, looking at the long-term perspective, the decision had already caused vast financial and business damages to both, public broadcasting services and entire media and commercial advertising market in BiH. Taking into consideration that during the period of decision passing by the CRA, the income (money) deriving from the tax fee payment was also significantly reduced in BiH, this represented the end of unstable financial sustainability and self-sustainability of public broadcasting services. The Decision, passed under suspicious circumstances by the owners of certain commercial TV stations and accepted by some also, suspicious members of the CRA Council, favored mainly the above mentioned media houses owners.

Owners of certain commercial TV stations, at the same time, the owners of particular commercial advertising agencies, had, by this Decision (passed by the CRA Council), been able to additionally reduce the commercial advertising prices in BiH media market. This enabled them to take over the commercial advertisers' budget means from public broadcasting services.

For the period of last three years, this created the loss of profit from total incomes with public broadcasting services by approximately BAM 15.0 million and caused further decline of commercial advertising market in BiH, considering the deflation of commercial advertising prices.

One of the most notable problems in the process of the development of media industry is the complete absence of support by the state-level institutions regarding the development of infrastructure of media and commercial advertising industry in BiH. Parties in media field in BiH are left on their own, bearing in mind that there have been absolutely no encouragements and stimulations for local and domestic industry. Communications Regulatory Agency (RAK) returns millions to the budget and this amount is designated as extra money with media houses making significant contribution to this, but there is no political will to re-direct this amount for the development of media industry. For instance, in Croatia, there is Fund for Media Pluralism which is supervised by the Agency for Electronic Media.

With BiH application for European Union full membership, we hope to receive a candidate status in the near future and hope that this should create certain positive feedback on media market in Bosnia and Herzegovina.

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Ties between advertising industry and media rating measuring – impact on media market in BiH

By: Nataša Tešanović

Zijad Dzemic, a controversial director of the Institute of Metrology in BiH (the only institute of this kind in the world) and institute whose officials proclaimed and authorized it as the only legally authorized body in charge with the viewership audience measurement of TV programs, publicly released and shared the information that “the only BiH Licensed laboratory, verified and marked 714 audience measurement devices and distributed in around 600 households, out of entire group of approved measuring devices”, after he had received a countless number of enquires, requests and demands related to irregularities, inconsequent and rather suspicious actions (suspicious actions where, in most cases, he personally had participated) as far as the viewership audience measuring of TV program is concerned.

Not to mention the fact that this Institute, whose primary principle should be based upon exactness, the answer to one of the key questions of Bosnia and Herzegovina media industry, (with limited number of distributed people meters by the only authorized Agency in BiH, Audience Measurement Ltd, conducts the measuring and directly decides about the dispersing of already insufficient media marketing profit share) is their reply that there are “AROUND 600 households” examined. The fact that viewership audience measurement system in BiH seems non – transparent and unrealizable, but also seems illegal with quasi – criminal action appearance, which altogether does makes this situation additionally suspicious, makes the fact, released by Mr. Dzemic, does not even correspond with the facts posted on the official web site of the Audience Measurement Agency (with 450 households and 680 people meters). Furthermore, Mr. Dzemic statements correspond even less with information provided to TV houses and marketing agencies, according to which the number of “measured” households (measured in reality) hardly exceeds the number of 150.

Manipulation becomes more feasible with such a limited number of people meters distributed in public; limited number of sample cases and according to many statisticians; it will increase the possibility of eventual mistakes and errors appearing in this system.

