

**Government of Montenegro**

**Ministry for Information Society**

## **Questionnaire**

Information requested by the European Commission to the Government of Montenegro for the preparation of the Opinion on the application of Montenegro for membership of the European Union

## **10 Information society and media**

**Minister: Vujica Lazovic**

**Podgorica, December 2009**



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## **CHAPTERS OF THE ACQUIS – ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP**

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## **Chapter 10: Information society and media**

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## **I. ELECTRONIC COMMUNICATIONS AND INFORMATION TECHNOLOGIES**

### **A. Basic data**

**1. Please provide basic data on the current state of the telecommunications services market in your country. The indicators should be chosen so as to enable the Montenegrin market to be presented in a similar way as appears for enlargement countries in the regular reports on the implementation of the EU regulatory framework. The reference date is either 30 June 2009 (for regulatory data) or calendar year 2008 (for statistical data).**

In Montenegrin telecommunication market, there is an offer of fixed and mobile telephony, Internet access, broadband, data transfer and international communication services.

The following data are provided by the Agency for Electronic Communication and Postal Services (it is to be noted that the data are practically forwarded from the operators).

On 31 December 2008, there were 174 013 fixed phone lines, out of which 87.25% used by natural and 12.75% by legal persons.

	Natural persons	Legal persons	Total
Fixed phone subscribers at the end of 2008	151 826	22 187	174 013
Fixed phone subscribers on 30 June 2009	145 461	22 252	167 713

Digitalization level in fixed telephony is 100%.

Number of mobile phone users on 31 December 2008:

Postpaid	278 848
Prepaid	871 611
Total	1 150 459
Market penetration	185.50%
Outgoing call minutes	1 178 759 787
Total number of text messages	1 158 140 248

Number of mobile phone users on 30 June 2006:

Postpaid	289 222
Prepaid	864 482
Total	1 153 704
Market penetration	186.04%
Outgoing call minutes	108 650 312

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Total number of text messages	602 697 072
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### Market position on 31 December 2008:

Number of:	Legal persons	Natural persons	Total
Internet users			
ISDN connections	3 021	3 764	6 785
ISDN users			18 806
ADSL connections	4 875	22 964	27 839

### Market position on 30 June 2009:

Number of:	Legal persons	Natural persons	Total
Internet users			
ISDN connections	2 992	3 471	6 463
ISDN users			18 414
ADSL connections	5 261	29 421	34 682

Total income of leading operators of telecommunication services in Montenegro for the year 2008 was EUR 295 736 504, which accounts for 9.77% of Montenegrin GDP.

### Income position on 31 December 2008:

	Average income per user in EUR:	Total income in EUR.
Fixed telephony	517	75 881 435
Mobile telephony	187	215 545 974
Internet	32	4 309 095
Total		295 736 504

## B. Legislative and institutional framework

### 2. Please describe the legislative framework of the sector, with reference to current and planned primary and secondary legislation.

#### Sector's legal framework

Primary legislation in the sector of electronic communications is the Law on Electronic communications (Official Gazette of Montenegro 50/2008), adopted by the Parliament of Montenegro on 29 July 2008 and entered into force on 27 August 2009.

The Law on Electronic Communications represents a new legal framework based on the European regulatory framework adopted in 2002.

The Law on Electronic Communications regulates electronic communication market by laying down competences of the Government and Ministry of Transport, Maritime Affairs and Telecommunications in the field of electronic communications, as well as the scope of work of the Agency for Electronic Communications and Postal Services in the field of electronic communications; procedures for operators and electronic communication service providers; resolving disputes between operators in the electronic communication market; issues of universal service offer; procedures for rational use of limited resources; issues of service user's interest protection; rights and obligations regarding electronic communication secrecy; field of surveillance and other issues concerning electronic communications.

The Law on Electronic Communications is service user oriented, protecting user's interests through provisions concerning service user's rights, compulsory content of subscription contracts as well as Agency's contract approval; stipulates procedures for dispute resolution, communication confidentiality and obligations resulting from the range of universal service regarding provision of certain user benefits for impaired persons.

#### Planned primary legislation

As far as this sector is concerned, a draft Law on Digital Switchover of the Terrestrial Broadcasting Systems has been prepared. The public discussion follows, together with the Government's establishing of the proposal for the Law and its adoption by the Parliament in the early 2010. Thus, the necessary legislation will be laid down for the digital switchover of the broadcasting system, which will result in a modern, quality and innovative system with digital dividend, *i.e.* more rational and modern management of the radio-frequency resource. A planned deadline for the digital switchover is set for 31 December 2012, as laid down in the act.

A representative of the line ministry took part in the workgroup for drafting the Law on Electronic Media and the draft is currently being publicly discussed.

#### Existing and planned secondary legislation

According to the Law on Electronic Communications, the line ministry needs to adopt the secondary legislation. The Agency lays down the technical basis for the secondary legislation to be adopted by the line ministry as well as a part of the legislation, in accordance with the Law on Electronic Communications and the Agency's Programme for 2009, adopted by the Government.

#### Existing secondary legislation

Since the adoption of the Law on Electronic Communication, the following rulebooks, decisions and guidelines have been adopted:

- Rulebook on the methodology and the method of calculation of the annual fee for the use of numbering and/or addresses (Official Gazette of Montenegro 01/2009);
- Rulebook on the methodology and the method of calculation of annual fees for the use of radio-frequencies (Official Gazette of Montenegro 01/2009);
- Decision of the Government of Montenegro on the List of Fees for covering the cost of radio-frequency spectrum (Official Gazette of Montenegro 22/09);
- Decision on setting one-off fee for the processing of request for the use of radio-frequency and approval for the use of numeration and/or address (Official Gazette of Montenegro 11/2009);
- Plan of numeration (Official Gazette of Montenegro 34/2009);
- Plan of addressing (Official Gazette of Montenegro 34/2009),
- Regulation on the manner, terms and time frame of introducing the single European emergency telephone number, as well as the quality of servicing calls to that number (Official Gazette of Montenegro 64/09);
- Rulebook on parameters of the quality of services, marginal values and methods of measuring parameters for using the single European emergency number 112 (Official Gazette of Montenegro 64/09);
- Instructions on the content of technical documentation submitted with the operator registration form (available at the Agency website [www.ekip.me](http://www.ekip.me)).

### **Planned secondary legislation**

The following regulations have been drafted by the employees of the sector of electronic communications and are currently being reviewed by the line ministries:

- Rulebook on technical conditions for import, putting into service and use of radio and telecommunication terminal equipment (R&TTE) ;
- Rulebook on electromagnetic compatibility (EMC);
- Rulebook on conditions and way of use of the minimum set of leased lines;
- Rulebook on content and method of keeping the register of operators, licensed frequencies and assigned numeration and addresses;
- Rulebook on radio-frequencies and conditions for their unlicensed use;

Bearing in mind administrative capacities of the sector and its regular duties, special efforts will be invested in the preparation of the remaining documents and the most important planned document is the Strategy for broadband development in Montenegro, in cooperation with other relevant organizations in the region.

The Agency has drafted and sent to the line ministry technical foundations for the following documents to be adopted either by the line ministry or the Government:

- Regulation on technical conditions for connecting to the public electronic communication network;
- Regulation on adapting the use of electronic communications in residential and business premises;
- Rulebook on conditions for installation and use of mobile phone jamming devices;
- Draft Frequency Allocation Plan in Montenegro (to be adopted by the Government of Montenegro);
- Amendments to the Frequency Allocation Plan;

- Regulation on electronic communication facilities and equipment in whose vicinity construction is banned;
- Regulation on conditions for interoperability of digital radio and TV user equipment;
- Regulation on user registration and operator's obligations concerning protection of electronic communications;
- Proposal of the amount of one-off registration fee.

Public discussions about following acts that will be adopted by the Agency in accordance with its Programme are still in progress:

- Rulebook on electronic communication installations in residential and business premises;
- Rulebook on operator's access and interconnection;
- Rulebook on size and manner of data delivery and capacities of electronic communication infrastructure of interest for common use;
- Rulebook on number portability;

(These documents are expected to be adopted during the IV quarter of 2009).

By the end of 2009, in accordance with the Agency's Programme, the following documents are expected to be adopted:

- Regulation on fees, in accordance with the Rulebook on home installations;
- Rulebook on maximum allowable radiation strength from radio stations in cities and urban areas;
- Methodology of separate and cost accounting;
- Rulebook on technical and exploitational conditions for FM broadcasting stations;
- Rulebook on technical and exploitational conditions for VHF I and III and UHF IV and V television broadcasting stations;
- Agency's decision on the type of information and manner of its announcement by operators, as well as type of information published by operators;
- Rulebook on retail price regulation;
- Instruction on criteria for appraisal of request reasonability and need to ensure certain services of the universal service;
- Manner of appraisal of service price affordability, service range and special packages of the universal service.

**3. Please describe the current and planned institutional framework of the sector, with reference to government bodies, the role of the parliament and possible parliamentary committees and the role of representative organisations of public and private sector players and of consumers.**

Pursuant to the Law on Electronic Communications (Official Gazette of Montenegro 50/08), the competent bodies in this sector are the **Ministry of Transport, Maritime Affairs and Telecommunications** and the **Agency for Electronic Communications and Postal Services**.

In accordance with the amendments to the Budget Law, the **Parliament of Montenegro** is presented with the Agency's financial plan and Programme for adoption.

In this sector, the **Government of Montenegro** is competent for:

- adoption of strategy for the sector of electronic communications;
- adoption of frequency allocation plan;
- approval of Agency's annual plan of work and financial plan;
- adoption of Agency's annual work report, including financial report;
- periodical establishing of a minimum set of services encompassed by the universal service;
- setting terms for electronic communication network use in the case of emergency.

The **Ministry of Transport, Maritime Affairs and Telecommunications** is competent for:

- adoption of secondary legislation pursuant to the Law on Electronic Communications;
- preparation of development strategies for the sector;
- activities inciting development of electronic communications;
- operation coordinated with the Agency, in accordance with its competences, pursuant to the law regulating the field of protection of competition;
- marginal values of quality setting for the services of the universal service proposed by the Agency;
- stipulation of criteria and methodologies the Agency must comply with when adopting the documents on the amount of fees and form of payment for electronic communication networks' operators and service providers operating and using finite resources on the basis of general authorisation;
- authorisation of institutions that can perform attesting of electronic communication, radio and terminal equipment, in accordance with regulations to be adopted as provided by law;
- coordination of operation with line ministries and the Agency regarding the use of radio-frequencies and electronic communication networks on defence and security related issues;
- coordination and implementation of Government's decisions concerning the operation of electronic communication networks and services in extraordinary circumstances and participation in professional bodies;

The **Agency for Electronic Communications and Postal Services** is competent for:

- preparation of technical foundations for drafting regulatory acts and regulations to be adopted by the Ministry pursuant to this law;
- adopting procedures and norms for the implementation of laws and secondary legislation;
- preparation of technical foundations for the frequency allocation plan to be adopted by the Government, which also controls its implementation;
- adoption of the Plan of addressing and Plan of numeration and control of their implementation;
- adoption of the Frequency Assignment Plan and control of its implementation;
- performing continuous monitoring of the radio-frequency spectrum and coordination of radio-frequency use with neighbouring countries' administrations;
- stimulation of rational use of electronic communications;
- addressing issues and complaints, elaborating initiatives and adopting procedures and norms in the domain of protection of interests and service users' rights;
- conducting public tender procedures and granting rights of using finite resources (radio-frequencies, numerations and addresses) on a non-discriminatory basis to operators of electronic communication networks and providers of electronic communication services;
- keeping registers in accordance with law;

- setting, with the consent of the Government, of the amount of fees to be paid to the Agency by electronic communication network operators and service providers, based on Agency's actual costs and criteria laid down by the Ministry;
- resolving disputes between operators in the electronic communication market, in cooperation with institutions competent for competition and user protection;
- implementation of legal procedures for selecting universal service operators; monitoring development of the universal service, administering and managing fee collection from other operators on the same basis;
- editing and regular updating of the sector of electronic communications' database and allowing access to all the information without regulatory restrictions concerning secrecy;
- performing market surveillance; identifying operator with significant market power and taking preventive measures against negative effects of operator's significant market power;
- performing surveillance of operators in the sector of electronic communications regarding compliance with laws, secondary legislation and existing technical regulations and standards;
- surveillance over fulfilment of legal obligations of electronic communication network operators and/or electronic communication services in emergency situations;
- developing cooperation with other countries' regulatory bodies, within its competence, with the consent of the Ministry, as well as performing other activities in international organizations in the field of electronic communications;
- researching markets and public opinion as well as conducting open consultation procedures and thus allowing all the interested sides to express objections and comments on initiatives, measures and documents being prepared, proposed or adopted;
- organizing professional symposia on particular issues in the field of electronic communications; preparing and presenting to the Government for consent both its Programme and Financial Plan for the following calendar year;
- preparing and presenting to the Government the previous year's annual report showing basic indicators of dynamics in electronic communication market's development, including the financial report.

### **Status of the Agency for Electronic Communications and Postal Services**

Pursuant to the Law on Electronic Communications, the Agency for Electronic Communications and Postal Services has attributes of a legal person, performing public authority in accordance with the Law, and operating under the name of Agency for Electronic Communications and Postal Services. It is based in Podgorica and enlisted in the Central Register of the Commercial Court. The Agency is functionally independent from legal and natural persons providing electronic communication networks, equipment or services and its operation is public. The Statute of the Agency thoroughly regulates its internal organization, competences and scope of work of its bodies and technical service, adoption of general documents as well as other issues important for Agency's operation, as provided by this Law and other laws regulating the field of postal services. The consent to the Statute is obtained from the Government (in March 2009).

As stipulated in the Law on Electronic Communications, Article 40, the Agency must cooperate with the body competent for protection of competition, which is the **Administration for Protection of Competition**. On 28 April 2009, the Agency for Electronic Communications and Postal Services and the Administration for Protection of Competition signed the Cooperation Agreement in the field of ensuring competition and preventing negative effects of the lack of competition in the market of electronic communication services.

The Ministry of Economy is the line ministry for consumer protection and has established the Commission for the monitoring of the implementation of the **National Programme for Consumer Protection**. The Commission's task is to monitor this programme's realization and take appropriate measures and activities aimed at making and implementing numerous EU directives in this field.

Furthermore, Article 118 of the Law on Electronic Communications reads as follows:

(1) During the process of establishing the market of electronic communications and adopting legislation with significant influence on that market, the Agency and other government bodies must take into consideration, in an adequate manner, the interested public opinion.

the NGO **Consumers' Protection Centre of Montenegro** is one of the institutions to be approached in the following period for an increased level of opinion exchange.

#### **4. What are the legislative and regulatory provisions to ensure fair trading and consumer protection in the sector?**

As far as the field of electronic communications is concerned, consumer rights are protected **by the Law on Electronic Communications (Official Gazette of Montenegro 50/08)**, particularly in the following stipulations:

- As far as operators with significant market power are concerned, in accordance with Article 5, an operator can be ordered to take measures concerning retail service regulation, if established, based on market analyses, that the relevant market is not competitive enough for end users. In that sense, the Agency can stipulate one of the following methods for establishing service prices:
  - 1) price-cap method
  - 2) individual tariff regulation method
  - 3) cost-oriented pricing method
  - 4) price adjustment with comparable markets
- **Article 55** stipulates that the Agency monitors the development and pricing of services within the scope of the universal service, and **Article 56** that the quality of the universal service is set by the Ministry at Agency's proposal;
- **Article 103** of the same law lists the following rights of public communication service users:
  - 1) access to public electronic communication network within 15 days from the date of application, if appropriate technical conditions exist;
  - 2) use of publicly declared quality, availability and security of electronic communication services;
  - 3) detailed and segmented bill indicating the price of electronic communication services in the form that allows cost control.

**Pursuant to Article 104**, operators, providers of public electronic communication services and their subscribers, regulate their mutual rights and obligations with a contract that must consist of: name and address of both operator/service provider and subscriber; deadlines and terms for subscriber's terminal equipment connection; list of services that are the subject matter of the contract; offered quality, prices and tariffs at the moment of contract signing; types of offered maintenance works and manner of obtaining latest information on valid tariffs and maintenance costs; moving and temporary disconnection of subscriber's terminal equipment option; measures to be applied in case of non-payment; manner of refunding subscriber for services that failed to be provided in accordance with agreed quality and declared conditions; dispute resolution procedure; manner of informing subscriber about intended changes of terms stipulated in the contract as well as manner of fulfilling subscriber's right to terminate the contract in such case; contract expiry date; terms of contract renewal, amendment or termination; stipulation protecting an operator from the possibility that the user becomes a "virtual operator" i.e. that the provided service is used by the subscriber for extending the same service to other users. If the contract is signed for a period longer than a year, it must stipulate subscriber's right to termination with a maximum three-month

notice. Operator must inform all his subscribers about possible changes of contractual terms at least three months earlier. During that time, subscribers can cancel the contract and unsubscribe, with no sanctions and application of agreed termination period, if the changes are detrimental to the subscriber. An operator of public electronic communication network cannot impose obligations to his subscribers during network modernization.

- **Article 106** stipulates operator's obligation to ensure, at user's request, a free blacklist on outgoing calls toward a number or group of numbers, as well as to set, at user's request, a free spending limit for the billing cycle;
- Pursuant to Article 112, operators of public communication networks and services must take appropriate technical and organizational measures aimed at ensuring security of services and protecting their users from malevolent activities, electronic sabotage, third party frauds and any other type of abuse;
- Article 113 stipulates the obligation of operators of public communication services to use the equipment that precisely registers data on provided communication services, in order to ensure precise service billing as well as to allow user's insight into the data, i.e. to issue, free of charge, detailed bills, segmented to the level ensuring clear recognition of all the entries together with billed amount verification;
- Article 114 stipulates the right of public communication service user to present written complaint to the operator regarding the access and quality of services, immediately after establishing all the circumstances as well as regarding the billed amount for provided services, during eight days from the date the service was provided (paragraph 1 and 2). Operator – communication service provider - must decide within 15 days from the date of the receiving of the complaint and inform the user in an appropriate written way (paragraph 3). If operator rejects user's complaint or fails to decide upon it within 15 days from the date the complaint was presented, the user has the right to present a written complaint to the Agency, which will make appropriate decision within 30 days (paragraph 5);
- Article 117 stipulates that operators, electronic communication service providers, must lay down terms of user reimbursement in case that their services derogate from stipulated parameters, in terms of quality and availability;
- Article 119 refers to confidentiality of communications, in connection with: content of communications; user's data; data on communication traffic and locations; unsuccessful attempts to commence communication.

## 5. What are the mechanisms for market surveillance?

Mechanisms for surveillance of the market of electronic communications are provided by the measures laid down in the chapter on ensuring competition of the Law on Electronic Communications (Official Gazette of Montenegro 50/08) referring to operators with significant market power in the electronic communication market. These measures are:

- obligation to ensure clarity;
- obligation to ensure referential interconnection offer;
- obligation of non-discrimination;
- separation of accounting records;
- surveillance of prices and cost accounting;
- allowing accessibility of network's elements and their use.

Measures from this chapter can be imposed by the Agency, as a regulatory body, to operators with significant market power in an electronic communication market, by bringing appropriate decision

after having established, in accordance with stipulations from the Law on Electronic Communications, such a position of an operator.

Surveillance mechanisms of the Agency, as a regulatory body, reflect in its legal obligation to:

- resolve disputes between operators in the market of electronic communications, in cooperation with institutions competent for competition and user protection;
- ensure mediation between parties in dispute and establish mediation mechanisms;
- resolve disputes between operators in the market of electronic communications regarding joint use of electronic communication infrastructure and enable negotiations about interconnection and operator access.

As far as user protection is concerned, mechanisms for resolving disputes between operators and users are stipulated in the Law on Electronic Communications, authorising the Agency to answer questions, consider complaints and initiatives and bring decisions and norms in the field of protection of interests and service users' rights.

Furthermore, user of public communication services and operator of electronic communications have the right to present complaints to the Agency about access or service providing.

Agency's decision can be appealed before the Ministry within 15 days from the date of decision receiving.

## **6. What are the procedures for dispute resolution regarding consumer-operator disputes, operator-operator disputes and operator-regulator disputes? Please also provide information on the number of different disputes and their resolution.**

In the answer to the question 3, all the competences of the Agency of Electronic Communications and Postal Services are described, as provided by *the Law on Electronic Communications* (Official Gazette of Montenegro 50/08). Its competences include answering questions and consideration of complaints as well as consideration of initiatives and adoption of procedures and norms in the field of protection of user interests and rights as well as resolving disputes between the stakeholders in the market of electronic communications.

It is stipulated in the abovementioned *Law* that the Agency will decide within three months from the date of request submission, and that Agency's decisions are brought by majority vote in the Council, as well as that complaint can be filed against the Agency decision to the line ministry within 15 days from the date of decision receiving.

### **Operator/Operator and Operator/Agency Disputes**

The *Law on Electronic Communications* stipulates that, in the case of disputes among operators providing electronic communication networks or services, operators can reach agreements in written form or the Agency can propose to solve their dispute by using the rules of mediation or arbitration if those procedures can help with reaching a better and timely solution, in accordance with the objectives of efficient competition, market development and protection of user interests.

The most frequent disputes between operators are in the domain of joint use of communication infrastructure, interconnection and operator access.

- The *Law* (Article 33) stipulates that, in the domain of joint use of electronic communication infrastructure, the operators of public communication networks are obliged to agree on **joint use of electronic communication structure** with other operators, if such use is technically feasible and does not cause damaging interference. The Agency decides on a subject matter of the dispute at the request of one of the parties (within 30 days from the day of request submission) when an operator of public communication networks is denied access to

electronic communication infrastructure or if agreement on joint use has not been reached in accordance with this *Law*. It is also provided that the Agency sets the terms and rules of joint use (within 60 days from the date of request submission) following a conducted public discussion procedure, if necessary and for the reason of environmental protection, human health protection, security, spatial planning or rational land use, and if operators fail to reach agreement on joint use, unless it might interfere with rights of a third parties and the operator has not initiated the expropriation procedure or establishment of servitude.

- Article 34 of the *Law on Electronic Communications* stipulates, in the domain of interconnection and operator access, that operators have both the right and obligation to negotiate on operator access and interconnection of their networks and that an operator is obliged to respond to a request for interconnection or operator access within 15 days from the date of request submission. If an agreement on interconnection or operator access cannot be reached, the Agency, upon request of one of the interested parties, resolves the dispute within 30 days, whereby only the issues that could not be agreed by the parties are addressed.

#### Disputes and Resolutions Data - Operator/Operator and Operator/Agency Disputes

Since the coming into force of the *Law on Electronic Communications* (27 August 2008), the Council of the Agency has been addressed by ten operators, out of whom seven have filed complaints.

Out of these seven complaints, three operators reached an agreement through Agency's mediation as parties in the same dispute and thus withdrew their complaints; therefore the line ministry brought a decision on cessation of procedure, as well as in another dispute in which the operator dropped the complaint.

Out of three other cases of operator complaints, the procedure of reconsideration of two complaints is still before the Agency as the body of first instance in the administrative procedure, while in the procedure upon complaint of one operator both the file and the complaint, together with the Agency's statement, have been submitted for decision to the line ministry.

In the remaining three cases, there were no complaints by the operators against one of the Agency's decisions, while in two other cases the procedure of reconsideration and facts establishment for the purpose of decision making by the Agency has not been finished to date.

#### User/Operator Disputes

The *Law on Electronic Communications* stipulates that users and operators of Public Communication Services have the right to appeal to the Agency in connection with the access or service providing, and following a decision by the Agency they can file a complaint to the Ministry, within 15 days from the date of its receival.

The *Law* also provides the right of the user of public communication services to file an appeal to its operator concerning access or quality of service, immediately after the establishment of these circumstances as well as concerning the service billing within eight days from the date of receival. The operator – communication service provider, must bring the decision within 15 days from the day the appeal was received, in an appropriate written form. If the operator rejects the appeal, the user has the right to file a complaint to the Agency within 15 days, which will decide upon in within 30 days.

#### Number of disputes and resolutions data

The Agency has brought decisions, in accordance with the *Law on Electronic Communications*, upon 40 user complaints against operator's decisions, out of which: 10 were sustained, 25 rejected, and 3 were, in the meantime, resolved by operators.

In accordance with the *Law on Electronic Communications* and *Law on General Administration Procedure*, the Ministry of Transport, Maritime Affairs and Telecommunications has had 17 cases of second instance upon complaints against Agency for Electronic Communication and Postal Services' decisions, out of which four have been resolved and thirteen are still in the procedure.

## **7. Of which relevant international organisations does your country hold membership?**

Montenegro is a member of the following international organizations:

- International Telecommunication Union (ITU);
- European Conference of Postal and Telecommunications Administrations (CEPT);
- International Organization for Standardization (ISO);
- International Electrotechnical Commission (IEC);
- European Committee for Standardization (CEN);
- European Committee for Electrotechnical Standardization (CENELEC);
- International Mobile Satellite Organization (IMSO);
- International Multilateral Partnership against Cyber Threats (IMPACT);
- European Telecommunications Satellite Organization (EUTELSAT);
- International Telecommunications Satellite Organization (ITSO).

Montenegro is planning to join the following organizations:

- European Communications Office (ECO);
- European Telecommunications Standards Institute (ETSI);
- and others.

## **8. Please provide full details on the administrative capacity of your National Regulatory Authority and its organisation. Also provide information on the administrative capacity of the relevant Ministry in charge of electronic communications.**

### **Administrative capacities of the national regulatory body, its organization and competences of the Agency's bodies**

Pursuant to the Rulebook on work organization and job descriptions adopted by the Council of the Agency, the Agency for Electronic Communications and Postal Services is organized through operation of its sectors, departments and sections.

There are five sectors in the Agency, organized as independent units:

- Sector for Legal affairs,
- Sector for Economic Affairs,
- Sector for Electronic Networks and Services,
- Sector for Radio-Communications and
- Sector for Postal Activities.

There are two more independent organizational units in the Agency:

- Department for General Affairs and
- Department for Surveillance.

There are internal organizational units within these sectors and departments – sections

Two sections within the Sector for legal affairs:

- Section for Regulations and
- Section for Disputes Resolving and User Protection.

Two sections within the Sector for economic affairs:

- Section for Analysis of Relevant Markets and
- Section for Economic Aspects of Market Regulation.

Three sections within the Sector for electronic networks and services:

- Section for Numeration and Addressing,
- Section for Networks and Infrastructure and
- Section for Communication Services.

Four sections within the Sector for radio-communications:

- Section for Radio-Frequency Spectrum Management;
- Section for Radio-Frequency Spectrum Control and Monitoring,
- Section for Fixed and Mobile Radio-Communications and
- Section for Broadcasting.

There are sections within the Department for general affairs:

- Section for Administrative Affairs,
- Section for Accounting and Finances and
- Section for Information Technologies.

As far as administrative capacities of the Agency for Electronic Communications and Postal Services are concerned, they are at a high level and it should be stressed that thanks to the abovementioned Rulebook on Work Organization and Job Description in the Agency for Electronic Communications and Postal Services all the employees of the Agency must go through professional training in order to reach quality and efficiency of their posts. Continuous professional training of the employees, with regard to new technological solutions in the field of telecommunications, is reflected in their participation in professional events, seminars, conferences and workshops under the auspices of the ITU, CEPT etc. as well as in organizing international professional events aimed at exchanging experiences with renowned representatives of European institutions in the field of telecommunications.

Agency has 59 employees, out of whom 4 members of the Council (president (lawyer by education) and three members (a lawyer by education and two electrical engineers), executive director (lawyer by education) and 54 employees. These are the qualifications of the employees: 5 lawyers by education, 14 economists, 21 electrical engineers, 1 English language teacher, 1 civil engineer, 12 employees with secondary school education).

The Law on Electronic Communications has established the following bodies of the Agency: Agency Council and executive director.

The Council of the Agency has a president and four members, all but one employed in the Agency and appointed by the Government at Ministry's proposal, after a public job announcement. The executive director, who professionally represents the Agency, is responsible for the legality of the Agency's operation and manages the operation of technical and administrative services of the Agency and is appointed by the Council of the Agency, also after a public job announcement.

The Council's duties consist of: adopting the Statute of the Agency; adopting procedures, norms and decisions based on regulations and in accordance with laws (on market power, tariffs, collocation, interconnection, Universal Service and fees based on it, public tenders' procedures, disputes between market operators etc); adopting Agency's programme and financial plan; adopting frequency allocation; adopting addressing and numeration plans; presenting annual reports to the Government, including financial report.

The executive director performs his duties in the Agency professionally. The executive director is responsible for the legality of Agency's operation and manages the operation of technical and

administrative services of the Agency. Executive director is responsible to the Council of the Agency for the work he/she performs.

There is a Sector for telecommunications, radio-spectrum and postal activities within the Ministry of Transport, Maritime Affairs and Telecommunications run by the assistant minister. On 31 July 2009 there were five employees, apart from the assistant minister, with following structure:

- Electrical engineers ... ... two employees;
- Economists... ... two employees;
- Probationer - engineer for postal traffic and telecommunications ... one employee.

The sector has following job description:

<b>SECTOR OF TELECOMMUNICATIONS, RADIO-SPECTRUM AND POSTAL ACTIVITIES</b>			
1.	<b>Deputy Minister</b>	1	Higher education degree, five-year professional experience and civil service exam
2.	<b>Senior adviser I for telecommunications and radio-spectrum</b>	1	Graduate electrical engineer, eight-year professional experience, computer skills and civil service exam
3.	<b>Senior adviser III for ICT</b>	1	Graduate electrical engineer, one-year professional experience, computer skills and civil service exam
4.	<b>Senior adviser I for postal activities</b>	1	Graduate economist or lawyer by education, eight-year professional experience, computer skills and civil service exam
5.	<b>Senior adviser II economic analyst</b>	1	Graduate economist, six-year professional experience, computer skills and civil service exam
6.	<b>Senior adviser III for international cooperation</b>	1	Graduate economist or lawyer by education, one-year professional experience; English language proficiency, computer skills and civil service exam

Hiring civil servants and state employees is regulated by the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08), and their salaries are regulated by the Law on Salaries of Civil Servants and State Employees.

**9. Explain how the regulatory and institutional set-up secures sufficient transparency and legal predictability for market players and potential investors.**

Electronic communications market is open for all the players and potential investors.

Transparency and comprehensive legal predictability is ensured by the Agency as a regulatory body, through obligatory application of some stipulations of the *Law on Electronic Communications* (Official Gazette of Montenegro 50/08).

These stipulations refer to:

- Agency's obligation to implement public tender procedures on a non-discriminatory basis – grant licences for use of finite resources (frequencies, numerations and addresses) – to operators of electronic communication networks and electronic communication service providers;
- market and public opinion researches and conducting open consultation procedures, thus allowing all the parties involved to express remarks and comments concerning initiatives, measures, decisions and documents to be prepared, proposed or adopted by the Agency;
- market surveillance, identification of an operator with significant market power and taking of preventive measures against negative effects of that significant market power;
- simplified registration into the register of operators through fulfilling of an application form and meeting terms laid down by the Law;
- updating of electronic database in the sector of electronic communications that ensures access to all the information without regulatory restrictions concerning secrecy;
- public character of the register of operators;
- transparency of Agency's decisions (obligation to publish Agency's decision at its website [www.ekip.me](http://www.ekip.me)).

**C. Policy and regulatory frameworks**

**10. Please describe the policy for the telecommunications sector. If a strategy document covering the sector exists, provide a copy in an EU language.**

The basic document defining the policy in the telecommunication sector is the *Strategy of the Sector of Electronic Communications*, drafted by the Ministry of Economy and adopted by the Government of Montenegro in June 2006.

The Strategy's aim is to ensure, for the next five years, the continuity of tendencies developed in the sector to date. Having regard to the circumstances in the world in the field of electronic communications and within the economic system of Montenegro, the *Strategy* contains recommendations for achieving progress and eliminating shortcomings.

The *Strategy* defines the vision and general goals to be achieved in order to incite and maintain the sector of electronic communications by:

- 1.) Ensuring efficient and economical access to the entire spectrum of world-class networks and electronic services for natural and legal persons on its territory;
- 2.) Offering attractive business opportunities to the existing and future investors and network and electronic communications service providers within a competitive market operating in a fair, open and transparent manner, harmonized on a pragmatic basis with principles and objectives of EU directives regulating this sector and taking into consideration specific circumstances of Montenegrin economy and society;

3.) Ensuring development and offer of applications and services of e-Government and e-business within Montenegro's efforts to build the information society aimed at achieving higher efficiency of services for its users (natural and legal persons in Montenegro) by the Government of Montenegro, as well as services used by companies for the purpose of information and transactions exchange with clients and suppliers;

From this Strategy and declared objectives aroused the adoption of the *Law on Electronic Communications* by the Parliament of Montenegro, at its session of 29 July 2008.

Furthermore, it is planned to adopt the *Strategy of Broadband* in Montenegro during the first quarter of 2010, in cooperation with renowned organizations and experts both from the EU and region of South-East Europe, as well as with local experts in this field. Adoption of an *Action plan for development of broadband on the territory of Montenegro* is expected as well.

Apart from this document, there is also the *Strategy of development of information society in Montenegro for period 2009 – 2013*, adopted in 2009 by the Ministry for Information Society ([Annex 153](#)).

## **11. What is the timetable for legislative approximation to the *acquis communautaire*?**

According to Article 106 *Networks and Electronic Communications Services of Stabilization and Association Agreement between the EU and Montenegro*, a three-year period from the date of entering into force of the *Agreement* is stipulated for the harmonization with the *acquis communautaire*.

## **12. What is the policy and timetable for the implementation of full liberalisation in the sector?**

The market of electronic communications in Montenegro was completely liberalized on 31 December 2003, when, in accordance with the then valid *Law on Telecommunications*, the exclusive right of the then Telecom of Montenegro (Telekom Crne Gore) now Montenegrin Telecom (Crnogorski Telekom) to provide services of public fixed telephony, telex/telegraph, public phone boxes and line leasing as well as to build, own and exploit public fixed telecommunication networks and organize, incite or provide call-back and VoIP services in Montenegro ceased to exist. From that moment on, all the interested operators had a chance to build telecommunication networks and provide public telecommunication services, after acquiring appropriate licences in accordance with the *Law on Telecommunications* (in accordance with EU's regulatory framework of 1998 ).

The *Law on Electronic Communications* was adopted in August 2008 and thus implemented the EU's regulatory framework of 2002 according to which building of electronic communication networks and providing public electronic communication services is conducted through the application to the Agency for Electronic Communications and Postal Activities. Article 22 of the *Law* stipulates that every legal or natural person can build, provide or use electronic communication networks and equipment with belonging infrastructure, under the terms of law, unless contrary to public order or harmful to people's lives and health as well as national security. Furthermore, in accordance with Article 31 of the *Law*, both natural and legal persons can apply for operators.

However, complete liberalization will be achieved with the adoption of the secondary legislation by the line ministry as well as the Agency's regulations as mentioned in the answers to the questions 2, 17 and 21, such as rulebooks on remote local loop, number portability, operator selection, and others.

### 13. What is the situation and policy as regards universal service obligations?

The *Law on Electronic Communications* defines the universal service as a group of telecommunication services, with laid down quality, which must be available for all the end users at affordable price regardless of their geographic position on the territory of Montenegro.

Pursuant to the *Law*, in order to make the universal service available in terms of the price of encompassed services, technical conditions need to be created for users to survey and control their spending, as well as through introducing special tariff regimes for low-income categories of users.

Furthermore, Montenegro guarantees the use of the universal service to the users, regardless of the development of the market of electronic communication services.

The *Law on Electronic Communications* defines the scope of the universal service, which encompasses:

- 1) fulfilment of every reasonable user's request for connection with public telephone network, at fixed location, and thus enabling the use of publicly available telephone services;
- 2) enabling local, long distance and international calls, transfer of communication by telefax and data transfer rate allowing functional Internet access;
- 3) providing services of universal phonebook and universal subscriber information service, about customers;
- 4) ensuring public phone boxes service, by fulfilling reasonable needs of end users in terms of geographic coverage and providing free emergency calls;
- 5) ensuring certain benefits for end users – impaired persons – allowing them an appropriate access to publicly accessible telephone services and their use, including access to services, telephone boxes, phonebook and information service.

#### Main characteristics of present situation:

- 1) Montenegrin Telecom has, in its standard offer, the service of subscriber relationship establishment at the price of EUR 55.55 (installation fee included) plus VAT. This service is provided in the case that there are technical conditions for connection at requested fixed location. This way connection to the public telephone network, *i.e.* use of publicly available telephone services, is enabled to all the users under the same and non-discriminatory terms;
- 2) Montenegrin Telecom, at a certain number of fixed locations, provides the universal service through the service of access to its network, *i.e.* through rural telephony. Connection to the rural telephony means paying a standard price for fixed telephony connection plus the price of the terminal rural telephony device. At the end of 2008, there were 3 067 users of rural telephony.
- 3) Every user with concluded subscriber relationship is enabled to have, under the same terms, incoming and outgoing local, long-distance and international calls, communication transfer through telefax and data transfer rate allowing functional Internet access (dial-up access through prepaid and post-paid services, numbers 19802 and 19803);
- 4) Montenegrin Telecom also provides the service of universal phonebook and universal subscriber information service (number 1181). Furthermore, information from the universal phonebook is available on the Internet, which corresponds with modern trends in the field of Information Society. However, the lack of the printed version of the phonebook should be mentioned as well.
- 5) Subscribers of the fixed network of Montenegrin Telecom are allowed insight into their spending and the balance is updated once a day. As far as spending control is concerned, *i.e.* setting spending limit to a wanted monthly amount, one can conclude

that, although technical conditions for it do exist, the right is not being used properly and in accordance with the new *Law*. However, mobile telephony operators do provide that service through the regime of prepaid subscribers, while Montenegrin Telecom, fixed telephony operator, exempts its users from paying amounts above the limit set by the user and approved by the Agency, following a user's complaint.