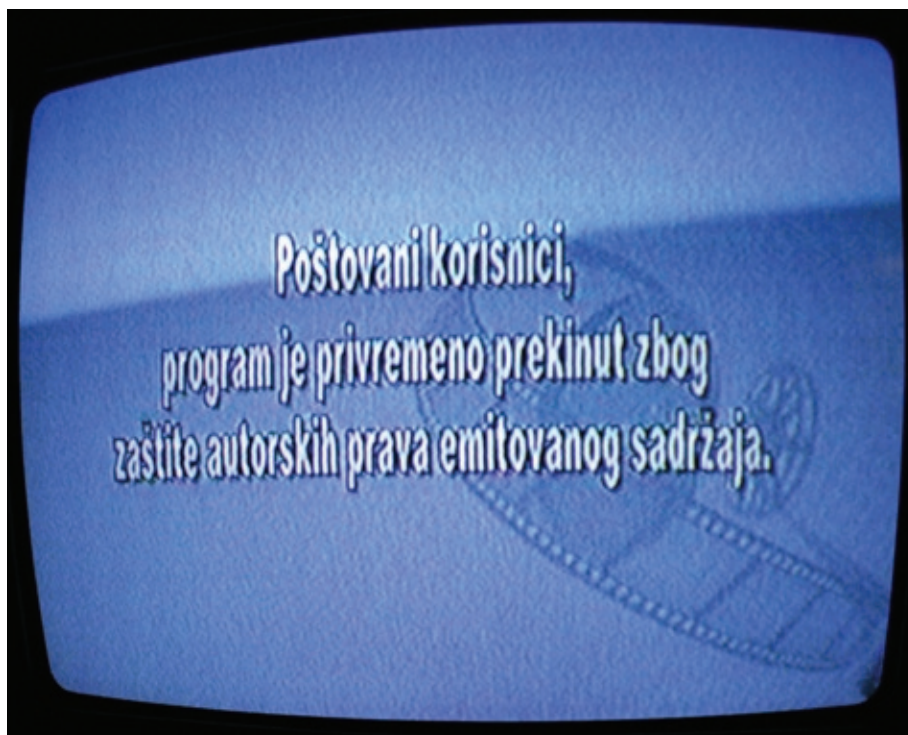
The question that any person whose opinion is based upon common – sense consequently emerges:” If this measuring system is unreliable, insufficient and inadequate, what is the purpose of using this measuring method”? This is exactly where all disadvantages of media marketing system arise; without proper audience measurement it would not be possible to launch commercial advertising campaigns and it would be even more complex to measure its efficiency. Any measurements, even those that are considered as unreliable and poor, are definitely better than none.

The above mentioned fact is well known to Audience Measurement officials which was why they persistently refused to allow United Media Industry (body which gathers over 20 TV houses and marketing agencies) to conduct independent audit that would allow the UMI officials to go through their records, check the background and correctness, including the information that the Agency releases on daily basis, as this kind of legal audit is, after all, a regular and standard common practice in the media world.

Even 16 members of UMI refused to sign contract with the AM for 2017, unless the duty of Audience Measurement to allow independent auditor (UMI members would pay for this) to have access to AM information and data become a constituent part of this Contract.

More absurdly, the problem of completely unsettled media – marketing market in BiH, can be settled and solved only with the involvement of institutional bodies of BiH, because only the state, that is, its institution (the above mentioned Institute for Measurement) becomes legally authorized for audience measurement viewership issues and work properly. The scheme in this “process” is thus more than obvious: They pass the legal provision on legal measuring issues; they integrate people – meters into time measuring devices (which once again is a completely unknown method in the world); they set the software that can be provide by a single company only (Nielsen), they license and authorize the laboratory with AM being the only company with appropriate measuring devices of the above mentioned company, and consequently the people – meters are verified by the very same company and we finally conclude this scheme with the AM being the only company entitled to undergo the verification pro-

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No other agency for viewership audience measurement cannot and will not appear in BiH market which would in fact practically allow, with no consequences, and directed by a single (sole) company with no competition, to release information regarding ratings as they wish and in cooperation with those with whom they share common (profit) interests.

cess. The result (outcome): no other agency for viewership audience measurement cannot and will not appear in BiH market which would in fact practically allow, with no consequences, and directed by a single (sole) company with no competition, to release information regarding ratings as they wish and in cooperation with those with whom they share common (profit) interests.