- 6) Services of fixed telephony, and consequently, *de facto*, those of the universal service, are also provided by MTEL, via WiMAX network, in accordance with a special licence. At the end of 2008, there were 5 520 fixed telephony service subscribers. Thanks to the connection fee for these phones, as well as affordable prices, there is a big interest in this type of connection that the operator cannot satisfy, due to the exhaustion of access network capacities. Other three licensees for FWA frequencies, as announced, should start providing their services during 2009, and interests have already been expressed for obtaining new licences to build fixed and mobile WiMAX networks.
- 7) Internet services in Montenegro are provided by Montenegrin Telecom (112 736 registered users), Mtel (5 520 registered users), Montsky (2 271 registered users) and MNnews (1059 registered users). Internet services are also provided by all three mobile telephony operators with the total of 8 405 registered users. With regard to the number of broadband connections and the fact that many users access the Internet from work and from educational institutions, it is estimated that there is a total of 238 722 internet users in Montenegro.
- 8) Public phone box services are efficiently provided only by Post of Montenegro (Pošta Crne Gore) through phone boxes within local post offices on the entire territory of Montenegro (while opening of seasonal local post offices satisfies increased demand for this type of services during the tourist season). It should be stressed that, apart from the Post of Montenegro, there are other licensees for this service: Halo Card d.d. and Bristol d.d., however, due to reduced demand for this service, *i.e.* users' switch from fixed to mobile telephony, these companies do not provide these services;
- 9) There is an option for providing free emergency calls at unique European number 112; as well as local numbers 122 (police), 123 (firefighters) and 124 (medical emergency service).
- 10) Ensuring certain advantages for impaired persons is only partly possible, through the standard offer of Montenegrin Telecom for certain privileges for the first and second category of impaired persons with total disability.

**14. Please describe the competence, structure and degree of independence of the regulatory body for telecommunications (operational independence, level of political interference, financial independence). Also provide information on its establishment, nomination procedures, budgetary and human resources and administrative powers. To what extent is there a separation of regulatory and operational competencies?**

The Agency's competences in the field of electronic communications are listed in the answer to the question B.3.

The Agency's status, as a regulatory body, is established by the *Law on Electronic Communications* (Official Gazette of the Republic of Montenegro 50/08) and is described in the answer to the question B.3, whereas the *Law* stipulates that it has two bodies: the Council of the Agency and its executive director.

**Election of the Council:**

Acting in accordance with the stipulations of the new *Law on Electronic Communications* on the naming of Agencies' bodies and criteria for their election, on 4 October 2008 the Ministry announced vacancies for the members of the Agency's Council. Since 22 candidates applied for the posts, the Government of Montenegro elected the President and members of the Council at the meeting held on 11 December 2008.

**Election of the executive director:**

In accordance with the competences established by the *Law on Electronic Communications*, the Council announced vacancy for the post of the Agency's executive director at the end of December 2008. After the application procedure was over, the executive director was elected at the meeting of the Agency's Council of 21 January 2009.

After the election of the president of and members of the Council, a constitutive meeting was held on 22 December 2008 and necessary activities were conducted for the Agency's establishment, including belonging acts and reorganization pursuant to those acts. The Council of the Agency brought its Statute, which was subsequently adopted by the Government in March 2009.

The Council of the Agency has a president and four members, all but one employed in the Agency and appointed by the Government at the Ministry's proposal, after a vacancy announcement while the executive director is elected by the Council of the Agency, also after a vacancy announcement.

The Council's duties are: adoption of the Statute of the Agency; adoption of procedures, norms and decisions based on regulations and in accordance with this *Law* (on market power, tariffs, collocation, interconnection, universal service and fees for it, public tender procedures, disputes between market operators etc); adoption of the programme and financial plan of the Agency; adoption of the frequency assignment; adoption of the addressing and numeration plans; presentation of annual reports to the Government, including financial report.

The executive director performs his/her duties in the Agency on a professional basis. He/she represents the Agency and is responsible for the lawfulness of its operation; he/she organizes and manages the operation of its technical services. The executive director is responsible to the Council of the Agency for his/her work performance.

As far as the Agency is concerned, the Council of the Agency is competent for its regulatory obligations; while the executive director of the Agency is competent for its operational obligations.

Appeals to the Agency's decisions can be filed to the Ministry within 15 days from the date of decision receipt.

The Agency is financially independent.

The manner of Agency's financing (sources of financing, financial plan and Agency's Programme) is regulated by the *Law on Electronic Communications*, which stipulates following sources:

- 1) registration fees;
- 2) regulation and market surveillance fees;
- 3) licence and numeration fees;
- 4) fees laid down by laws regulating fields under the Agency's competency.

The *Law* stipulates that Agency's annual financial plan projects total income and outgoing, including reserves for unpredictable expenditures, separated into fields of regulation and market surveillance; use of numeration resources and radio-frequency spectrum as well as postal activities. Agency's financial plan, together with its Programme for following calendar year is presented to the Government by the Agency, not later than 1 November of the same year. Both financial plan and Agency's Programme are presented to the Parliament of Montenegro to be adopted as a special segment of the Budget of Montenegro.

Both financial plan and Agency's Programme are published in a manner regulated by the Statute of the Agency.

**15. Can decisions of the regulatory body be appealed? If yes, describe the procedure and its results over the past 2 years.**

Since the entry into force of the *Law on Electronic Communications* (on 27 August 2008), according to this *Law*, an Agency's decision can be appealed before the Ministry, within 15 days from the date of the receipt of decision.

It is also stipulated that an appeal does not put off implementation of the Agency's decision and that a Ministry's decision, as final in the administrative procedure, can be appealed before the competent court, which is the Administrative Court of Montenegro.

Pursuant to the ***Law on General Administrative Procedures*** (Official Gazette of the Republic of Montenegro 60/03), after having established that the appeal is allowed, timely and stated by an authorized person together with the complete case file, the Agency presents an appeal of an operator or a user to the Ministry of Transportation, Maritime Affairs and Telecommunications.

Since the entry into force of the *Law on Electronic Communications* a year ago, there were seven operator appeals to the Council of the Agency.

In one of them, three operators reached an agreement under Agency's mediation, withdrew the appeals and consequently the line ministry brought a decision on cessation of proceedings, just like in another case in which the operator was the one who withdrew the appeal.

Out of the remaining three cases, the procedures of consideration for two of them by the Agency as the body of first instance in the administrative procedure are still in progress, while the appeal of one operator has been forwarded to the line ministry for decision, together with the case files and Agency's opinion.

As far as user appeals to operator's decisions are concerned, the *Law on Telecommunications* (Official Gazette of the Republic of Montenegro 59/00) was in force until early 2009, although the *Law on Electronic Communications* came into force on 27 August 2008, because of the cases whose procedures were initiated under the *Law on Telecommunications* (in accordance with the *Law on Electronic Communications* stipulating that proceedings that started under the *Law on Telecommunications* shall be finished under the same *Law*), and consequently the Agency's decisions in those cases were final and could be appealed only before the competent court.

As far as proceedings in the cases of user appeals conducted under the *Law on Electronic Communications* (Official Gazette of the Republic of Montenegro 50/08) are concerned, five appeals were filed against decisions of the Agency, out of which one was resolved by the line ministry with the decision on termination of proceedings, while in one case the Agency modified its decision after new facts had been established.

The Ministry's data are presented in the answer to the question 6.

**16. How does the allocation of frequencies and numbers/codes take place? Please indicate where relevant the involvement by Conférence Européenne des Administrations des Postes et Télécommunications (CEPT) and International Telecommunications Union (ITU).**

The Agency for Electronic Communications and Postal Activities manages radio-frequency spectrum and conducts supervision and control over its use in accordance with the *Frequency Allocation Plan of Montenegro*, frequency assignment plans and other secondary regulation in accordance with the *Law on Electronic Communications* (Official Gazette of Montenegro 50/08) (hereafter referred to as the *Law*).

The *Frequency Allocation Plan* defines radio-frequency bands' designation for particular radio-communication services, as well as the basic terms of use of the radio-frequency spectrum, in accordance with international regulation in the field of radio-communication, primarily the *ITU*.

*Radio Regulations* and the *European Common Allocation Table*, with specificities concerning existing situation and needs of Montenegro on the national level. The current *Frequency Allocation Plan of Montenegro* (Official Gazette of the Republic of Montenegro 11/05) was adopted by the Government of Montenegro in the early 2005. Technical grounds for the new allocation plan were prepared by the Agency and presented to the Ministry for further proceedings, in June 2009.

*Frequency assignment plans* consist of closer terms and manners of use for particular radio-frequencies by particular radio-communication services within particular radio-frequency bands, in accordance with the *Frequency Allocation Plan* as well as corresponding ITU and CEPT recommendations. *Frequency assignment plans* are adopted by the Agency, with the consent of state bodies and institutions competent for civil aviation, maritime navigation, in connection with plans concerning radio-frequencies designated for security use in aviation and maritime navigation; state bodies competent for planning and managing radio-frequencies designated for the use in national security and defence of Montenegro; in connection with plans concerning the use of radio-frequencies designated for the national security and defence of Montenegro, *i.e.* regulatory body for programme contents, in connection with plans concerning radio-frequencies designated for broadcasting and amateur radio operators.

Frequency assignment is conducted through licence grants for radio-frequency use in an administrative procedure before the Agency. The licence is granted through a public tender for frequencies designated for broadcasting, or when established, through a legal procedure, that efficient use of designated radio-frequencies can only be ensured by limiting the number of licences. The tender for radio-frequency licences is invited with the consent of the regulatory body for programme contents.

An annual regulatory fee is paid to the Agency for radio-frequency use and it is designated to cover the costs of surveillance and managing of radio-frequency spectrum, while an annual fee for radio-frequency spectrum administration is paid to the Budget of Montenegro. The methodology and manner of calculating fees to be paid to the Agency have been stipulated by the line ministry's *Rulebook on methodology and manner of calculating annual fees for radio-frequency use* (Official Gazette of Montenegro 1/09), while the manner of calculation of fees to the Budget of Montenegro was stipulated by the Government of Montenegro with its *Decision on price list for covering radio-frequency spectrum administration costs* (Official Gazette of Montenegro 22/09).

The Agency is competent for managing finite resources (enumeration and addresses) and it makes and publishes both the *Numeration Plan* and *Address Plan* (Official Gazette of the Republic of Montenegro 45/07 and 22/08). The line ministry has adopted the *Rulebook on methodology and manner of calculating annual fee for numeration and/or address use* (Official Gazette of Montenegro 1/09), in accordance with the *Law on Electronic Communications*.

The *Numeration Plan* consists of definitions, number structure and number and code list for the numeric region of Montenegro. The *Address Plan* consists of definitions and code structure for international and national signalling points, mobile networks, data networks' identification and the manner of managing.

Both the *Numeration Plan* and *Address Plan* comply with international regulations (CEPT and ITU-T recommendations).

The Agency issues licences to operators to use enumerations and/or addresses after a general administrative and tender procedures, in accordance with the *Law* and both *Numeration Plan* and *Address Plan*. The tender procedure is conducted when estimated that the interest outgrows the availability of granted numerating or addressing resources.

The Agency must grant licences not later than 45 days from the application date, and in the case of tender procedures, within three months

For the use of enumeration and/or address the applicant pays to the Agency an annual regulatory fee, designated to cover surveillance costs and costs of managing enumeration and address resources. Methodology and calculation of fees is regulated by the line ministry's abovementioned *Rulebook*, while the amount of fees is set for each year by the Parliament of Montenegro, on the basis of a proposal established by the Government of Montenegro, on the occasion of adoption of Agency's financial plan.

**17. Please provide details on the implementation and enforcement of competitive safeguard measures, in particular:****- CS (carrier selection)/CPS (carrier pre-selection) incl. calls to non geographical numbers**

Pursuant to the *Law on Telecommunications* (Official Gazette of the Republic of Montenegro 59/00) and the secondary legislation act adopted by the Agency for Telecommunications and Postal Services (*Rulebook on carrier selection and pre-selection*, Official Gazette of the Republic of Montenegro 32/07), following a six operator's request, in the early 2008, the Agency granted carrier selection codes. According to the *Numeration Plan* (Official Gazette of the Republic of Montenegro 45/07 and Official Gazette of Montenegro 34/09), the carrier selection code was defined with 10ab, ab carrier. Of all the operators that were granted the carrier selection code by the Agency, only one VoIP operator (PTT engineering) concluded an agreement with a fixed operator (Montenegrin Telecom) on providing the service of operator selection.

In the meantime, the new *Law on Electronic Communication* came into force (Official Gazette of Montenegro 50/08) with a new manner of treating the possibility of carrier selection/pre-selection. As a measure of ensuring competition, the *Law* stipulates the possibility of accessing the operator's services of fixed and mobile telephone network through carrier selection and pre-selection. Presently, the Agency is in the process of analysing the market (deadline – end 2009), after which the operator or operators with significant market power in relevant markets will be identified, in accordance with EU directives from 2007.

In connection with that, the Agency shall bring decision stipulating the obligation of that/these operators to allow subscriber access to other operators' public telephone services by:

- 1) selecting any operator at every particular call using the particular carrier's prefix (10ab);
- 2) pre-selecting a particular carrier on the basis of a service code; this does not limit the option under 1).

The *Law* foresees that the operator must define a price list regarding carrier selection and pre-selection, while the Agency can set the price limit for the service of carrier selection/pre-selection, to the extent of preventing the service price to become discouraging for users.

The *Numeration Plan of Montenegro* (Official Gazette of Montenegro 34/09), based on the recommendations of the International Telecommunication Union (ITU-T), consists of, *inter alia*, a list of numbers and codes for the numeric region of Montenegro.

Non-geographic numbers currently in use in Montenegro are mobile networks numbers with access code 6X, Voice over Internet protocol (VoIP) numbers with access code 78, free phone service numbers with access code 80 and numbers for value-added service with access codes 94 and 95.

As far as calling non-geographic numbers is concerned, the *Law* stipulates operators' obligation to provide for the users calling from out of Montenegro to use non-geographic numbers defined by the *Numeration Plan* whenever technically possible and economically justifiable.

Presently, in Montenegro, the option of calling the free phone service number (80) and value-added service numbers (94 and 95) is only provided to fixed networks subscribers.

**- implementation of number portability**

The *Law on Electronic Communications* (Official Gazette of Montenegro 50/08) stipulates that the Agency, with a special document, regulates the issue of number portability, as well as that the number portability must be implemented not before a year and not later than August 2011.

In order to implement the regulatory framework of this *Law*, the Agency has drafted the *Rulebook on number portability*, thus providing the continuation of activities necessary for introducing the number portability service.

**- SMP (significant market power) regulations (market analysis procedure and imposition of remedies on SMP operators, including price control, and accounting separation), please also provide information on which markets will be analysed (and include planning).**

The Agency for Electronic Communications and Postal Services, within the framework of its competencies, promotes, among other things, efficient competition in the sector of electronic communications by conducting market surveillance, identifying operators with significant market power and taking preventive measures against negative effects of operators' significant market power.

In order to ensure competition and prevent harmful effects of lack of competition, the Agency, in cooperation with the body competent for competition protection, conducts analysis of the market of electronic communications

If the analysis shows that a relevant market lacks competition, the Agency, by bringing the decision, identifies the operator or operators with significant market power in that market. The identification of the operator with significant market power means stipulating and imposing *ex-ante* regulations that should be proportionate and adequate to the established problem – deviation from efficient competition.

With the solution issued to the operator with significant market strength, the Agency must, in accordance to the *Law on Electronic Communications* (Official Gazette of Montenegro), impose taking at least one of the following measures:

- obligation to ensure clarity, reference interconnection offer;
- obligation to ensure equal treatment – non-discrimination;
- obligation to separate accounting records;
- obligation to allow access to network's elements and their use;
- obligation to allow prices and costs accounting supervision;
- obligation to allow carrier selection/pre-selection option;
- obligation to regulate service retail prices;

At the meeting held on 3 April 2009, The Council of the Agency for Electronic Communications and Postal Activities adopted the *Decision on relevant service markets and relevant geographic market*, after obtaining the opinion of the Administration for Protection of Competition.

The *Decision* defines the territory of Montenegro as the relevant geographic market

Furthermore, the Agency's *Decision* defines seven relevant markets, in accordance with the Revised *EC Recommendation on relevant markets* of 2007.

- (1) Market of public telephone network access at a fixed location for natural and legal persons – retail level;

- (2) Market of calls originating on the public telephone network provided at a fixed location – wholesale level;
- (3) Market of calls terminating on individual public telephone networks provided at a fixed location – wholesale level;
- (4) Market of network infrastructure access (including shared or fully unbundled access at a fixed location) – wholesale level;
- (5) Market of broadband access – wholesale level;
- (6) Market of terminating segments of leased lines, irrespective of the technology used to provide leased or dedicated capacity – wholesale level;
- (7) Market of voice calls terminating on individual mobile networks – wholesale level.

The Agency can extend the list of relevant markets after conducting the cumulative three-criteria test, in accordance with the *Law on Electronic Communications*.

- **access and interconnection, cost orientation, RIO (reference interconnection offer) (including the approval procedure by the regulatory authority) and the number of interconnection agreements.**

To date, the Agency for Electronic Communications and Postal Services has been implementing a set of competition protection measures concerning access and interconnection:

- Ensuring transparency, through giving consent to the Reference Interconnection Offer of Montenegrin Telecom.
- Ensuring non-discrimination when concluding agreements on interconnection, by controlling concluded interconnection agreements presented to the Agency.
- Resolving disputes between operators in the procedure of agreement conclusion but also in the procedure of access and interconnection implementation.

Access and interconnection service prices are set on the basis of comparison with the same service prices in the neighbouring and EU countries (so-called benchmarking methodology of price-setting), since the models of cost-oriented pricing for access and interconnection have not yet been implemented. Here we point out the most important service prices:

- Calls terminating on fixed networks - single transit call termination costs EUR 2.7 cent/min;
- Calls terminating on fixed networks - local call termination costs EUR 2.25 cent/min;
- Calls terminating on mobile networks – EUR 10 cent/min.

In accordance with the existing regulation, Montenegrin Telecom, as an operator with significant market power, must issue his Reference Interconnection Offer to be approved by the Agency. The Agency for Electronic Communications and Postal Services approved Montenegrin Telecom's Reference Interconnection Offer in April 2008. The approval procedure that issued consent to that offer lasted almost four months, from the initial request of Montenegrin Telecom until the decision by the Agency, during which time the initial reference interconnection offer went through significant changes and amendments. The offer is still valid.

Presently, eight interconnection agreements are in force between the operators in Montenegro.

- **RUO (reference unbundling offer) (full unbundling, shares access and also including bitstream access) and number of unbundled & shared loops**

The unbundling of local loop has not been implemented so far in Montenegro. After the termination of the analysis (end of 2009), the operator with significant market power on the wholesale market of network infrastructure on fixed location and wholesale broadband access market will be identified and it will have to prepare a reference unbundling offer, after which full unbundling, shared access and bitstream access services will be offered.

- **national roaming and MVNO (mobile virtual network operator) access**

The Law on Electronic Communications foresees that the Agency, on the basis of market analysis results, can order to the operators with significant market power to take measures aimed at fulfilling reasonable requests for access and use of certain elements of electronic communication networks and belonging equipment, including access equipment. Such a stipulation enables the Agency to impose obligatory national roaming or open access to virtual networks for the operators with significant market power, if established by the analysis that the market of mobile electronic communication services lacks competitiveness at retail level.

Bearing in mind very pronounced competition in the market of mobile electronic communication services, the Agency has not applied measures regarding national roaming and MVNO.

## 18. Describe your 'rights of way' procedures.

The "rights of way" procedures are partly treated by the *Law on Electronic Communications* (Official Gazette of Montenegro 50/08), in the Article concerning road construction.

In fact, an investor of a road construction must, at the request of an electronic communication network operator, negotiate, on a non-discriminatory basis and in good faith, on the possibility of building electronic communication facilities and infrastructure in the road zone.

It is also stipulated that the construction in the road zone, as described in this Article, cannot be conducted without an obligatory consent of the Agency. Prior to the consent, opinions of the bodies competent for security and defence must be obtained.

With regards to these stipulations of the *Law on Electronic Communications*, the Agency has published on its website the Announcement about investors' obligations during road construction [www.ekip.me](http://www.ekip.me).

## 19. Implementation of the European Emergency number 112

In the *Numeration Plan of Montenegro* (Official Gazette of Montenegro 34/09), adopted by the Agency for Electronic Communications and Postal Services, number 112 is defined as the **single European emergency call number**.

Pursuant to the *Law on Electronic Communications* (Official Gazette of Montenegro 50/08), public telephone network operators must provide the use of the abovementioned number.

Presently, the number is accessible to all the mobile networks users.

At the request of the Ministry of Interior and Public Administration (Sector for emergency situations and civil security), the Agency designated this number to the use of this Ministry. In accordance with the 1995 and 2002 *Directives of the EC on introducing free telephone number 112 as the single European emergency number*, the Ministry started the implementation of setting up the 112 operation and communication centre. Both a user of the number 112 and its end users are exempt from paying fees for the use of numeration or calls to this number.

The Ministry of Transportation, Maritime Affairs and Telecommunications, in cooperation with the ministry competent for protection and rescue, have drafted the *Rulebook on the manners, terms and dynamic of introducing the single European telephone emergency number 112 for emergency calls and on the quality of services provided for calls to that number*.

Furthermore, the line ministry has drafted the *Rulebook on service quality parameters, marginal values and methods of measuring parameters for the use of the single European telephone emergency number 112* and obtaining of necessary consents by competent authorities is in progress.

The two abovementioned rulebooks have been published in the Official Gazette of Montenegro 64/09.

## 20. Describe the cooperation provisions between all the relevant authorities in the sector (i.e. the cooperation between the competition authority and the regulatory authority in charge of electronic communications).

With regard to the fact that the *Law on Electronic Communications* (Official Gazette of Montenegro 50/08) stipulates an obligation of the Agency for Electronic Communications to establish, keep track and reconsider relevant services and geographic markets in Montenegro in the field of electronic communication services together with the body competent for competition protection, the Agency for Electronic Communications and Postal Services and Administration for Protection of

Competition signed on 28 April 2009 the *Agreement on cooperation in the field of ensuring competition and preventing negative effects of the lack of competition in the field of electronic communications services*.

The abovementioned *Agreement* foresees that contracting parties cooperate in connection with:

- Providing mutual professional and technical help needed for solving concrete cases under the competence of contracting parties;
- exchange of relevant data, information and documents;
- making of professional opinions at the request and for the need of the other contracting party and other forms of providing professional and technical assistance;
- cooperation in permanent education of experts in the field of ensuring competition and preventing negative effects of the lack of competition in the electronic communications market and similar fields;
- cooperation on fulfilling Montenegro's international obligations, in particular within the EU membership, as well as in performing other duties and implementation of projects within international organizations and other institutions (for example WTO, SETAINA, OECD, etc).

Objectives of the cooperation of the Agency for Electronic Communications and Postal Services and Administration for Protection of Competition are:

- ensuring competition in the market of electronic communications;
- ensuring access to new participants in the market of electronic communications
- preventing all forms of agreements limiting or controlling the market, applying unequal terms of conducting business activities for different participants in the market; setting conditions for concluding agreements by accepting additional obligations not in connection with the subject matter of agreements, etc.
- preventing implementation of concentrations that significantly prevent, limit or undermine competition by creating or increasing significant market power in the market.

The line ministry and the competent sector within the ministry, after having partially completed their administrative capacities, took the initiative in the field of preparation, merge of information and realization of draft secondary regulation pursuant to *the Law on Electronic Communications*.

After forming the Agency Council and appointing the executive director, the Agency adopted the plan of work for 2009 and started an independent work on making professional grounds for the legislation to be adopted by the Ministry as well as regulatory documents under its competence.

In accordance with the new job descriptions, new supervisors have been appointed within the Agency, while, within the Ministry, an officer is authorized for inspection control in the field of electronic communications and postal services, so that as regards the supervision of the entire market of telecommunications, the cooperation should be established and legal activities should continue to be effectively performed

The sector of telecommunications within the line ministry has started intensive cooperation with other ministries in order to gather all the legal documents treating electronic communications, such as the Sector for infrastructure of quality within the Ministry of Economy.

Apart from this cooperation, we are stressing the cooperation that has started with the Institute for Standardization of Montenegro and the Agency for Accreditation aimed at obtaining timely and professional support in adopting new rulebooks and other technical regulations.

## D. Description of sector

### 21. What is the current stage of sector liberalisation? Please provide information for all market segments (fixed telephony, mobile telephony, internet) on:

The market of electronic communications in Montenegro was completely liberalized on 31 December 2003, when, in accordance with the then valid *Law on Telecommunications* (Official Gazette of the Republic of Montenegro 59/00), an exclusive right of the then Telecom of Montenegro (Telekom Crne Gore), now Montenegrin Telecom to provide services of public fixed telephony, telex and telegraph, public phone boxes and line leasing as well as to build, own and exploit public fixed telecommunication networks and organize, incite or provide call-back and VoIP services in Montenegro ceased to exist. From that moment on, all the interested operators had a chance to build telecommunication networks and provide public telecommunication services, after acquiring appropriate licenses in accordance with the *Law on Telecommunications* (in accordance with EU's regulatory framework of 1998 ).

With the adoption of the *Law on Electronic Communications* (Official Gazette of Montenegro 50/08), which implemented the EU's regulatory framework of 2002, building of electronic communication networks and providing public electronic communication services is conducted through the application to the Agency for Electronic Communications and Postal Services.

#### a) infrastructure, including all “alternative” infrastructures;

Optical infrastructure used by the incumbent operator Montenegrin Telecom is mostly built within the network backbone, *i.e.* within transmission systems, while lately it has been increasingly implemented in the fibre to the x (FFTx), but the access network remains highly based on copper pair cables. Another fixed operator M:tel uses radio relay connections for its transmission systems, while the fixed wireless access network is implemented through WiMax technology with 3400-3600 MHz bandwidth. Furthermore, operators providing radio and TV broadcasting services (cable operators) to end users have their own networks based on coax and fibre cables, but they partly use leased lines for their transmission networks

The Broadcasting Centre of Montenegro has its own transmission network based on radio relay connections.

Apart from Montenegrin Telecom, Montenegrin Electric Enterprise (Elektroprivreda Crne Gore) and Montenegrin Railways (Željeznice Crne Gore) also have optical infrastructure and use it for their needs.

#### b) liberalised services.

Providing of all public electronic communication services has been liberalized.

Currently, the competition (two or more operators) exists in the following segments:

- fixed telephony: Montenegrin Telecom, M:tel and PTT Engineering (PTT Inženjering);
- mobile telephony: Promonte GSM Ltd., T-Mobile within Montenegrin Telecom and M:tel Ltd.);
- Internet: Montenegrin Telecom , M-tel Ltd., Mont-Sky );
- leased lines, radio and TV cable operators: (BroadBand Montenegro, Montenegrin Telecom, Total TV, M-cable (M-kabl)).

**22. What are the number of operators and the types of authorisation? Please provide information for the following sub-sectors:**

The presented data are obtained from the Agency for Electronic Communications and Postal Services.

**a) public voice telephony (Public Switched Telephone Network (PSTN), Integrated Services Digital Network (ISDN), alternative infrastructures, e.g. utilities);**

Operators of public fixed electronic communication networks and operators of public fixed electronic communication services.

Presented data are obtained from the Agency for Electronic Communication and Postal Services.

	NAME	
1.	MONTENEGRIN TELECOM JSC <sup>1</sup> (CRNOGORSKI TELEKOM)	PSTN/ISDN

	NAME	
1.	MONTENEGRO POST LTD.* (POŠTA CRNE GORE)	VoIP
2.	COMPANY ALLIANCE TELECOM LTD.	VoIP
3.	VOIP TELEKOM LTD.	VoIP
4.	DIMAL TELCOM	VoIP
5.	PTT-ENGINEERING LTD. (PTT INŽENJERING)	VoIP
6.	MONTEKOM LTD.	VoIP
7.	IT MONTENEGRO LTD.	VoIP
8.	VOX LTD.	VoIP

	NAME	
1.	MONTENEGRO POST LTD. (POŠTA CRNE GORE)	PHONE BOXES
2.	HALO CARD	PHONE BOXES

<sup>1</sup> JSC – Joint Stock Company

\* LTD. – Limited Liability Company

**b) public land mobile communications (analogue and digital non-GSM (Global System for Mobile Communications), GSM, DCS 1800 (GSM operating at higher frequency), UMTS (Third Generation Digital Mobile System), WiMAX (Worldwide Interoperability for Microwave Access), paging, etc.);**

Operators of public mobile electronic communication networks and operators of public mobile electronic communication services.

Presented data are obtained from the Agency for Electronic Communications and Postal Services.

	NAME	STANDARDS
1.	PROMONTE GSM LTD.	GSM/DCS-1800, IMT-2000/UMTS
2.	T-MOBILE MONTENEGRO LTD. (T-MOBILE CRNA GORA)	GSM/DCS-1800, IMT-2000/UMTS
3.	TELECOMMUNICATION COMPANY MTEL LTD. (DRUŠTVO ZA TELEKOMUNIKACIJE MTEL)	GSM/DCS-1800, IMT-2000/UMTS

**Operators of public fixed electronic communication networks based on fixed wireless access and operators of public fixed electronic communication services;**

	NAME	STANDARD
1.	T-MOBILE MONTENEGRO LTD.	WiMAX
2.	BROADBAND MONTENEGRO LTD.	WiMAX
3.	TELECOMMUNICATION COMPANY MTEL LTD.	WiMAX
4.	PROMONTE GSM LTD.	WiMAX

**c) private land mobile telecommunications (e.g. taxies, transport, emergency services);**

In the field of radio-taxi and transportation, there are 53 users, while in the field of functional systems we have 44 users.

**d) satellite communication;**

Public Company Radio Television Montenegro (JP RT Crne Gore) – satellite earth uplink station.

**RTV ATLAS LTD.** - satellite earth uplink station (uplink for SMG).

There are several VSAT stations.

Licensing procedure for one INMARSAT maritime and terrestrial mobile terminal is in progress.

**e) data communication;**

Operators providing internet services and/or have data transmission networks.

	NAME	TECHNOLOGY/services
1.	MONTENEGRIN TELECOM JSC	MPLS/ADSL/Internet
2.	INFORMATICS MONTENEGRO LTD. (INFORMATIKA MONTENEGRO)	Internet
3.	NEBOELECTRONIC LTD.	Internet
4.	ZIREX LTD.	Internet
5.	VIP BROADBAND MONTENEGRO LTD.	Internet
6.	MNNEWS LTD.	Data transmission network/ Internet
7.	CABLING LTD.	Data transmission network /Internet
8.	DASTO MONTEL LTD..	Data transmission network Internet
9.	MONTENEGRIN RAILWAYS (ŽELJEZNICA CRNE GORE)	Private data transmission network
10.	MONTENEGRIN ELECTRIC ENTERPRISE (ELEKTROPRIVREDA CRNE GORE)	Private data transmission network

**f) cable television.**

Operators of public cable electronic communication networks and operators of public electronic communication services of radio and television broadcasting to end users:

	NAME	Level
1.	ADRIANET JSC	Local
2.	CABLING LTD.	Local
3.	CATTV LTD.	Local
4.	ELTAMONT LTD.	Local
5.	MONTENEGRO CABLE LTD. (MONTENEGRO KABL)	Local
6.	NEW CDS LTD. (NOVI KDS)	Local
7.	PTT ENGINEERING LTD. (PTT INŽINJERING)	Local
8.	BROADBAND MONTENEGRO LTD.	MMDS/National level
9.	MONTENEGRIN TELECOM PLC.	IP TV/National level
10.	TOTAL TV MONTENEGRO LTD.	DTH, uplink in another state/National level

**g) others (not covered by the above)**

Operator of public electronic communication network for transmission and broadcasting of radio and other signals and operator of public electronic communication service of transmission and broadcasting of radio and other signals.

	NAME
1.	BROADCASTING CENTER (RADIO-DIFUZNI CENTAR)

Number of legal and natural persons using frequencies for naval or plane radio-stations and are not operators:

- Naval radio-stations:
  - 117 natural persons
  - 41 legal persons
- Radio-stations in plane:
  - 9 legal persons.

Data on number of operators and types of licences were valid on 30 June 2009.

**23. What are the manufacturers and manufacturing activities for network equipment and terminals in your country?**

There are not manufacturers of network equipment and terminals in Montenegro.

**24. Which are the main public telecommunications operator(s)? Please refer to:**

- 1) Montenegrin Telecom JSC - Podgorica
- 2) T-Mobile of Montenegro JSC Podgorica
- 3) Promonte GSM Ltd.Podgorica
- 4) Mtel Ltd. Podgorica
- 5) Internet of Montenegro Ltd. Podgorica

**a) ownership and control of the operators;**

**1. Montenegrin Telecom JSC - Podgorica**

**a) Ownership and control of the operator:**

Montenegrin Telecom provides fixed telephony services on the territory of Montenegro.

Ownership structure: Hungarian Telecom (Magyar Telekom) 76.53%, others 15.45%, Croatian Post Bank (Hrvatska poštanska banka) 4.34%, Podravska Bank (Podravska banka) 2.11% and Raffles Associates L.P. 1.57%. Except for the shares of the Hungarian Telecom, others are in active trade.

Surveillance of the operation of Montenegrin Telecom is performed by its Board of Directors made of the representatives of the owners, while control and surveillance over the telecommunication market of Montenegro, in accordance with the *Law on Electronic Communications*, is performed by the Agency for Electronic Communications and Postal Services.

## **2. T-Mobile of Montenegro (T-mobile Crne Gore) JSC Podgorica**

### **a) Ownership and control of the operator:**

T-Mobile of Montenegro provides services of public mobile communications, *i.e.* transmission of voice, data, images and other information.

Ownership control: Hungarian Telecom 76.53%, others 15.45%, Croatian Post Bank 4.34%, Podravsko Bank 2.11% and Raffles Associates L.P. 1,57%. Except for the shares of the Hungarian Telecom, other actions are in active trade.

Surveillance of the operation of T-Mobile of Montenegro is performed by the Board of Directors made of the representatives of the owners, while control and surveillance over the telecommunication market of Montenegro, in accordance with the *Law on Electronic Communications*, is performed by the Agency for Electronic Communications and Postal Services.

## **3. Promonte GSM Ltd. Podgorica**

### **a) Ownership and control over the operator:**

Promonte provides services of mobile telephony, roaming, additional services, as well as mobile data services via GPRS-EDGE-3G-HSDPA-WiMAX-WUPU.

Ownership: 100% ownership of Telenor Mobile Communications AC, Norway.

Control over the operation of Promonte is performed by the Board of Directors while the market control is performed by the Agency.

## **4. Mtel Ltd. Podgorica**

Mtel provides services of mobile telephony as well as fixed services and Internet services based on the WiMax technology.

### **a) Ownership and control of the operator:**

Telecom of the Republic of Serbia (Telekom Republike Srbije ) 51%; Ogalar BV Holland 49%.

Control of the operation of the company Mtel is performed by the Board of Directors while market control is performed by the Agency.

## **5. Internet of Montenegro (Internet Crne Gore) Ltd. Podgorica**

### **a ) Ownership and control of the operator:**

This company's basic activity is providing of Internet services and line leasing.

Hungarian Telecom is the majority owner of Montenegrin Telecom, mother company of Internet of Montenegro, and has 76.53% shares in its capital.

Control of the operation of the company is performed by the Board of Directors while market control is performed by the Agency.

### **b) type of authorisation:**

#### **1. Montenegrin Telecom JSC - Podgorica**

##### **b) Licence type**

In the process of harmonizing the existing licenses with the new regulatory framework, Montenegrin Telecom has been licensed to use finite resources (numeration and frequency).

#### **2. T-Mobile of Montenegro JSC Podgorica**

**b) Licence type**

In the process of harmonizing existing licenses with the new regulatory framework, T-Mobile was encompassed with a joint license for the use of finite resources (numeration and frequency) granted to Montenegrin Telecom.

**3. Promonte GSM Ltd. Podgorica**

**b) Licence type**

In the process of harmonizing existing licenses with the new regulatory framework, Promonte was granted license for the use of finite resources (numeration and frequency).

**4. M:tel Ltd. Podgorica**

**b) Licence type**

In the process of harmonizing existing licenses with the new regulatory framework, M:tel was granted license for the use of finite resources (numeration and frequency).

**5. Internet of Montenegro Ltd. Podgorica**

**b) Licence type**

In the process of harmonizing the existing licenses with the new regulatory framework, the company Internet of Montenegro has been encompassed through the single license to use finite resources (numeration and frequency granted to Montenegrin Telecom).

**c) principal subsidiaries;**

**1. Montenegrin Telecom JSC - Podgorica**

**c) Principal subsidiaries**

Until April 2009, both T-Mobile Montenegro Ltd. and Internet of Montenegro d.o.o. belonged to Telecom. In order to modernize their operation and according to Company's estimation aimed at establishing unique services on the company level, the abovementioned companies ceased to exist and their property and employees were taken over by the new company - Montenegrin Telecom.

**2. T-Mobile of Montenegro JSC Podgorica**

**c) Principal subsidiaries**

Since April 2009 T-Mobile of Montenegro belongs to Montenegrin Telecom.

**3. Promonte GSM Ltd. Podgorica**

**c) Principal subsidiaries**

Company Promonte belongs to Telenor, and its internal organization and relationship with Telenor are regulated by appropriate normative documents.

**4. M:tel Ltd. Podgorica**

**c) Principal subsidiaries**

M:tel operates as a company within Telecom of Serbia and Ogalar, and its internal organization and relationship with the abovementioned companies are regulated by the appropriate documents.

**5. Internet of Montenegro Ltd. Podgorica**

**c) Principal subsidiaries**

Since April 2009, Internet of Montenegro belongs to Montenegrin Telecom.

**d) revenue/net income;**

**1. Montenegrin Telecom JTC - Podgorica**

**d) Revenue/net income**

The revenue of Montenegrin Telecom in 2008 was EUR 75 881 435. Its net income was EUR 10 465 559.

**2. T-Mobile of Montenegro JTC Podgorica**

**d) Revenue/net income**

The revenue of T-Mobile in 2008 was EUR 72 153 805. Its net income was EUR 15 264 985.

**3. Promonte GSM Ltd. Podgorica**

**d) Revenue/net income**

The revenue of Promonte GSM in 2008 was EUR 95 287 833. Its net income was EUR 31 593 084.

**4. Mtel Ltd. Podgorica**

**d) Revenue/net income**

The revenue of Mtel in 2008 was EUR 49 668 001. Its net loss was EUR 3 368 807.