The others, especially if they dare to criticize such deviant system, face systematic rating decrease (decline) which directly impacts the income they make out of marketing and this mainly concerns local (domestic) TV houses that employ local staff, produce program and pay taxes to the state, unlike vast and ever growing number of foreign channels available to local audience through cable operators, IPTV and satellite based platform, which actually, according to information provided by the AM, are viewed by almost 50% of local audience.

Additionally, these channels become more interesting and attractive to local marketing agencies and companies, taking into consideration that advertisements broadcasted via these (foreign) channels doesn't undergo obligatory legal tax payment, they can provide their clients with very low – priced and cheap commercial seconds, that is, GRP. Along with all this, let us emphasize that local marketing market value had undergone a significant decline (certain and approximate estimate outlined that TV stations lost some BAM 30 millions, which was almost half the amount (BAM 50 millions, which was the amount provided by the CRA officials in 2013, pursuant to market analysis of broadcasted programs,

Shortly, ever since the AM began with viewership audience measurement, the amount of market money has rapidly decreased, the number of TV channels has increased, public broadcasting services debts have increased and due to poor RTV tax fees collection, are trying to survive in the market through marketing service provided etc. Silenced by high ratings, both RTRS and FTV, fail to report about the issues that include malversations regarding the viewership audience measuring. Therefore, the information provided by the Ministry of Foreign Trade and Economic Relations, during the Council of Ministers meeting session at the end of last year, did not appear on programs broadcasted by these two TV houses. This meeting session identified numerous irregularities in the work by the management of the Institute of Metrology (including their general director), including the malfunctions regarding the audience measurement of TV programs in BiH.

There is no report about the AM laboratory either, that is, AM as the only laboratory of this kind in BiH, that performs its business operations with no valid accreditation issued, because the Institute of Accreditation (BATA) refused to accredit this particular laboratory, since, as they claimed, there was no legal background for such actions in neither local nor European law practice. This would eventually oblige BATA with legal duties, since BATA is member of European Accreditation Association, and would additionally have to base their actions upon either local or European laws.

In order to solve this problem, the Council of Ministers of BiH should cancel the disputable Order by the Institute of Metrology and, colloquially speaking; re-introduce people – meters method in the local market. This would, just as in all other countries, allow many companies (with valid references), to bid for further projects regarding the viewership audience measurements. Local (domestic) media industry could additionally select the best and most appropriate firm or firms for this particular work and as a result, thus provide the money deriving from the commercial advertising (which is, in commercial terms, essential for regular business operations and survival in the market) distribute and disperse to all parties that should receive certain amount of this marketing money all based upon relevant and accurate results. If this does not happen in the near future, media market in BiH shall continue with its decline with no possibilities for forthcoming recovery.



Who should be writing and recommending laws on commercial advertising?

By: Ekrem Dupanović

Commercial advertising industry relies on three main principles: media, agencies and commercial advertisers. Recently, consumers have been considered as additional and fourth principle, which, in my opinion, seems common sense principle as well. In order to advance commercial advertising in Bosnia and Herzegovina, it is required to solve the problems within all three sides.

Media market in BiH is obviously undeveloped and non – transparent and in this text, I shall not focus on media houses and their politics and policies as these are mostly politics imposed by media owners / entrepreneurs and politics of those to whom the owners pledge their loyalty.

As far as commercial advertising is concerned, the existing non-transparency seems to be the biggest problem in this field. At present, one could hardly be certain and guarantee that the information regarding the audience viewership, readership and number of listeners, provided by media houses are actually genuine and true.