**5. Internet of Montenegro Ltd.. Podgorica**

**d) Revenue/net income**

The revenue of Internet of Montenegro in 2008 was EUR 4 309 095. Its net income was EUR 1 458 387.

**e) number of employees;**

**1. Montenegrin Telecom JSC - Podgorica**

**e) Number of employees**

Montenegrin Telecom **JSC** Podgorica has 697 employees.

**2. T-Mobile of Montenegro JSC Podgorica**

**e) Number of employees**

T-Mobile of Montenegro a.d. Podgorica has 175 employees.

**3. Promonte GSM Ltd. Podgorica**

**e) Number of employees**

Promonte GSM has 277 employees.

**4. Mtel Ltd. Podgorica**

**e) Number of employees**

M:Tel has 252 employees.

**5. Internet of Montenegro Ltd. Podgorica**

**e) Number of employees**

Internet of Montenegro has 31 employees.

**f) number of main lines.**

**1. Montenegrin Telecom JSC - Podgorica**

**f) Number of main lines**

On 30 June 2009, the total number of fixed telephony voice channels was 178 090.

**g) number of subscribers for the main operators (in case of mobile telephony, distinguish between pre-paid and post-paid customers).**

**1. Montenegrin Telecom JSC - Podgorica**

**g) Number of subscribers**

On 30 June 2009, the total number of fixed telephony subscribers 180 319. In the same period, the number of mobile telephony users was 1 153 71. **Montenegrin Telecom Plc. - Podgorica**

**g) Number of subscribers**

On 30 June 2009, the total number of fixed telephony subscribers was 180 319. In the same period, the number of mobile telephony users was 1 153 704. Out of this number, 864 482 were prepaid and 289 222 postpaid users.

**2. T-Mobile of Montenegro JSC Podgorica**

**g) Number of subscribers**

On 30 June 2009, the number of subscribers was 397 264. Out of this number, 272 514 were prepaid and 124 750 post-paid users.

**3. Promonte GSM Ltd. Podgorica**

**g) Number of subscribers**

On 30 June 2009, the number of subscribers was 449 499. Out of this number 326 267 were prepaid and 123 232 postpaid users.

**4. M:tel Ltd. Podgorica**

**g) Number of subscribers**

On 30 June 2009, the number of subscribers was 306 941. Out of this number 265 701 were prepaid and 41 240 post-paid users.

**5. Internet of Montenegro Ltd. Podgorica**

**g) Number of users**

The total number of registered users at the end of June 2009 was 119 504.

04. Out of this number, 864 482 were prepaid and 289 222 post-paid users.

**2. T-Mobile of Montenegro JSC Podgorica**

**g) Number of subscribers**

On 30 June 2009, the number of subscribers was 397 264. Out of this number, 272 514 were prepaid and 124 750 post-paid users.

**3. Promonte GSM Ltd. Podgorica**

**g) Number of subscribers**

On 30 June 2009, the number of subscribers was 449 499. Out of this number 326267 were prepaid and 123 232 post-paid users.

**4. Mtel Ltd. Podgorica**

**g) Number of subscribers**

On 30 June 2009, the number of subscribers was 306 941. Out of this number 265 701 were prepaid and 41 240 post-paid users.

**5. Internet of Montenegro Ltd. Podgorica**

**g) Number of users**

The total number of registered users at the end of June 2009 was 119 504.

**25. What strategic telecommunications alliances exist in your country? Please provide information on partners, shareholders, fields of activity and the approvals by the competition authorities.**

There is a strategic telecommunication alliance between Montenegrin Telecom (T-Com and T-Mobile) and German Telecom (Deutsche Telecom) through Hungarian Telecom's (Magyar Telecom) ownership of 76.53% of the shares; therefore brands of this international corporation are present in the market.

Promonte has a strategic alliance with Telenor Mobile Communications AC of Norway since it belongs completely to this company (100% ownership).

M:tel has a strategic alliance with the company Telecom of Serbia that has 51,00% of shares in the ownership of this operator of fixed and mobile telephony.

**26. What type of cost accounting system is used by the main public network operator(s) and/or the operators with significant market power? Is it mandatory to use the cost accounting system in justifying their prices? How are the retail prices regulated? How are the wholesale prices (i.e. for interconnection) regulated?**

Telecommunication operators in Montenegrin market do not apply regulatory cost accounting because the Agency has not yet stipulated the cost accounting methodology.

Pursuant to the *Law on Electronic Communications*, the Agency, in cooperation with the body competent for competition protection, conducts an analysis of the market of electronic communications services. If through this analysis the Agency establishes that the relevant market is not competitive enough, the Agency will bring a decision on identification of the operator with significant market power, and impose regulatory obligations to every operator with significant market power in accordance with the *Law on Electronic Communications*.

If, following the market analysis, the Agency establishes that the relevant market of services dedicated to end users is not competitive enough, it can impose obligations aimed at regulating the retail prices of services and consequently prescribe one of the following methods for setting service prices:

- 1) price cap method;
- 2) method of individual tariffs' regulation;
- 3) method of cost-oriented price;
- 4) adjusting prices with those in comparable markets.

Furthermore, with the *Operation Plan for implementing the Programme of the Agency in 2009*, the Agency has foreseen adoption of two documents by the end of the year:

- *Rulebook on cost accounting and holding separate accounting records* and
- *Rulebook on retail price regulation*.

Once the market analysis is over (it started in March 2009 and is expected to be over by the end of 2009) and operators with significant market power identified, the Agency will start developing the cost model aimed at improving cost-oriented price setting.

### **Wholesale price regulation**

As far as the regulation of prices for interconnection *i.e.* operator's access (wholesale) is concerned, the Agency, in accordance with the *Law on Electronic Communications*, can:

- stipulate methodology of price setting for access and interconnection;
- apply methods of cost accounting independently from those applied by the operator;
- use comparison with prices in comparable markets or markets with developed competition;

With the *Operation plan for implementing the Programme of the Agency for 2009*, the Agency has foreseen the adoption of the *Rulebook on cost accounting and keeping separate accounting records* by the end of current year.

This *Rulebook* will impose the obligation of cost-oriented services to an operator with significant market power in the relevant market.

When giving consent to the text of the *Reference Interconnection Offer* of the Montenegrin Telecom, the Agency applied – in the absence of prescribed cost-oriented model – so-called benchmark methodology of price setting.

The most important prices of interconnection service to be highlighted are:

- call termination in fixed network – single transit termination costs 2,7 Eurocent/min;
- call termination in fixed network – local call termination costs 2,25 Eurocent/min;
- call termination in mobile networks costs 10 Eurocent/min.

### **27. Please provide information on the number of internet users, based on the different (access) technologies. Please provide information on how the prices for internet use are determined?**

Year 2008 data.

The data are obtained from the Agency for Electronic Communications and Postal Services:

Year 2008.

Dial –up users						
	number of users - prepaid			number of users- postpaid		
	natural persons	legal persons	total	natural persons	legal persons	total
Internet Montenegro	32 368	2 355	34 723	20 097	2 186	22 283

## 10 Information society and media

MontSky			2.271	-	-	-
Total Internet Montenegro						57 006
Total MontSky						2 721
Total						59 727

ADSL users – Montenegrin Telecom		
legal persons	natural persons	total
4 875	22 964	27 839

WiMAX users - Mtel		
legal persons	natural persons	total
301	5 219	5 520

Leased lines – legal persons			
Internet Montenegro	MNNEWS	Cabling	total
188	184	3	375

CDS - Cabling	
328	

Hot-Spots	Internet Montenegro – T-Mobile	MNNEWS	ProMonte	total
number of users	1 418	875	461	2 754

Internet access via 3G modem					
	postpaid			prepaid	total
	legal persons	natural persons	total		
T-Mobile	262	1 181	1 443	1 701	3 143
ProMonte	682	588	1 270	3 684	4 954
Mtel			308		308
					8 405

At the end of 2008, in Montenegro, there were:

- 59 727 users with dial-up Internet access;
- 27 839 ADSL users;
- 5 520 users with Internet access via WiMAX technology;
- 375 users of leased lines for Internet access;
- 328 users of cable distribution system for Internet access;
- 8 405 users of mobile Internet access via 3G modem and
- 2 754 users accessing the Internet via Hot –spots.

At the end of 2008, there were 132 651 registered users in Montenegro.

T-com	112 736
Mtel	5 828
Mnnews	1 059
Cabling d.o.o	331
Promonte	5 415
T-mobile	4 561
Montsky	2 721
total	132 651

T-Com-provided data on the number of users, regardless of the way of access, is 112 736.

Data for June 2009:

Dial –up users						
	number of users - prepaid			number of users - postpaid		
	natural persons	legal persons	total	natural persons	legal persons	total
Internet Montenegro	68 345	4 293	72 638	45 467	3 017	48 484
MontSky			1 904	-	-	-
Total Internet Montenegro						121 122
Total MontSky						1 904
Total						123 026

ADSL users – Montenegrin Telecom		
legal persons	natural persons	Total

## 10 Information society and media

5 261	29 421	34 682
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WiMAX users - Mtel		
legal persons	natural persons	Total
393	5 990	6 383

Leased lines – legal persons			
Internet Montenegro	MNNEWS	Cabling	Total
188	201	3	392

CDS – Cabling			
legal persons	natural persons	Total	
18	349	367	

Hot-Spots	Internet CG – T-Mobile	MNNEWS	ProMonte	total
Number of users	325	875	265	1 465

Internet access via 3G modem					
	postpaid			prepaid	total
	legal persons	natural persons	total		
T-Mobile	289	1 654	1 943	4 907	6 850
ProMonte	774	511	1 285	8 463	
Mtel			364		364
					17 962

In June 2009, in Montenegro, there were:

- 123 026 users accessing the Internet via dial-up connection;
- 34 682 ADSL users;
- 6 383 users accessing the Internet via WiMAX technology;
- 392 users of leased lines for Internet access;
- 367 users of cable distribution system for Internet access;

- 17 962 users of mobile Internet via 3G modem and
- 1 465 users who accessed the Internet via Hot –spots.

**Manner of setting Internet use prices:**

The *Law on Electronic Communications* stipulates that the Agency regulates retail prices by imposing to the operator with significant market power one of the measures aimed at: preventing calculation of exaggerated prices; banning obstruction of market access; preventing competition limitation by setting prices too high or too low; preventing unjustified user benefits and groundless service packaging. Based on these measures, the Agency can prescribe one of the following methods of price setting:

- price cap method;
- method of individual tariff regulation;
- method of cost-oriented prices
- price adjustment with those in comparable markets.

With the *Operation Plan for implementing the Programme of the Agency in 2009*, the Agency has foreseen the adoption of two acts before the end of the year:

*The Rulebook on cost accounting and holding separate accounting records* and the *Rulebook on retail price regulation*.

Until these rulebooks are adopted and in force, the Agency, when processing operators' requests for price modifications, is allowed to demand from the operators: data on detailed description of services for which price setting or price modification is demanded; data on the service quality; data on realized income for those services for given period of time; data on sold services and cost analysis for provided services, particularly the costs of workforce, materials, amortization and the cost of capital.

**28. Describe the situation as regards infrastructure access to cables and ducts, as well as the current extent of facility sharing.**

The facility sharing is based on commercial grounds between interested operators, while the Agency for Electronic Communications and Postal Services incites contractual regulation of shared use, and in case that the deal on facility sharing cannot be reached, the Agency resolves the dispute between the parties involved in accordance with the *Law on Electronic Communications* (Article 33). In special cases, when facility sharing is needed for the purpose of environmental protection, people's health, security, spatial planning or rational land use and if the operators fail to reach an agreement on shared facility use, the Agency sets the terms and rules for facility sharing, after conducting a public discussion.

Facility sharing is enabled for the use of telecommunication ducts owned by Montenegrin Telecom. Several cable operators have signed agreements on the use of telecommunication ducts with Montenegrin Telecom.

Furthermore, mobile operators and the Broadcasting Centre of Montenegro have enabled shared use of passive infrastructure such as antenna towers and other belonging elements (for example equipment facilities, electric power supply), based on the concluded agreements.

## II. INFORMATION SOCIETY SERVICES

### A. Policy

**29. Please describe the institutional framework of the sector, with reference to the relevant government bodies, the role of the parliament and possible other organisations or institutions. Also describe the policy for the development of the information society in your country. If a strategy document exists, please provide a copy in an EU language. Is there any national policy initiative similar to the eEurope or i2010 initiatives?**

The Ministry for Information Society was established in January 2009, with which the Secretariat for Development ceased to exist - under whose competence, among other things, was the issue of information society development. The new Ministry, as regards the development of the information society, has the same responsibilities as the former Secretariat for Development, with some additional competences concerning development and incitement of ICT initiatives, policymaking, project developments, etc, within all the Government bodies.

In accordance with its competences, the Ministry for Information Society has prepared and the Government has adopted the *Strategy for Development of Information Society of Montenegro for period 2009 – 2013* ([Annex 153](#)). Some of the basic goals of the Strategy are: improvement of the ICT domain, partnership-building between the private and public sector, promotion of society changes, enabling and inciting local initiatives..., in general – creation of the information society – a knowledge based economy.

With this *Strategy* the following fields of development of information society are defined and recognized: European goals and standards, institutional and legal framework, e-education, registries, e-government, e-business as well as e-banking, e-healthcare, ICT infrastructure, data protection, development of the ICT sector. The *Strategy* was made in accordance with the guidelines defined in strategic documents such as the *Strategy for Information Society Development – a Knowledge Based Economy Path – 2004-2007*, the *Action plan for development and implementation of informatics projects in the Government of Montenegro until the end of 2008*, *e-SEE Agenda Plus*, *EU program i2010*, as well as the programmes of region countries.

For the purpose of the creation of information society in Montenegro, the Ministry for Information Society represents the competent body accomplishing, in cooperation with other institutions, the laid down goals.

Alongside with the Ministry for Information Society, the competence for the development of information society, especially in the field of telecommunications, are assigned to The Ministry of Transport, Maritime Affairs and Telecommunications' Department of Electronic Communications and Postal Services, as well as The Agency for Electronic Communications and Postal Services as a regulatory body.

The Agency is functionally independent from legal and natural persons providing networks, equipment or services for electronic communication. The Agency cooperates and harmonizes its work with other countries' national regulatory bodies as well as the European Commission and The International Communication Union, World Post Union and other international organizations dealing with electronic communications and postal services.

The Agency keeps the register of operators, register of granted radio-frequencies, register of assigned numeration and addresses, in accordance with regulations of the Ministry competent for electronic communications and postal services regulating the content and method of keeping those registers. The Agency keeps and regularly updates a database of licence holders for electronic communications and postal services in accordance with the law in all the elements included in the database. The Agency keeps and regularly updates a database of radio-frequency spectrum in accordance with the *Law on Electronic Communications*.

**30. What body is in charge of the information society policies, including its implementation? How is the coordination of activities, developments and policies performed and ensured in the sector?**

The Ministry for Information Society, together with the Ministry of Transport, Maritime Affairs and Telecommunications, is in charge of information society policies, including their implementation. In that sense, in cooperation with other institutions the Ministry prepares policies to be adopted by the Government and has a role of coordinator as well as project operator.

As regards its administrative capacities, the Ministry for Information Society is composed of three technical sectors as well as a general affairs sector. Technical sectors, as recognized by the Ministry, are the Sector for Development of e-Government, the Sector for Promotion of Information Society and the Sector for Development of Informatics Infrastructure.

Bearing in mind problems institutions often face during project realization at the level of coordination, operation, implementation, etc; based on experience, methodological guidelines for development of all the informatics projects, the *Action plan for development of informatics projects in 2008* defines following managerial structure:

1. *Project Council* - this body is made of maximum 5 people from the fields the projects deal with. The highest representatives are assigned to the Council, thus enabling project related decision making at the highest levels (councils that have been established and are operational are the Council of the Central Register Project and the Council of the Judicial Information System Project);
2. *Project manager* – a person who knows well both the objective and aim of the project, its structure and processes. It can be a person already employed in the administration or a subcontracted person - outsourcing.
3. *Operation project team* – made of maximum 5 members, representatives of both governmental administration and contractor (partner company).

Depending on the size of the project, the abovementioned structure is established; whereat the *Action Plan* project operators are corresponding ministries, state bodies, as well as other institutions. The intention is to ensure - through coordinated approach, with maximum participation and professional support of the Ministry for Information Society in terms of development and implementation – the highest possible level of feasibility of projects.

Project realization and implementation are therefore performed through coordinated activities at the highest level of decision making. For every project that has been provided with this sort of managerial structure, for the purpose of quality realization and active monitoring of the project, weekly meetings are held between project managers and operation teams as well as the meetings of the Project Council.

**31. What is the budget allocated to the policy, what is the administrative capacity and what are the implementation mechanisms?**

The development of the information society encompasses not only project implementation, but also technical and educational training of users: citizens, employees, and economic operators. In this respect, the allocated budget for 2009 partly enables support for the activities on establishing principal registers as basic services of an information society.

For the year 2009, the budget allocated for the realization of the information society projects totals EUR 9 173 886.38 (EUR 5 524 583.30 after the budget was amended) for the following projects: central register of population; register of economic operators; register of legislation; non-proprietary lien register; e-public procurement; e-auctions; e-document management system – e-DMS; establishing of the certification agent (CA) – public keys infrastructure (PKI); e-Government portal;

judicial information system; evaluation of the e-Government in Montenegro based on the evaluation of the Implementation of 20 common principal public services; portal of the Government of Montenegro; system for the implementation of EU projects; information system of the European integration; secure communication between diplomatic and consular representative bodies and the Ministry of Foreign Affairs; "100 for 100" (100 computers for 100 best ranked pupils of primary and secondary schools at national level competitions); ten awards for the best ten informatics solutions at Montenegrin universities; free e-mail address; foundation of the e-Montenegro centre.

With regard to the attained level of development of the information society in Montenegro, the allocated budget could only partly meet the needs for the realization and implementation of the projects in this sector.

The implementation mechanisms are explained in the answer to the question 30.

## B. Basic data on Internet access

### 32. Please provide Internet access rates for:

#### a) schools, both primary and secondary education;

Out of a total of 162 primary schools in Montenegro 84 of them have Internet access. It makes 51.85 % of primary schools with Internet access.

As far as secondary schools are concerned, the percentage is 100, which means that all the secondary schools in Montenegro have Internet access.

As regards the number of schoolchildren using the Internet, the percentage is as follows:

	With Internet access	Without Internet access
<b>Number of primary school students</b>	<b>67 203</b> <b>(90.55%)</b>	<b>7 017</b> <b>(9.45%)</b>
<b>Number of secondary school students</b>	<b>31 333</b> <b>(100%)</b>	<b>0</b> <b>(0%)</b>
<b>Total:</b>	<b>98 536</b> <b>(93.35%)</b>	<b>7 017</b> <b>(6.65%)</b>

Source: Ministry of Education and Science

#### b) households;

There are 183 853 households in Montenegro.

(Source: MONSTAT).

Out of them 63 687 have Internet access (data for the period until June 2009 inclusive).

Hence, 34.64% of households in Montenegro have Internet access.

Following data show the types of Internet access:

dial-up prepaid	15 305
dial-up postpaid	10 457
ADSL	29 421
WiMAX	5 990
mobile Internet access provided by ProMonte	511
mobile Internet access provided by T-mobile	1 654
CDS	349
<b>total</b>	<b>63 687</b>

Source: Agency for Electronic Communications and Postal Services

**c) enterprises, per size (SMEs, medium, large) and sector if possible.**

The total number of active enterprises in Montenegro is 41 706.

(Source: Register of the Commercial Court of Montenegro)

The total number of enterprises in Montenegro with Internet access is 9 512 (data for the period until June 2009 inclusive).

Number of enterprises with Internet access expressed as percentage: 22.81%.

dial-up prepaid	1 365
dial-up postpaid	1 020
ADSL	5 261
WiMAX	393
mobile Internet access provided by ProMonte	774
mobile Internet access provided by T-mobile	289
leased lines	392
CDS	18
<b>total</b>	<b>9 512</b>

Note: there is no statistics on Internet access per size.

## C. Research

### **33. What is the specific public policy for promoting and supporting research on Information Society Technologies (ISTs)? If a strategy document exists, please provide a copy in an EU language.**

The Ministry for Information Society was formed in January 2009, whereas immediately prior to that, in February 2009, *the Strategy for Information Society Development of Montenegro for period 2009 – 2013* had been adopted. The Strategy represents a fundamental document from which all the activities in the field of the information society development derive and whose realization is assigned to the Ministry for Information Society.

*The Strategy for Information Society Development* has recognized as one of its main objectives in the following period the affirmation, *i.e.* promotion of the ICT achievements in Montenegro. In that context, the Ministry for Information Society has formed the Sector for Promotion of Information Society, as one of its sectors.

The operational mission of this Sector within the Ministry for Information Society is to popularize the very notion of ICT in all the segments of the population of Montenegro, which means bringing closer everything a developed information society is made of. For the realization of these plans, the Sector for Promotion of Information Society will use different types of marketing and public relations techniques.

The Sector for Promotion of Information Society performs activities concerning:

- preparation of the Strategy for the information society development;
- monitoring information society developmental indicators;
- defining the set of indicators as well as their evaluation for the purpose of projecting the state of information society development;
- defining and adjusting the methodology to measure the indicators;
- gathering, organizing and processing all the relevant statistical data;
- gathering and analyzing data for the purpose of monitoring developmental indicators and providing information needed for the operation under the competence of the Sector;
- participating in inter-ministerial committees with the purpose of taking joint actions in information society building;
- carrying out researches in the field of information society;
- making analyses, reports and statistical supplements;
- gathering and processing data on the level of development of information society resources and projects;
- making plans, agendas and sectoral reports;
- making action and operation plans in the field of information society and monitoring their realization;
- managing projects in the field of information society development;

- proposing and carrying out marketing plans for the purpose of information society promotion;
- cooperating with universities and other educational institutions with regard to information society advancement and development;
- organizing contests for best informatics solutions and promotion of the talented;
- setting up budgets for the projects as well as sources of their financing; communication with donors, consultants and contractors;
- analysing national developmental potentials in the field of information society in order to strengthen innovativeness both in the economy and society;
- gathering data for the purpose of analysing applied technologies and markets;
- cooperation with the ICT sector;
- taking part in the preparation of both national and international ICT systems plans;
- preparation of analyses, reports and materials serving as fundaments for the advancement of developmental policies in the field of information society;
- keeping in touch with new ICT achievements and preparing suggestions for their application through the corresponding legal framework;
- making comparative analyses with other countries in the field of information society;

**Objective of the promotion of the information society** is to point out the necessity of applying modern technological solutions in everyday activities to all citizens of Montenegro.

One of the goals is to promote the corresponding projects to be realized by the Ministry for Information Society.

The final result of these activities is even stronger PC penetration, Internet penetration, as well as the use of information and communication technologies in Montenegro.

Since the realization of the objectives defined by the *Strategy for Information Society Development* is under the competence of the Ministry for Information Society as a state body, the target groups are all the citizens as well as all the economic operators in Montenegro.

Promotional activities will be conducted with the use of different marketing mechanisms and PR techniques bearing in mind the economic justification of undertaken activities. The goal is to attain a maximum effect with minimum investments. Furthermore, in this context, some of the projects will be conducted through the public-private partnership. At the same time, possibilities of cooperation in these projects with international institutions and UN organizations operating in Montenegro, as well as with the NGO sector will be examined. It is important to mention that the promotion of information society necessitates – in order to be utterly successful – cooperation between multiple factors: the Ministry for Information Society, the Ministry of Education and Science, local self-governments, ICT experts, ICT sector, University, schools, etc.

#### **34. What are the main universities, research institutes or centres active in IST research? In which domains?**

All the researches in the IST field are organized at the faculties of the three existing universities in Montenegro:

- 1) **UNIVERSITY OF MONTENEGRO (<http://www.ucg.ac.me/>)**
  - **Faculty of Natural Sciences and Mathematics (PMF - <http://www.pmf.ac.me/>)**  
Undergraduate studies

- Academic studies – Mathematics and computer sciences, Computer sciences
- Applied studies – Computer sciences and information technologies

Postgraduate studies

- Computer sciences

Doctoral studies

- Computer sciences

- **Faculty of Electrical Engineering (ETF - <http://www.etf.ac.me/>)**

Undergraduate studies

- Academic studies - Department for Electronics, telecommunications and computers
- Applied studies – Applied computer sciences

Postgraduate, master's and specialist studies

- Academic studies - Department for Electronics, telecommunications and computers
- Applied studies – Applied computer sciences

Doctoral studies

- **Faculty of Economics (EF - <http://www.ekonomija.co.me/>)**

Undergraduate studies

- Year IV - Department: Business Information System

Postgraduate studies (<http://www.postdiploma.ef.ac.me/>)

- Department: Management of Information Systems

At the University of Montenegro and its abovementioned faculties researches are conducted in laboratories and centres within these faculties. They are partly financed by the Ministry of Education and Science and partly by the projects for which the educational staff apply at foreign, mostly European institutions. Some of the projects are financed by non-European foundations (Canada, USA, Japan, etc) while others are financed by some Montenegrin companies.

Researches is administered by the educational staff while students, undergraduates, postgraduates and doctoral candidates participate in it using the research results both for academic purposes (seminar, master's and doctoral theses) and for scientific purposes (scientific publications at national and international conferences and symposiums as well as in corresponding scientific journals. As far as the educational staff is concerned, scientific publications represent a necessary criterion for their academic promotion.

Students prepare seminars and degree essays in the University laboratories. The most popular ones are those on programming, Internet technologies, databases, artificial intelligence, computer networks and distributed computer systems, information safety, etc.

**Centre Of Information System (CIS - <http://www.cis.ac.me/>)**

This academic network has become an integral part of academic surroundings, important educational component and necessary part of administrative and financial activities.

Since its foundation in 1996, the Centre of Information System (CIS) is a part of the University of Montenegro.

Units of the University of Montenegro are located in 9 cities (Podgorica, Kotor, Cetinje, Nikšić, Herceg Novi, Bijelo Polje, Pljevlja, Budva and Berane) at different locations within these cities. They are all users of the academic network and every unit has a local computer connected to the CIS and through the CIS to the academic network and Internet. It should be noted that the entire communication infrastructure is based on fibre optics.

The CIS currently has 15 full-time employees (10 ICT specialists, 4 operators and 1 administrative officer) and many part time employees (within particular projects), volunteers and students (graduate and master's). Some staff members teach at several faculties of the University. The CIS is a full-time member of TERENA (Trans-European Research and Education Networking Association) as a representative of Montenegro Research and Education Network. The CIS has

participated in two FP6 projects SEEREN2 ([www.seeren.org](http://www.seeren.org)) and SEEGRID2 ([www.see-grid.eu](http://www.see-grid.eu)) as well as in several WUS Austria projects in the field of e-Learning.

The Government of Montenegro has committed the role of the administrator of Montenegrin Internet domain (.me) to the Centre of Information Systems.

**Montenegrin Research and Education Network (MREN - <http://www.mren.ac.me/>)** was founded in June 2005 and groups all the network services and communication support capacities meeting IT needs of the education and research community in Montenegro. The CIS is responsible for technical maintenance and monitoring of the National Network for Research and Education. The Ministry of Education and Science (Sector for Science, Research and Technological Development) is responsible for professional and administrative activities required by the MREN.

The MREN's main objective is to create, promote, offer, participate, and maintain a necessary basis for an effective use of modern telecommunication technologies in education and research work in Montenegro. Its mission is to connect MREN with the GEANT – a multi-gigabyte pan-European network for data exchange reserved for research and education needs via broadband networks based on optic fibres.

At the same time, the MREN's goal is to provide support for the use of Pan-European and international research networks by Montenegrin researchers, scientists, lecturers and students as well as integration of Montenegrin educational, research and cultural resources into international information space. The MREN's main task is to represent and protect interests of Montenegrin scientific community as well as support further implementation of information technologies in all the social and economic fields.

The MREN primarily operates in the interest of the University of Montenegro and research institutes as well as scientific departments. Its main activities are focused on several vital areas:

1. Maintenance and development of an academic network;
2. Planning, designing and implementation of technological and developmental projects, in particular the research network and the GRID;
3. Representing Montenegro in the field of European and international research network;
4. Promotion of e-business technologies.

Its mission is to provide high-quality international and national network services to academic and research institutions in Montenegro as well as to support research and educational activities in both public and private sector. The MREN also promotes ICT use in public and private sector for the purpose of social development of knowledge based economy, through e-Government, e-Learning and e-Business.

Until now, the MREN's development and operation has been co-financed by the European Commission through the project SEEREN 2 and the Ministry of Education and Science. Currently, it is conducted through SEE-GRID-SCI, SEE-ERA-EI and GEANT3 (starting this year). The plans also include EGI, a sequel to SEEGRID.

## 2) UNIVERSITY MEDITERRANEAN (<http://www.unimediteran.net/>)

- **Faculty of information technologies (FIT- <http://fit.unimediteran.net/>)**  
Undergraduate studies
  - Study Programme: Information TechnologiesPostgraduate and specialist studies:
  - Study Programme: Information Technologies

University Mediterranean is the first private university in Montenegro. As an accredited and licensed institution it enables acquiring academic degrees in the fields of tourism and hotel management, information technologies, business studies, visual arts, law and foreign languages.

So far the FIT has carried out following research projects:

### **Project Tempus JEP - 41016 - 2006 M.Sc. Curriculum in e-Learning**

The project should address the two main problems:

- enabling high-quality and specialized education in the field of e-learning and

- organizing new M.Sc. studies in the field of e-learning in accordance with the principles of the Bologna declaration.

### **Development of Future Internet-Based Enterprise Systems in Agriculture**

The goal of the AgriSmart project is to combine four areas, not only in an optimistic scenario, but also under conditions when exceptions and malfunctions are possible, and may have a tremendous negative impact.

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### **Development of a Customer Satisfaction Oriented System in different fields – Service Architecture and Software Platforms for Commerce, Tourism, Recreation and QoS (Quality of Service)**

This proposal (SatisVar) is focused on the problem of service architecture and platform for a future customer satisfaction oriented Internet system.

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### **Development of a Technology-Enhanced Learning System to Induce Creativity by Involving Community**

The focus of this project proposal is on both, teaching/learning practices (cognitive aspect) and communications technology (ICT aspect), aimed at inducing creativity through collaborative communications that involve the community in the widest sense. This research problem has two major dimensions: development of teaching practices that induce, stimulate, and accelerate creativity via interaction (cognitive dimension) and development of communications technologies enabling improved exchange of ideas (ICT dimension).

### **3) UNIVERZITET DONJA GORICA** **Faculty for Information Systems and Technologies** **(FIST - [http://www.udg.cg.yu/site/fist/o\\_fakultetu.php](http://www.udg.cg.yu/site/fist/o_fakultetu.php))**

University Donja Gorica (UDG) started operating in school year 2008/2009; therefore it has not yet neither conducted nor initiated research works in the field of IST.

**The Ministry of Education and Science**, *i.e.* the Sector for Science, Research and Technological Development conducts most of its scientific and research activities through a tender for co-financing. This national Tender is invited every year and includes the co-financing of:

- scientific and research projects (**one of the biggest entries in the science budget**);
- acquisition of equipment;
- participation in scientific conferences, both national and international;
- organization of scientific congresses;
- master's and doctoral fellowships.

Furthermore, within bilateral scientific and technological cooperation joint research projects are conducted through co-financing of mutual visits of researchers from the countries with which Montenegro has signed agreements on scientific and research cooperation

One of the latest activities of the Ministry of Education and Science is aimed for researchers who apply with their projects through the FP7 allowing the Ministry to grant them EUR 1 000 if the projects are approved by the EC evaluators.

Corresponding national projects conducted in the period 2006-2009 are: Decomposition of complex signals applying time-frequency analysis; estimation of signal parameters based on time-frequency transformations with application in telecommunication systems; Warping complex-time distribution and its use in watermarking; Development of micro-electronic systems for telemetric applications with special focus on environmental control; Projecting specialized hardware for processing high non-stationary unidimensional and multi-dimensional signals for time-changing

filtering; Generalized time-frequency distributions: application in multimedia systems and hardware realization; Local polynomial approximation and techniques of multi-parametric optimization in parameters estimation and signal filtering; Study of influence of commuting appliance structure on package commuter's operation implemented on a NetFPGA platform; Analysis of OFDM relay's and OFDM cooperative diversity systems' performances; Analysis of non-stationary signals in time-frequency domain with use in radar signals; New concept in WHC systems' development.

## D. Public sector

### 35. What are the public services offered currently on-line to citizens and businesses?

There are no official studies either on the number of companies included in electronic business, or about their structure.

The fact is that a number of solutions exist on different levels (Level 1 - *Information*, Level 2 – *One-way Interaction*, Level 3 – *Two-way Interaction*, Level 4 – *Full electronic case handling* and Level 5 - *Personalization*) enabling electronic business.

The Concept of e-Government is in its initial developmental phase, in terms of offering online services to the citizens, as well as to the companies and employees. Its development has been recognized by the *Strategy for Information Society Development of Montenegro for period 2009 – 2013*, while the Action Plan defines concrete activities for the realization of the objectives set by the strategic document. Prerequisites for the development of online service are reflected in the existence of a corresponding level of Internet penetration, implementation of legislation, as well as reliable and secure information infrastructure.

Online services offered by the Government and the ministries are characterized by different levels of interoperability, interactivity of information, applications, information on legislation, procedures, corresponding ministries and agencies.

Public services currently offered online can be divided into categories, depending on who offers them:

- Government of Montenegro ([www.gov.me](http://www.gov.me)), ministries, Parliament ([www.skupstina.me](http://www.skupstina.me))
- Governmental agencies, councils, funds (the Agency for Electronic Communications and Postal Services, the Broadcasting Agency, the Retirement Fund, the Employment Office, the Public Procurement Directorate, the Privatisation Council, etc)
- Other Government institutions (the Central Bank of Montenegro, Projects, Offices, etc.)

The level of online interactivity and online accessibility differs from one institution to another – some of the segments are characterized by a high level of online accessibility.

In the field of electronic business most of the legal and natural persons in Montenegro use e-banking services.

For the purpose of operating in the area within its competence in a quality and efficient way, the Customs Administration of Montenegro (<http://www.gov.me/upravacarina/>) has launched an online service for customs clearance procedures offering to the users to submit electronic customs declaration forms. Furthermore, a guarantee tracking system has been installed and launched. Legal persons can, via Internet, access and check their positions and details of the charges on their bank guarantees, common and general insurance, and then plan their export and import activities. At the same time, it ensures transparency of operation of all those involved in customs procedures.

One of the examples of e-business with high penetration is the Internet presentation of cadastral data by the Real-Estate Administration of Montenegro (<http://www.nekretnine.co.me>). In a very quick and simple way one can access all the cadastral record data entering a real estate proprietor's unique identification number, title deed number or land parcel number.

## 10 Information society and media

The Public Procurement Directorate (<http://www.djn.gov.me>) is a portal aimed at establishing an advanced system of public procurement so that the state and economic operators can achieve maximum value for money, which will eventually bring a series of economic benefits in both private and public sector (competition incentive, corruption and bribery, efficiency and economy as well as improvement of public finances management). It also contains information and notifications on public tenders, search, download of necessary documents, legislation, etc.

Following tables list and describe online services offered by some state institutions:

Table 1: Example of advanced services offered by the Government, ministries and the Parliament

Government, ministries and Parliament	Online services
Government <a href="http://www.gov.me">www.gov.me</a>	Information and documentation concerning Government's activities, information access via search engine, "Ask the Government" button enables question asking through forms and e-mail  A new portal is under construction
Ministry for Information Society <a href="http://www.mid.gov.me">www.mid.gov.me</a>	Information on Ministry's activities, news, interviews, strategic documents, laws, archive, search and documentation download, links with partner institutions' web sites, mailing list
Ministry of Transport, Maritime Affairs and Telecommunications <a href="http://www.mibnsaob.gov.me">www.mibnsaob.gov.me</a>	Information, news, public debate on laws, strategic documents, laws, archive, search, and documentation download, etc. de
Ministry of Economy <a href="http://www.minekon.gov.me">www.minekon.gov.me</a>	Information, news, law search, archive, documentation download, current projects presentation, "ask minister" form and contacts, information on current tenders
Parliament <a href="http://www.skupstina.me">www.skupstina.me</a>	News, laws, members of Parliament, assemblies, search, database of agendas, minutes from the meetings  A new portal is under construction

Table 2: Example of advanced services offered by government agencies, councils, funds and other government institutions

Institutions	Online services
Agency for Electronic Communications and Postal Services <a href="http://www.ekip.me">www.ekip.me</a>	Information, links, public consultation, information on tenders, archive search forms, documentation download, agenda, financial
Employment Office of Montenegro <a href="http://www.zzzcg.org">www.zzzcg.org</a>	Information on vacancies, user registration and vacancies search (interactive form), forums, archive, offer/demand

Privatisation Council <a href="http://www.savjetzapravatizaciju.me">www.savjetzapravatizaciju.me</a>	News and activities, current and finished tenders search, question form, opinion polls, advanced search, documentation download
Central Bank <a href="http://www.cb-mn.org">www.cb-mn.org</a>	News, current affairs, exchange rates list, financial institutions, auctions, tenders, bids and advertisements
Securities Commission <a href="http://www.scmn.me">www.scmn.me</a>	Information, legislation, forms download (by business types), stock exchanges and indices, mailing lists

At the local level, municipalities' incentives depend on financial sources allocated to web-oriented services; hence types of services and levels of interactivity vary. Out of 21 municipality, only two

have no internet presentation whatsoever, while others offer online services with different levels of interoperability.