Viewership / audience measurement of television programs is crucial to commercial advertising. Ever since the measurement process in BiH is under the competence of Audience Measurement (AM), many parties involved are convinced that the provided information are actually not true, that is, they are biased and false. This was particularly evident when someone released the information about one of the AM owners that at the same time proved to be the owner of one of the local television station. They supported their suspicion by stating that audience viewership results and figures, for his particular television station, rapidly grew and significantly increased. Elimination of their competition companies by the AM, was based upon the legal act passed by the Institute for Measurement, as this act defined and determined that all measuring devices (instruments called people - meters) used for audience measuring, must be calibrated and serviced every six months in accredited laboratories only. Taking into consideration that AM is the only entity disposing of this kind of specific laboratory, they (AM) are thus the only party where people – meters can be calibrated and serviced. Naturally, the competition refuse, under any circumstances, to have their instruments measured in this laboratory, allowing thus their direct competitors to have access to confidential information and accordingly the suspicion regarding the functionality of the instruments being subject to service may arise. This particular act is hence illegal, irrational, and illogical and as such, it exists only in Bosnia and Herzegovina. However, Mr. Dzemic, director of the Institute for Measurement in BiH, supports and defends this law by all means necessary for reasons that only he is aware of.

As far as printed media houses are concerned, information regarding printed, that is, sold editions, represent crucial point and no one can determine precisely the number of sold editions, because there is no audit in this particular field. ABC, organization conducting the audit of printed media editions has its members throughout the region, but not in BiH. ABC slogan is: “Do not advertise in media with no audit because they lie to you”. Printed media that do not allow audit of their editions actually do this for a single reason only: they do not want to release exact figures in public. This means that they lie and provide false information.

15 years ago European Commission organized first conference in Sarajevo, with the purpose to introduce the ABC audit. The attendees included directors and entrepreneurs of local printed media houses. ABC female director from Poland presented the idea, mission and goals of ABC. This particular period was considered as the golden era of international level donations where significant means and money had been allocated and donated to numerous media houses in BiH. Only this time, the focus was not on money donations of any kind. Consequently, when the owner / entrepreneur of certain media house suspected that the aim of this conference was not focused on money donations, he stood up and shouted: “Please tell us all here today if you are going to donate some money to us today. If not, I am leaving this conference, because I am not interested in any of this”. Naturally, he received nothing from the ABC.

MARECO also tried to do something about this issue at certain point, however, no printed media houses wanted to join in and became members. Therefore, they

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Non – transparency with commercial advertising pricing also represents a great problem. I am certain that any media house, drafting and planning their budgets, aimed for commercial advertising purposes and media house that has access to price lists for commercial advertising with local TV houses, could easily count on up to 70% lower prices from those indicated in price lists and this should eventually result in a success. TV houses reduce their prices to a ridiculous level in this ruthless competition combat, struggling for every single euro as a result. Price reducing eventually presents every party with loss. Eventually, advertisers that ruthlessly suffocate and pressurize media houses shall be the biggest losers in this process and this is why most media houses have insufficient funds to pay decent and reasonable wages to their journalists.

lied when they released the information regarding the sold edition figures. For instance, in Croatia, no printed media operates outside the ABC, because if there were, no company would want to advertise in such media house.

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Agencies find almost impossible to avoid their part of responsibility for exceptionally poor state in commercial advertising market. Most of them are not ready for large – scale processes, primarily in the industry development. Big advertisers mostly take all the risk here. No one seems to be investing in the market of small and medium enterprises and to invest in their advancement, so they could eventually become significant party on the market in the near future. Once they become significant, they become very hard to convince about the importance of commercial advertising on the market. They become big and important without commercial advertising. We have certain cases in BiH that illustrate this occurrence. Both Bill Gates and Steve Jobs started with their careers from their garages, but no one in BiH is interested in such stories.

Small advertiser portfolio seems insignificant and not desired by anyone; clients usually want the whole cake and they want it immediately! These kinds of clients represent a limiting factor in the process of commercial advertising industry, because their attitudes, as far as the issue of commercial advertising is concerned, represent their lack of character. They are simply nothing.