Municipality	Online services
Union of Municipalities <a href="http://www uom co me">www uom co me</a>	Information, current affairs, regions, municipalities and information on municipalities
Podgorica <a href="http://www podgorica me">www podgorica me</a>	Information, guides, questionnaires, documentation downloads, info centre
Herceg Novi <a href="http://www hercegnovi me">www hercegnovi me</a>	Current affairs, information, multimedia, e-postcards, weather forecast, searchings
Kotor <a href="http://www kotor me">www kotor me</a>	Information, searching, city map, information for citizens and companies, documentation download, question forms
Mojkovac <a href="http://www mojkovac me">www mojkovac me</a>	Information, current affairs, phonebook, documentation download, information for citizens and companies
Bijelo Polje <a href="http://www bijelopolje co me">www bijelopolje co me</a>	Useful information, employment "ask the Mayor" form, stock exchange, civil rights, information for citizens and companies, forum

In addition to state bodies, online services are offered by educational institutions too, while their main characteristic is increased interactivity as well as higher level development level of the services. Almost all the faculties of the University of Montenegro have online services with all the necessary information regarding curricula and study programs, exams and exam results. An academic network allows every student to open a personal e-mail account and create a "personal web page". The Faculty of Electrical Engineering has introduced electronic student's transcript with ID cards. A number of faculties have introduced the service of e-learning. This way, students can attend lectures and pass exams applying distance education services. For example, some of Faculty of Economics of the University of Montenegro's postgraduate professors hold video online lectures from the USA.

For the time being, the most developed online services are those offered by ICT providers enabling phonebook search, checking one's own phone bill, online orders of certain services, etc.

It is very important to mention that the banking sector has been offering e-banking services for several years now. As far as this sector is concerned, all banks in Montenegro offer e-banking services.

### **36. What are the penetration/usage rates of these services?**

We do not have reliable data on the level of penetration/use of these services.

Montenegro's Statistics Office – MONSTAT, has not conducted a research of this type in accordance with some of internationally recognized methodologies (for example EUROSTAT). This is why, for the purpose of gathering more reliable data and linking them with e-Europe indicators, the Ministry for Information Society has initiated *ICT survey*, an annual statistic research using the EUROSTAT methodology. This document should consist of four questionnaires: (i) for companies; (ii) for finance sector companies; (iii) for households and (iv) for the Government and governmental institutions, public sector and agencies. It will encompass the data on: hardware, networking, Intranet, web presentations, operating systems, databases, software, computer use, IT human capital, trainings and ICT investments.

Furthermore, the Ministry for Information Society has, in its *Action plan for development and implementation of informatics projects in Montenegro until the end of 2009*, foreseen a realization of the project named *Evaluation of the state of e-Governance in Montenegro based on the evaluation of the implementation of 20 basic public services*. In fact, the EU directives regulate an implementation of the portal consisting of 20 main e-government services for the citizens, administration and businesses. In 2007, the European Commission established a methodology to be used in researching sophistication, accessibility, openness and other similar characteristics of state administration's and other similar portals. In accordance with that and within timelines foreseen by the *Action plan*, this evaluation project will be conducted.

In some particular sectors (such as the Customs Administration of Montenegro, Real-Estate Administration of Montenegro, banking sector, the Public Procurement Directorate, the Employment Office) the penetration/use rate is very high. It should be mentioned that because of the usage disproportion of these services, the groups of users vary a lot. This is why it is not possible to present penetration/use percentages without a methodologically conducted research.

As far as IT companies are concerned, their services' penetration/use rate is at a higher level, meaning that it is very high. Presently, one can make an online order of an ADSL connection, IPTV, get information about one's user account, order movies (VoD), change service package, access public information on users (phonebooks, both fixed and mobile), etc.

Penetration/use rate for online services in educational institutions is also very high.

### **37. What is the institutional set up and what are the regulatory instruments and procedures for data security and the protection of privacy in the sector?**

In accordance with the *Law on Electronic Communications* (Official Gazette of Montenegro 50/08) operators of public communication networks must take appropriate technical and organizational measures in order to ensure safety of their services and protect their users from malevolent activities, electronic sabotage, third party fraud or any other sort of misuse.

The Government of Montenegro adopted in May 2008 the *Information Security Programme dealing with organizational and administrative aspects of introducing information security systems in Montenegro*, having regard to the prerequisites for a systematic development of legislation, methods, proceedings and technical systems in the field of information security. By adopting this national programme, a systematic process of introducing information security in Montenegro began. The Government has also adopted the *National Information Security Policy* and the *Law on Information Security* is in its final drafting stage. The Government and corresponding administrative bodies should bring appropriate decrees, rulebooks and guidelines. In accordance with that, the remaining implementation regulation will be adopted in the forthcoming period in specific security domains (security check of persons, physical security, data security, information systems security, third party access security as well as external cooperation security). Thus, coordinated proceedings, *i.e.* a system of obligations and responsibilities of particular state administration bodies in the process will be regulated. With the abovementioned regulation, minimum criteria on the level of central government will be ensured, which is one of the main requirements of NATO's *Membership Action Plan* (MAP).

With the *Strategy for Information Society Development of Montenegro for period 2009 – 2013* it has been recognized that information security represents the very foundation for information society building and organization. The main objective of security and data protection strategy is to enhance security in all the segments and to bring it to an optimal level. Attaining this goal is a continued process that must be carried out in a planned way which demands investments in knowledge and technology. In order to achieve these goals, several basic steps that must be made are defined:

- *Completing and implementing legal infrastructure* - adopting laws dealing with this domain that have not yet been adopted, as well as implementing the PKI.
- *Creating an expert team/body to deal with the issue of data and systems security* – a body that will have a role of both coordinator and regulator in the field of data security and whose task will be to draft decrees on data protection as well as technical documents defining a minimum set of standards in systems security; monitor implementation of adopted measures; take control function in the field of security of state bodies, etc.
- *Adopting a general decree on data protection at the state body level* – thus an elaboration of basic elements defined by the *Law on Information Security* will be provided. Furthermore, the decree will specify the main stakeholders as well as their duties and responsibilities and measures to be taken for the purpose of ensuring protection of critical data and systems.
- *Adopting one or more technically oriented documents* that will define a minimum set of standards to be met to call a system secure – document(s) should treat and technically elaborate all the aspects of data security, as provided in ISO/IEC 27001, and based on the measures defined in the decree on data protection. In general terms, what should be covered is: data identification and administration; organization of protection systems; system protection policy; security on a physical level, interior protection; equipment protection; managing protection in communication and governance; access control; security system development in information systems; data acquisition and maintenance, and managing security emergency.
- *Establishing of the ME-CERT-a (Montenegro Computer Emergency Response Team)* – a national organization whose main duties will be: coordination and technical assistance in case of emergency (for the purpose of ensuring security) involving networks or systems in Montenegro, either public or commercial; revision of protection systems; technical expertise in the field of system and data protection; professional training in the field of system and data protection; distribution of data and information of special importance for system security; coordination and exchange of information with foreign bodies and organizations dealing with these issues (FIRST etc); coordination of preventive activities in the field of protection; dealing with problems of security of computer networks of state bodies.
- *User education* – This process includes instructing users of information resources the right way to use them, which is one of the main prerequisites for maintaining a high protection level.

Furthermore, in 2008 the *Law on Personal Data Protection* was adopted (Official Gazette of Montenegro 79/08), which entered into force on 31 December 2008, and whose implementation started after the time limit of six months from the date of entering into force. With this *Law*, personal data protection is ensured under conditions and in the way provided by the *Law*, in accordance with the principles and standards contained in the ratified international agreements on human rights and fundamental liberties, as well as universally accepted rules of the international law.

For the purpose of performing duties of a supervision body, as provided by the *Law*, an Agency for Personal Data Protection will be formed, and it will be independent in conducting activities under its competence and in capacity of a legal person. Its bodies will be the Council of the Agency and the director. The President of the Council and its members will be appointed by the Parliament of Montenegro at the proposal of the competent working body. The Agency will: supervise the implementation of personal data protection in accordance with the *Law*. The Agency will also decide upon demands for the protection of rights; issue opinions regarding application of the *Law*; give consent concerning the establishing of personal data collections; issue opinion in case of doubt whether a personal data set can be considered collection within the meaning of this *Law*; monitor implementation of organizational and technical measures for personal data protection and propose improvements; give proposals and recommendations for personal data protection improvement; issue opinion whether particular way of personal data processing threatens rights and liberties of an individual; cooperate with bodies competent for supervision of personal data protection in other countries; cooperate with competent state bodies during the process of drafting

regulations concerning personal data protection; propose constitutionality review of laws as well as constitutionality and legality review of other regulations and other general acts regulating issues of personal data processing; perform other activities in accordance with this Law.

**38. Please provide information on the (existence of) applicable rules regarding data retention, unsolicited communications (spam), itemised billing, comprehensive subscriber directories.**

The *Law on Electronic Communications* (Article 126) stipulates an obligation of operators providing public communication network services to register their fixed and mobile (both prepaid and postpaid) telephony and Internet service subscribers, as well as to store the registration data until the expiry of user relationships and at least a year following the date of cessation of possibility of service providing.

The same *Law* stipulates that traffic data concerning subscribers or users, processed and stored by providers of publicly accessible electronic communication services, must be erased or made anonymous five years later, even when there is no obligation of data storing.

The *Law* (Article 127) requires operators of electronic communication networks and services to store the following data categories:

- 1) data needed for search and identification of a given communication source via fixed or mobile telephone networks (incoming phone number, subscriber or authorised user's name and address), Internet access, Internet e-mail and Internet telephony (assigned user ID), user ID and telephone number assigned to any communication entering public telephone network and name and address of a subscriber or authorized person that has been assigned a Internet Protocol (IP), user ID or telephone number during the communication
- 2) data needed for destination identification of a given communication via fixed or mobile telephony network (chosen or dialled number in the cases of additional service use, such as call delivery or call forwarding, outgoing number or numbers and subscriber or authorised user name and address), Internet e-mail and Internet telephony (user ID or intended outgoing Internet telephone number and subscriber's or authorized user's name and address and ID of the user of an intended outgoing communication);
- 3) data needed for date, time and duration identification of a communication via fixed or mobile telephony (date, communication start and end time as well as communication duration), Internet access, Internet e-mail and Internet telephony (date and time of a log-in and log-off Internet access service in a given time zone, together with IP address, either dynamic or static, assigned by Internet access service provider for a given communication, subscriber's or authorized user's ID and date and time of log-in and log-off of Internet e-mail service or Internet telephony service, in a given time zone).
- 4) data needed for communication type identification in both fixed and mobile telephony networks (telephony service that has been used), Internet e-mail and Internet telephony (Internet service that has been used);
- 5) data needed for user communication equipment identification or purpose of that equipment in fixed telephony networks (incoming and outgoing telephone numbers), mobile telephony networks (incoming and outgoing telephone numbers, outgoing international mobile subscriber identity (IMSI), outgoing International Mobile Equipment Identity (IMEI), incoming IMSI, incoming IMEI; in the case of prepaid services date and time of initial service activation and activation cell ID), Internet access, Internet e-mail and Internet telephony (outgoing dial-up access number and digital subscriber line (DSL) or other final point of communication initiator);
- 6) data needed for mobile communication equipment location identification: cell ID for the communication start and data for identification of geographic cell location through their cell IDs, for every change of IMEI during the period of communication data storing.

The obligation to store the abovementioned data also refers to the data on unsuccessful incoming calls (connection established but failed to be answered or network management intervened), if these data have been generated and processed in telephone services or logged by operators in Internet services log code.

The *Law* (Article 128) establishes security of kept data, *i.e.* that public communication network operators and services must:

- 1) ensure that stored data have the same quality and security level as relevant network data;
- 2) ensure appropriate technical and organizational measures to protect stored data from illegal or accidental destruction, accidental loss or modification, unauthorized or illegal data storing, processing, access or disclosure;
- 3) ensure appropriate technical and organizational measures enabling only authorized persons' access to stored data;
- 4) destroy stored data at the end of the stipulated storing period, with the exception of those that have been accessed and saved.

The *Law on Electronic Communication* (Article 124) in the part concerning unwanted communications allows the use of IVRs, fax machines or e-mails for outgoing calls toward subscribers for direct marketing purposes, but only with previous subscriber's consent and if not contradictory with that stipulation if a legal or natural person receives contact e-mail data from its client with the purpose of marketing its own or similar products or services, whereas the client must be offered an option to comment or refuse such a use of his/her electronic contact data, simply, free-of-charge any at any time.

Such electronic communications with marketing purposes, except in the abovementioned cases, are not allowed without subscriber's consent, as provided by the *Law on Electronic Communications*, which includes direct marketing e-mail where sender's identities are misinterpreted or hidden, or given with false address thus preventing the addresses to send a request for termination of such communication.

The *Law on Electronic Communications* (Article 113) stipulates public communication service operator's obligation to use an equipment enabling precise recording of provided communication services with the purpose of precise service billing and to enable user's insight into these data, or to issue, free-of-charge and detailed bill, with itemization providing clear recognition of all items as well as checking of the billed amount, whereas the itemization cannot encompass free telephone numbers, including emergency numbers.

It is also stipulated by the *Law* that the bill for publicly accessible electronic communication services must contain following separate data: billing period, access fee, subscription fee, type and amount of all the possible one-time payments in the given billing period referring to services provided within the period of the billing; type and amount all the possible other, one-time or multiple, no periodic payments; number of calls, call durations, number of billing items, unit price of billing items, separate amounts for local calls, trunk calls, international calls, calls toward public mobile networks (roaming calls can be presented through the type and amount of other provided services), calls toward additional service numbers and data transfer calls, type and amount for other provided services and the total amount.

In the case that an operator provides a higher degree of billing itemization, that must be stipulated in the general terms. If these data must be paid for, the prices must be set as to match the real cost of additional itemization.

The *Law on Electronic Communications* provides the definition and scope of the universal service.

Article 53 of the *Law* stipulates that public communication service providers must keep the following records on their subscribers: name and surname or name of the company that is a user and its organizational type; Unique Master Citizen Number for natural persons and VAT number and registration number for legal persons; user address and assigned user number or user ID. Moreover, operators can keep following records on their users: his /her academic, scientific or

professional titles upon his/her wish; additional payment data unless third persons' interests might be harmed.

The same *Law* stipulates the obligatory content of the universal phonebook as one of services from the scope of the universal service, unless users have requested ban on publication of these data. The phonebook is updated at least once a year, with regards to the manner of its publication. Data provided by the universal service must be updated at least once in 60 days. In the case of existence of a joint user data base, the operator of the data base shall allow data access to the universal phonebook operator, in the scope matching the needs of the phonebook. The universal service operator providing the universal phonebook or the universal information service processes the data provided by different operators of publicly accessible telephone networks on an equal basis.

**39. Provide information on the national domain name registry or registrars. Please provide also information on the number of registered domain names and sub domains, and also provide an overview of the annual price charged (ex VAT).**

In February 2008, the Government of Montenegro signed a contract with the Registration Agent for the national domain .me. The Registration Agent, company Domen d.o.o., whose founders and corporation guarantors are companies Afilias, GoDaddy and Menet, was chosen by public tender.

The domain .me registration is allowed under the same terms both to local and foreign persons. In addition to that, persons from Montenegro are allowed to register their sub domains (below generic domains, so-called third level domains).

For every particular domain, contact data about the person who registered it are kept in the register; those on persons responsible for administrative, technical and financial contacts; as well as those on servers hosting a domain. Data about all the transactions are kept in a special database while a daily data backup about all daily performed transactions is performed by an independent provider (so-called third party backup).

The domain registration is conducted through authorized registrars: currently there are 115 of them worldwide including one from Montenegro. The registrars access electronic database via web interfaces or a standardized EPP. Registrars can freely define prices for final users.

On 5 October 2009, there were 311 587 registered domains, out of them 2 225 third level domains.

In accordance with business rules, the only fixed price are the EUR 10 rate charged by registrars for domain registration or registration renewal for one year period, as well as EUR 5.99 for third level domains for the registrars from Montenegro.

## **E. Private sector**

**40. What is the rate of companies conducting e-business, per size and sector if possible? Which applications?**

Understanding the importance of e-business development, in February 2009 the Ministry for Information Society adopted the *Strategy for Information Society Development of Montenegro for period 2009 – 2013* (<http://www.gov.me/eng/rsr/vijesti.php?akcija=vijesti&id=169877>), in which strategic directions, objectives and priorities of e-business development are defined.

The process of e-business development in our country pervades a broad range of technical, legal, economic and institutional issues. Both private and public sector are involved. Usually the public sector is the one that bears the technical side of development as well as the practical use of it, while the Government has the leading role in creating the appropriate ambience; ensuring

cooperation between private and public e-business initiatives, as well as offering support for establishing information society, including raising public awareness and preparing small and medium companies and public sector for the possibilities that new information technologies offer.

Montenegro's strategic priorities in e-business development until 2013 should be based on the following guidelines:

- establishing high-level of e-business for the purpose of equal-basis participation in the EU Inner Market and information society development;
- using advantages provided by the ICT, as well as the know-how in regulated business processes for the purpose of raising the level of networking in the economy and for increasing its competitiveness;
- increasing efficiency in the public sector;
- creating a knowledge based economy, which will support and improve e-business development in the country.

Basic goals that have been recognized and will be fulfilled in the field of e-business are:

- improving information and communication infrastructure as well as ensuring easier and cheaper access to these technologies;
- promoting e-business, raising awareness and education;
- business process reengineering;
- making a legal and institutional framework for e-business.

In accordance with the abovementioned, the Ministry for Information Society has adopted the *Action Plan for Development and Implementation of Informatics Projects in Montenegro until the end of 2009*, whose goal is to continue the implementation of big infrastructural projects that have already started; realization of small projects whose effects can soon be felt by the citizens, economy and administration employees; as well as promotion of the information society in order to raise awareness on the necessity of ICT use in everyday business and life

Among other things, this *Plan* maps out the realization of some fundamental projects (Central Register of Population, Real Estate Cadastre, Judicial Information System, Economic Operator Register and other G2C, G2B and G2G projects) as well as projects promoting information society development.

To date, following laws concerning this field have been adopted:

- *Electronic Document Law*
- *Electronic Signature Law*
- *Electronic Commerce Law* (<http://www.gov.me/eng/rsr/vijesti.php?akcija=vijesti&id=7839>).

Adoption of the *Information Security Law*, amendments to the *Electronic Signature Law*, *Law on Amendments to the Electronic Commerce Law*, *Electronic Communications Privacy Protection Law*, *Timestamping Authority Law*, creation and operationalization of the PKI as well as the realization of the abovementioned projects starting with the first quarter of 2010 will fully establish an ambience and meet prerequisites for a successful development of e-business in Montenegro.

One of the main prerequisites for quality realisation of e-business is developed telecommunications, i.e. broadband Internet access. Many segments of the telecommunication market in Montenegro have been completely liberalized with widely present competition. Such is the case of both fixed and mobile telephony, international transport, Internet services, and fixed wireless access. The only official research done to date is *Research on Level and Way of Computer, Internet, Fixed and Mobile Telephony Use among the Population of Montenegro* (<http://www.ekip.me/download/izvjestaji/publikacija-internet.pdf>) conducted by the Agency for Electronic Communications and Postal Services (<http://www.ekip.me> ).

Two companies offering web hosting services Montenegrin Telecom and doMEn d.o.o. have following numbers of registered websites:

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– number of websites owned by legal persons	920
– number of websites owned by natural persons	181
– number of server collocations	22

There are no official surveys on the percentage and structure of companies doing e-business. The fact is that a series of solution is operational and allows different levels of e-business.

Legal and natural persons in Montenegro predominantly use e-banking as a form of e-business. All the banks in Montenegro have introduced electronic payment systems, both app offline (client transaction) or app online (web) solutions.

According to the company E-mon <http://emonca.com>, to date the only certification authority (CA) in Montenegro, some 24 per cent of legal persons (out of those who in 2008 declared income tax) use e-banking (information and transactional channels). With the total number of income tax payers taken into account, it would make some 21%. There are no available data by company size and sectors.