Still, the biggest responsibility of media houses, agencies and advertisers is outlined through the fact that they keep refusing and rejecting the establishing of advertising industry association in Bosnia and Herzegovina. The regulation itself, which represents the fundamental task and assignment of any association, is crucial to development of commercial advertising industry. SOS (Slovene Advertising Chamber), HURA (Croatian Association of Communications Agencies) and UEPS (Serbian Association of Marketing Communications) are all in charge with regulations only as far as this field is concerned. Complete absence of such associations or organizations in BiH confirms the fact that BiH market, by its scope and quality, significantly lacks behind the above mentioned regional markets. Only UMI (Media Industry Association) exists and operates in BiH. However, this cannot be considered as proper association; it is more like a trading association whose members gather around only when they have to share the costs regarding the information on audience viewership, as far the television program is concerned and nothing more.

Three years ago, Sasa Savic, MediaCom director, a leading American media agency, gave a lecture in Sarajevo. Sasa was born in Sarajevo but has been living in New York City for years and three years ago he was awarded most successful media figure in the USA for accomplished business performances. After delivering an inspirational speech, the questions by the participants followed. Director of local Sarajevo – based media agency raised the following question: "L'Oreal in Germany disposes of significantly bigger budget means and money for commercial advertising and they allow and approve their marketing agency in Germany better commission fees that what we get in Sarajevo for the same work. Both their budget and commission fees are thus bigger that ours in Sarajevo. How can we possibly fight with this obvious discrimination"?

"Establish association, determine your rules and insist on their implementation",

Sasa replied shortly.

As far as the process of passing the laws is concerned; laws that should regulate relations within the commercial advertising industry, the association can be the only relevant and competent party, recommending the appropriate and adequate laws and no other party. Laws are passed so they could fulfill someone's interests. It could be state, its citizens or some other interest – based group. Advertising laws can be passed by the association that works for the interest and benefit of the industry and not the individuals that are in advertising business; instead all experts in this industry should be involved in passing the laws. I am afraid that the initiative regarding the passing the Law on Advertising, was launched by the foreigners. There are many reports in this field confirming that many local agencies have become skilled in withdrawing and taking the money from foreigners based in BiH. If these agencies manage to receive budget money in the future as well, and create and recommend laws so that money could end up on their accounts, I am afraid that we may conclude with discrepancies in the forthcoming laws that would eventually ruin and worsen already poor and bad situation of what we have today.



It is neither sufficient, nor encouraging to allow media houses to operate according to market regulations only, in sense of neo – liberal capitalism and profit common sense, particularly due to the fact that the number of media houses in BiH, media market that manage to operate without solid and stable market logic, with obvious, limited and decreased commercial advertising potential and limited published editions or limited viewership, which altogether crates a suspicion that the money for these media houses have been “injected” from other financial sources.

Recommendations for the advancement of media legislative: ownership transparency as democratisation mechanism in bih society

By: Lejla Turčilo

Legal regulations of media field in Bosnia and Herzegovina has, according to most analysis that had been conducted, been considered as set of quality - based legal regulations, although in certain segments insufficient quality has been noticed as far as its implementation is concerned. What most surveyors, analysts and researchers agreed on (Brunwasser, Marko, Turčilo (2016), Šljivo (2016) etc.) was the fact that legal regulations still lack certain laws, such as Law on Ownership Transparency and Law on Advertising Industry. Passing of both these Laws can be based upon theoretical thesis, European practice, but also based upon current situation in media field in BiH. In this text, we shall take into consideration the reasons consisting of the requirements necessary for passing the Law on Ownership Transparency and making its passing justified.

Generally, we consider media as social institutions, business sector and public services as well. It's these three roles that support the thesis that legal regulation of media ownership represents the tool for strengthening and reinforcing the media scene, but also represents better quality interaction between the public and media branch. Namely, media houses, being marked as social institutions, are obliged to conduct, execute and provide fair, objective, unbiased and well – balanced information to general public looking from different sources, angles and perspectives.

In order to obtain a pluralism of different opinions, including ideas and information provided, the existence of media pluralism is (in democratic – based societies) required, including communication channels. This can be attained by preventing horizontal and vertical ownership concentration, that is, prevention the monopoly occurrence, with an aim to provide various platforms for social dialogues required. When in fact, we analyze media houses as business spheres, it becomes clear why we failed here long ago (in theoretical discourse, but also in reality) in order to approach media as value- based neutral and technically and technologically established and developed means for information and ideas passing and transferring; instead we approached media houses as we would approach certain organizations with pre-established structure and functioning on common sense basis, including outcomes of operations and agendas and at the end, whose final goal would be to make a profit.

All influencing factors making an impact upon media institutions, including media operations and questions being outlined on the agenda, must continually be questioned, assessed and finally, explained to general public. Having highlighted this, it would be crucial to provide, even including ordinary citizens, with the information regarding media owners, bearing in mind that this would enable them to evaluate the background of information provided and intermediated through certain media house. It is neither sufficient, nor encouraging to allow media houses to operate according to market regulations only, in sense of neo – liberal capitalism and profit



common sense, particularly due to the fact that the number of media houses in BiH, media market that manage to operate without solid and stable market logic, with obvious, limited and decreased commercial advertising potential and limited published editions or limited viewership, which altogether crates a suspicion that the money for these media houses have been “injected” from other financial sources.

Finally, if, generally speaking, media houses are considered a public service, than it is crucial for citizens not to act (serve) as government’s puppets, including elite groups’ pup-

pets, promoting thus governing officials’ interests and the interpretation of social reality thus becomes consequently “tailored” pursuant to its requirements and needs and this may be caused by close ties between media entrepreneurs (owners) and political and economic authorities. At the end, less but not the least reason for insisting on ownership transparency can be displayed through the fact that editing policies are indeed directly linked and tied with owners’ interests, and it would therefore be necessary and required to follow European standards and provide information regarding who owns what (media owners information), why they decide to purchase certain media house and are they eager and willing to alter editing policies after purchasing this media houses, altogether to the benefit of both citizens (public) and media staff (employees) in media.

Ownership transparency is also, directly tied with the prevention of political clientelism where upholding and advocating reporting alters objective information and journalism as such, and thus loses its independent and emancipation – based social role. Media houses have been subject to instrumental and clientelism – based societies (and Bosnia and Herzegovina is certainly one of these societies) and as a result, public is not provided with quality - ranged information, nor they are presented with an opportunity to take part in public discourse, having in mind that public discourse, as such, is “reserved” for elite groups. Prevention of political clientelism is therefore following an increase of media transparency sphere.

As far as legal regulations of media ownership in Bosnia and Herzegovina is concerned, they should, above all, resolve the issue and answer the question and provide information accessibility regarding actual cases and share reliable information about media owners, in order to ensure the control media concentration and prevent monopolistic relations towards media houses and their misuse by political and economic powerful groups and individuals. In this context, the initial precondition is actually the establishing of single registry of media houses which should undoubtedly display who the real media owners are. It is the fact that Communication Regulatory Agency and Press Council, as regulatory bodies, in fact as self – regulatory body, do have the list of media houses and this list contains the information regarding media ownership (formally), that is, companies owning certain media houses. However, the information regarding the real media house owners are in fact difficult to access and this may (in most cases) be done by checking the information on Company Register list with these companies being outlined legally as owners which again represents one of the problems that should be resolved and settled by the normative regulation and the implementation of its provisions. Furthermore, reality and real cases confirmed that it is important to ensure the information transparency regarding the owners and structure of certain web sites, taking into consideration that they are becoming more and more significant information source for general public and these web sites operate as standard media organizations with most web sites having absolutely no information about the owners (entrepreneurs), have no impressum sections that may encourage the editors and other staff to improve their work.

Law on Transparency of Media Ownership should be developed in accordance with European cases and practices, and it should include wide counseling with legal experts and media community representatives as its final outcome should result in more transparent media scene that would enable the comprehension of media operation context for all citizens. It is on one hand and looking at short – term perspective, the mechanism required for media scene support, and on the other hand and looking from long – term perspective and directly, a mechanism for democratization of the entire society in Bosnia and Herzegovina.

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Import of television programs from abroad: regulation of copyrights and broadcasting of advertising content in BiH

Interview with Helena Mandić, Broadcasting Director Assistant at Communication Regulatory Agency of BiH

Interviewed by E-journalist Editor Arman Fazlić

Television contents which broadcast via cable operators in BiH contain program packages that are often purchased from neighbouring countries. Advertisements as well as authoring content are broadcasted to the public in BiH through these channels. When it comes to advertising, little is known on the financing of the advertisements that are broadcasted to the public in BiH, as well as what are the prices for advertising on BiH market. We asked the Communications Regulatory Agency of Bosnia and Herzegovina (CRA) whether they are informed about these amounts and problems in general, and how this area could be regulated as well as whether the solution would include intervention in the laws that define the work of CRA?

Key questions regarding the distribution of program contents, through cable providers, IPTV and DTH have all become subjects to analysis by the European Convention on cross – border television (the Convention) at Council of Europe level, including the Directive on Audio – Visual Media Services (the Directive) at European Union level. Article 4 of the Convention and Article 3 of the Directive define full freedom of receiving and re – transmission of content launched from abroad. This principle includes the prohibition of any form of modification of program (which is a subject to distribution) is applicable in all countries, that is, members of Council of Europe, member countries of European Union and all countries with candidate status or country signees of the Stabilization and Association Agreement with European Union.

According to duties that Bosnia and Herzegovina has to complete, in terms of the fact that the Convention was ratified and in accordance with the Stabilization and Association Agreement with European Union, this principle has also become obligatory for Bosnia and Herzegovina and it is demonstrated through the rules and regulations by the Agency, which has been passed by the Council.

Pursuant to the above mentioned, only providers of audio visual media services that fully meet and fulfill one of many criteria required, which was under the supervision of the Agency. All other program contents, that can be found in the offer of the distribution, in the territory of Bosnia and Herzegovina, are not under the competence of the Agency and thus can freely and easily be distributed without any modification in the territory of Bosnia and Herzegovina.

By viewing the practice in neighboring countries, including European Union member – states, it is determined that there are no limits in the distribution of commercial advertising material in foreign channels; instead, all legal and by – law norms are defined pursuant to Article 3 of the European Directive on Audio – Visual Media Services.

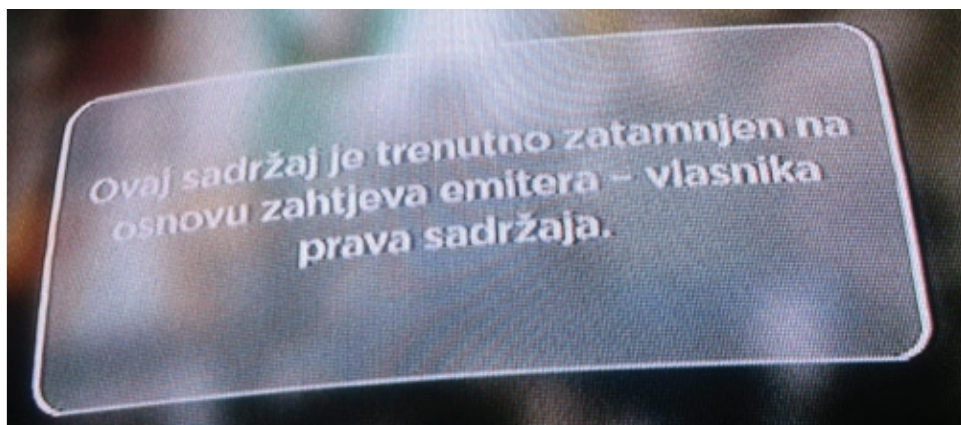
According to the above listed legally – obliged documents, certain foreign companies, providing audio and visual media services, may currently and with foreign regulatory bodies, be permitted to provide media services that are especially guided for BiH territory, including commercial advertising contents, which is the case with certain number of channels.

The Agency is convinced that it would be required to take into consideration the measures that may result in an improvement of economical power of broadcasters in BiH, which could additionally create more attractive program contents attracting thus commercial advertising industry to BiH media market. In this sense, the Agency considers that one should launch the imitative for the formation of fund for advancing audio – visual media services and media services on radio, which would include the alterations in certain legislative regulations, such as the Law on Communications.

What about the payment for copyrights, regarding the contents which, through packages of programs purchased abroad, is broadcasted in BiH? Sometimes, the contents are unavailable on TV screens as we could see the messages such as:”This content is darkened at the request of copyright hold-

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Normally, all contents are available, unless the owner of contents fails to inform the distributor (in reasonable period of time and certainly before the pre-determined deadlines) that particular contents must be darkened pursuant to regulations in relation with copyrights protection. Also, we want to emphasize that the Agency cannot be held responsible and is not in charge regarding the interpretation and of contract parties that use issued Permits with third parties and Permits users with whom the contracts are signed. This includes all court disputes deriving out of such contracts.



ers or broadcasters”? Why does this occur in certain cases and on certain program channels only, while on the other program channels this does not happen? It is clear that the Institute for Intellectual Property is held responsible for this particular issue, but the question is in what way the CRA does or could make significant contribution, considering that the CRA is the entity defining the conditions for issuing the cable operators with operating permits?

As you say, these questions should primarily be directed towards the Institute for Intellectual Property. Namely, Agency legal competences, in the field of authors and related rights, are very limited. Accordingly, the Agency has, as part of their competence in terms of the regulations in the field of communications, determined a common obligation and duty of obeying copyrights for all parties being issued with permits. Namely, the Law on Communications (“Official Gazette of BiH”, number 31/03, 75/06, 32/10 and 98/12) in Article 3, item (4), line d) defines that the Agency shall take all reasonable measures in order to accomplish the protection of copyrights. Rule 56/2011 on permits for distribution of audiovisual media services and radio media services (“Official Gazette of BiH”, number 98/11 and 52/15), in Article 7 defines the obligation by the user of Permit where he/she should, prior to distribution of certain programs from their own countries, acquire written consent by the owners of program contents or their authorized representatives and additionally submit the statement on settled rights for the distribution to the Agency.

Normally, all contents are available, unless the owner of contents fails to inform the distributor (in reasonable period of time and certainly before the pre-determined deadlines) that particular contents must be darkened pursuant to regulations in relation with copyrights protection. Also, we want to emphasize that the Agency cannot be held responsible and is not in charge regarding the interpretation and of contract parties that use issued Permits with third parties and Permits users with whom the contracts are signed. This includes all court disputes deriving out of such contracts.

Consequently, we shall outline the explanation of the first instance verdict by the Court of BiH (U-1017/05) based on charges pressed by the SQN where the Court of BiH highlighted the following:”The conclusion by the defendant is correct regarding the validity of contract where the defendant stated that only the municipal court is entitled to make decisions in lawsuits procedure. On the other hand, during the administrative proceeding, the body in charge with this procedure, pursuant to Law on Procedures (Official Gazette of BiH”, number 29/02, 12/04, 88/07 and 93/09), is not entitled and cannot be in charge in making the decisions regarding legal actions and deeds and contract – party relations and contract details as well”. This attitude was confirmed by the Court of BiH and during the second instance proceedings, according to Verdict Uvl-30/06, with additional explanation as per following:”The Appeal Administrative Council accepts and acknowledges the attitude by the Council of Administrative Disputes and defendant Agency that the validity of the contract can be subject to decision making during the administrative procedure, because only the municipal court can be in charge with lawsuit procedure”.

Impressum

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