For the purpose of quality and efficient performance of duties under its competence, the Customs Administration of Montenegro has launched a customer service for **filing electronic customs declarations**. Using this service, more than 95% of customs declarations (more than 300 000 of them) was filed in 2008. The Customs Administration has also prepared and launched the **guarantee tracking system**. With the use of this way of securing the customs debt, the goods are put on the market after the customs procedure is done while the customs debt remains to be paid in 8 days. Thus, legal persons can check positions and details of their bank guarantees - **common and general insurance** – and plan their exporting and importing activities accordingly. At the same time, this ensures transparency of operation of all those involved in customs procedure.

One of the examples of e-banking with high user penetration is the website of the Real-Estate Administration (<http://www.nekretnine.co.me>). In a very quick and simple way, one can access all the cadastral records data by entering a real estate proprietor's unique identification number, title deed number or land parcel number.

Development of telecommunications, banking and PKI in Montenegro has created prerequisites for the start of e-commerce. An example that proves it is <http://www.prodavnica.co.me>, a portal that can be perceived as a huge web grocery store where the number of firms and offered products increases on a daily basis. Bought articles are delivered by the Post of Montenegro (Pošta Crne Gore). The delivery term for all the articles in stock is 24 hours. The goods are delivered at home addresses in all Montenegrin urban areas. At one place, one can find computers, audio and video articles, home appliances, photo cameras and accessory, phones, perfumes, toys, sportswear, disposable goods, home and office furniture, etc. An e-bookstore, e-pharmacy and e-tool shop are under construction.

#### 41. Are there any incentives offered to companies using ICTs? What kind of incentives?

There is an ICT Association within the Chamber of Commerce of Montenegro whose members are representatives of Montenegrin IT companies and with whom the Ministry for Information Society has excellent cooperation. Within the Ministry, in its Sector for Information Society Promotion, competences regarding cooperation with ICT sector are set in order to strengthen the sector itself, but also to establish the cooperation between the Ministry and the sector, through capacity building, strategy making, local markets development inciting, etc. In accordance with that, the *Strategy for Information Society Development of Montenegro for period 2009 – 2013* dedicates a chapter to the development of the ICT sector and the chapter was written in cooperation with the representatives of the ICT Association of the Chamber of Commerce. The chapter defines the vision of ICT sector development in Montenegro, according to which the ICT sector, as intellectual capital, should be the backbone of future development and an important resource of Montenegrin economy's sustainable development. Through an organized, well structured, rightly positioned and recognizable ICT sector, Montenegro will soon be recognized in the region as an area of

technologic development. Strategic principles are defined, based on understanding the ICT sector as a generator and catalyst of economic changes, supported by intellectual capital and developed information and communication infrastructure. These principles represent the best way toward development of knowledge based economy, international competitiveness of our economy and sustainable development.

*ICT intellectual capital* – The strategic priority in the ICT sector development is that the state helps creation of the infrastructure allowing the intellectual potential in Montenegro to grow into an internationally recognized and competitive intellectual capital.

*International competitiveness* – Development of ICT sector must be conducted in a way that will result in international competitiveness.

*Sustainable development* – Development of the ICT sector, understood as development of the intellectual capital in Montenegro can ensure sustainable development of the ICT sector.

Two years ago, the Government of Montenegro proposed and the Parliament accepted the tax cut for computer equipment from 17% to 7%, which represents one of the incentive measures the ICT companies are using.

In addition to the abovementioned measures, significant activities are conducted by the Directorate for Development of Small and Medium Sized Enterprises. This Direction, in the framework of its activities, offers various supportive measures for the ICT sector development. Some of the measures are:

- cost refund grant schemata for improving marketing and information system within the framework of the State Assistance Programme for Small and Medium Sized Enterprises for 2009 (EUR 200 000).
- opening business incubators – in early 2009, the very first incubator in the field of information technologies was opened. The basic goal of IT incubators is to form small teams that would develop ICT services aimed at improving digital culture in Montenegro and participate in international tenders for small software projects.

## **F. e-Commerce**

**42. Is there legislation or other requirements specific to the provision of information society services (defined as any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services)? If so, please give details on the alignment to the relevant *acquis communautaire* and the implementation.**

In order to establish legal grounds for equalizing electronic and classic paper forms of business operation, the *Law on Electronic Commerce* was adopted (Official Gazette of the Republic of Montenegro, 80/04; <http://www.gov.me/eng/rsi/vijesti.php?akcija=vijesti&id=7839>). The *Law* was drafted on the basis of the Directive 2000/31/EC.

The *Law on Electronic Commerce* ensures, among other things: compliance with existing regulations of the contract law in Montenegro; unhampered business operation of information society service providers as long as their activities comply with appropriate regulations; definition of information that must be clearly and unambiguously formulated and at any moment accessible to all the participants or subjects of the information society, including competent authorities; regulation of the process of commercial communication; validity of contracts made in electronic form; establishing liability for information society service providers.

Taking into account that the *Law on Electronic Commerce* partly complies with EU regulations, *i.e.* with the Directive 2000/31/EC, the full compliance needs to be ensured and that will be achieved with the adoption of the *Law on Amendments to the Law on Electronic Commerce* in the first quarter of 2010.

In order for the *Law on Electronic Commerce* to fully implement the *Directive 2003/31/EC*, the Law will be amended by introducing provision that regulate information society service providing by service providers based in the EU, in compliance with the *Appendix to the Directive 2000/31/EC* as well as the scope of work of administration authorities competent for the implementation of electronic business; judicial protection; provisional measures and extrajudicial dispute solutions.

The *Appendix to the Directive* regulates exceptions in the implementation of Article 4 of the *Law on Electronic Commerce*. At defining those exceptions, *i.e.* the cases when national legislation of a member-state is applied, the *Appendix* strictly stipulates other EU directives, in four indents.

The *Law on Electronic Commerce* (Article 5 paragraph 2) does not make direct reference to EU directives that are referenced by the solutions from the *Appendix to Directive 2000/31/EC*. Thus the provision from Article 5 paragraph 2 of the *Law* represents a too broadly defined set of exceptions, with regard to the definition from the abovementioned *Appendix* narrowing their range. This broader definition of exceptions to the application of the general rule, compared to the provision from the *Directive* interferes with the freedom of providing services in the information society in the EU Single Market. Therefore, the possibility of offering these services in the Montenegrin market for service providers based in other EU member-states is limited to a bigger extent than provided and allowed by the abovementioned *Appendix to the Directive on Electronic Commerce*, and which the European Commission finds unacceptable.

The supervision of the implementation of the regulations for IT services is conducted by the Ministry for Information Society through its Department for Inspection Control, as an organizational unit of the Ministry.

## **G. Electronic pay-services (conditional access – Directive 98/84/EC)**

### **43. Has your country ratified Convention 178 of the Council of Europe on the legal protection of services based on, or consisting of, conditional access?**

Montenegro has not ratified the Convention in question.

The ratification, *i.e.* the adoption of the *Law on Ratification of the European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access* is planned for the second quarter of the year 2010.

### **44. Has your country ratified Convention 185 of the Council of Europe on cybercrime?**

The ratification of the *Convention* in question is in progress.

The Government of Montenegro established and the Parliament of Montenegro adopted on 14 October 2009:

- *Law on Ratification of the Cybercrime Convention* and
- *Law on Ratification of the Additional Protocol to the Convention on cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems.*

In accordance with the appropriate provisions of the Cybercrime Convention, it is foreseen that, at the submission of the ratification instruments, Montenegro express certain reservations, concerning:

- in accordance with Article 9 paragraph 4, in conjunction with Article 9 paragraph 1 item e of the Convention: „Montenegro states that acquiring child pornography via computer systems for oneself or other persons, as well as possessing child pornography in a computer system or in computer data storage media will not be considered a criminal offence in the case when the depicted person is over the age of 14 and has given his/her consent“.
- in accordance with Article 9 paragraph 4, in conjunction with Article 9 paragraph 2 item b of the Convention: „Montenegro states that it will not consider child pornography materials with visual representation of faces appearing to be minor and engaged in sexually explicit conduct, as stated in Article 9 paragraph 2 item b of this Convention“.
- in accordance with Article 14 paragraph 3, in conjunction with Article 20 of the Convention: „Montenegro states that it shall apply measures from Article 20 of the Convention only pursuant to a decision by a competent Montenegrin court, if necessary for initiating criminal offence proceedings or for the purpose of security of Montenegro“.

**45. What kind of protection is currently provided to protect the remuneration of providers of services protected by conditional access?**

The *Copyright Law* of the State Union of Serbia and Montenegro (still in force in Montenegro) and the Law on application of legal acts for protection of intellectual property rights contain provisions that, to a significant degree, correspond with the standards contained in the *Convention and the Directive 98/84/EC on the legal protection of services based on, or consisting of, conditional access*.

**46. Do you consider that this protection conforms to Directive 98/84/EC?**

Protection of radio and TV broadcasting and distribution services with conditional access is currently at a satisfactory level and ensured through the implementation of:

- The *Copyright Law* (Official Gazette of Serbia and Montenegro 61/04) Articles 180 to 187 and
- The Law on Implementation of Legislation Regulating Intellectual Property Rights (Official Gazette of Republic of Montenegro 45/05).

**H. Electronic signature**

**47. Please report on the alignment with the electronic signatures directive. Have measures been taken to ensure the legality and recognition of electronic signatures? Have measures been taken to ensure the legality and recognition of electronic signatures?**

The *Law on Electronic Signature* has been adopted (Official Gazette of the Republic of Montenegro 55/03 and 31/05). Following regulation ensure implementation of the *Law: the Rulebook on records, register and compulsory insurance of certification service providers* (Official Gazette of the Republic of Montenegro 53/04 and 32/05), the *Rulebook on measures and*

*procedures for use and protection of electronic signature and certification system* (Official Gazette of the Republic of Montenegro 25/05) and the *Rulebook on technical rules and requisites for connecting electronic signature certification systems* (Official Gazette of the Republic of Montenegro, 25/05).

The aim of adopting the *Law on Electronic Signature* was to create broad public confidence in electronic signature use and incite electronic signature use as well as exchange of electronic documents. At the same time, the *Law* was aimed at creating the ambiance for a more intensive application of the e-commerce system, which is increasingly becoming an imperative for achieving competitiveness in the world market.

The *Law on electronic signature* regulates: the right of natural and legal persons to use electronic signature in administrative, judicial and other proceedings, legal activities and other acts; electronic signature and advanced electronic signature; certificates and certification services; rights, obligations and responsibilities of signers and service providers; supervision and penalty clauses; deadlines for secondary legislation adoption.

E-business reliability is guaranteed by advanced electronic signature ensuring integrity and irrevocability of data as well as secure identification of a signer. Pursuant to this Law, in legal transactions, electronic document forms are equal with paper ones. Introducing e-business into governmental bodies, local governments and public services' operation opens the possibility for their thorough modernization and in particular realization of the e-government concept. Thus it will be possible to substantially increase efficiency of all the bodies and services as well as to improve the way they treat the citizens.

The *Law on Electronic Signature*, as well as the abovementioned secondary legislation, was drafted and mainly harmonized with the *Directive 1999/93/EC*.

With regard to the partial harmonization with the *Direction on Electronic Signature*, full compliance needs to be ensured, which will be achieved with adoption of the *Law on Amendments to the Law on Electronic Signature* in the first quarter of 2010.

With a view to the full harmonization of the *Law on Electronic Signature* with the *Directive 1999/93/EC*, through innovation of the *Law*, new provisions shall: regulate obligations of certification service providers, which the existing *Law* defines more broadly compared to the Directive obligations; eliminate provisions of the *Law* regulating work licensing (in the form of decision on fulfilment of requirements) for certificate providers that issue qualified certificates since their issuing is contrary to the provisions of the Directive; define *timestamp* and *advanced timestamp*; regulate certificate service providing by providers based abroad; regulate non-compulsory accreditation of certification providers.

With the full implementation of the *Law on Electronic Signature*, requirements will be met for the implementation of electronic signature and electronic documents exchange with the broadest public confidence, which makes way for e-commerce operation.

In order to complete the legal framework for e-business, the *Law on Electronic Document* was adopted (Official Gazette of Montenegro 5/08), while drafting of the *Law on Information Security* is in its final phase and the *Law* is expected to be adopted during the fourth quarter of 2009.

To date only one provider has been registered in the Registry of certificate providers. Establishing a system for issuing qualified certificates, in accordance with the *Strategy of CA Establishing*, adopted by the Government in July 2009, is in progress.

## I. Accountability and cooperation

### 48. How do you ensure accountability of the relevant authorities in this area?

The *Law on Electronic Signature*, adopted in 2003 and the amendments to this *Law* adopted in 2005 regulate the use of electronic signature in legal transactions, administrative, judicial and other proceedings as well as the rights, obligations and responsibilities of legal and natural persons concerning electronic certificates. Supervision over the operation of certification service providers is conducted by the competent administrative body (Ministry for Information Society). Like in the field of gathering, use and protection of signers' private data, the supervision can be conducted by administrative and other bodies as defined by the *Law* and other regulations on personal data protection. Within the Ministry for Information Society, a department for inspection control is foreseen to conduct following activities (among others): inspection control over implementation of the *Law*, secondary legislation and other ICT and Information Society legislation; taking administrative and other measures and activities aimed at eliminating irregularities and complying with the legislation; conducting proceedings and bringing decisions in administrative procedures of first instance; conducting control and supervision over the subjects dealing with development of information society; filing criminal, economic offence charges; monitoring liabilities following conducted controls and recommendations, as well as other tasks in accordance with the legislation.

Within the supervision of the registered or recorded certification service providers, a competent administrative body determines whether legal requirements are fulfilled and controls regularity of implementation of procedures and organizational and technical measures provided by the *Law*; implementation of internal rules in connection with legal requirements and legislation based on that *Law*. A certification service provider must, in order to enable supervision by authorized persons, allow access into his/her business premises as well as insight into business data, documentation, signers' register, computer equipment and devices in use.

If a certificate provider fails to fulfil requirements provided by the *Law* and the legislation based on it, a person authorized by the competent administration body brings an administrative procedure ruling that provisionally forbids certification service providing and that ruling is entered into the record or register.

Once the ruling comes into force, the competent administration body erases the certification service provider from the records or register. The *Law on Electronic Signature* stipulates penal provisions for different types of accountabilities.

In July 2009, the Government of Montenegro adopted the *Strategy for National Certification Body Establishing*. Furthermore, the *Programme for Certification Body* was adopted by the Ministry for Information Society. With the Root CA establishing, within the Ministry for Information Society by the end of 2009, creation of the key exchange system on the national level will be enabled both within the state administration and towards business operators and citizens.

The *Strategy* not only defines the establishing of the Certification Authority within the Ministry for Information Society, but it also provides a recommendation stating that for introducing public electronic Internet services in a country, minimum one public certification body is enough for issuing digital certificates, although existence of at least two public bodies is advisable so that users can choose one for acquiring, *i.e.* buying and using a digital certificate.

### 49. Has a contact point been appointed (in Ministry, regulatory authority, and other authorities – if relevant-) to co-operate with authorities in other European countries?

Yes, in accordance with the systematization, within the Department for International Cooperation and European Integrations of the Ministry for Information Society two posts are assigned for international cooperation, and therefore for cooperation with competent bodies in other countries.

## J. Administrative Capacity

**50. Please provide information (per institution/authority) on the number of staff and the respective responsibilities of the staff and provide an indication on the (available and necessary) level of administrative capacity in the sector.**

- In the Ministry for Information Society, the job description foresees 66 employee posts out of which 37 are filled;
- 12 persons work on contract, *i.e.* the Contract on Temporary and Casual Work;
- There are 14 probationary employees: 13 university graduates and one academy graduate;
- Decisions were brought to hire eight more probationary employees with university degrees and they started to work on 1 September 2009;
- The Internal structure of the Ministry is as follows: Sector for e-Government Development, Sector for Information Society Promotion, Sector for Informatics Infrastructure with two sections – Development Section and Maintenance and Support section, Department for Inspection Control; Department for International Cooperation and European Integration, Department for General Affairs and Finances with two offices – Staff, general Legal Affairs and Human Resources Office and Office for Accounting and Finances; Cabinet of the Minister
- In addition to the Minister, 65 employees are assigned to duties within the competence of the Ministry, as follows:

Title	Status	Description of duties
Secretary to the Ministry	Occupied	Coordinates work of organizational units within the Ministry; ensures relationship and cooperation with administrative bodies in administrative fields under the competence of the Ministry and in other bodies
Adviser to the Minister for Developmental Strategy Making and Adopted Policy Realization - 2	Occupied	Performs the most complex duties under the competence of the Ministry necessitating special expertise and independence
Head of Cabinet	Vacant	Organizes meetings, prepares internal information, both for the Minister and managerial staff, accompanies Minister during meetings, receives, arranges and completes materials for the Government and Parliament meetings

Spokesperson of the Ministry	Occupied <sup>2</sup>	Writes statements and public information, publication and other materials of the Ministry; organizes meetings, edits and maintains Ministry's Internet presentation and performs other PR duties and duties in connection with state bodies and organizations.
Business secretary	Vacant <sup>3</sup>	Performs administrative and technical duties for the Cabinet of the Ministry
Deputy Minister for the Sector of e-Government Development	Vacant <sup>4</sup>	Manages and organizes operation of the Sector, performs the most complex duties within the competence of the Sector, coordinates and guides task performers

<sup>2</sup> Currently performed by a contract employee

<sup>3</sup> Currently performed by a contract employee

<sup>4</sup> Currently performed by a contract employee

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Senior adviser I for public e-service development	Occupied	Performs the most complex duties regarding drafting the Strategy and action plans for public e-service development as well as implementation of corresponding projects
Senior adviser III for monitoring e-service toward citizens development	Vacant	Envisages general trends in the field of e-service toward citizens development, performs duties regarding analysis of e-service toward citizens development
Senior adviser I for e-service development toward administration	Occupied	Performs duties concerning drafting the developmental strategy of e-service in administration as well as realization of the projects defined by action plans in coordination with other sectors and units.
Senior advisor III for e-service development toward administration	Occupied	Envisages general trends in the field of e-services toward administration development, analyzes tasks concerning e-services toward administration development, analyzes current problems and participates in suggesting appropriate measures for their solution.
Senior adviser I for e-service toward business operators development	Vacant	Performs duties concerning drafting of strategy for e-services toward business sector development as well as corresponding action plans and realization of projects defined by those action plans in cooperation with other sectors and units.
Senior adviser III for monitoring e-service toward business operators development	Vacant	Envisages general trends in the field of e-services toward citizens development, performs duties concerning analysis of e-services in administration development, analyses current problems and participates in suggesting appropriate measures for their solution.
Senior adviser II for the field of e-administration development – two employees	Vacant	Envisages general trends in the field of e-services (toward citizens, administration, business operators) development; performs duties regarding analysis of e-services in administration development; gathers and suggests measures for further development, participates in developmental strategy for e-services in state administration.
Senior advisor III for the field of e-administration development	Vacant	Performs less complex duties concerning analysis of e-services in administration development; analyses e-services development in the region; participates in drafting of strategy for e-services in state administration development.
Deputy Minister for the Sector for Information Society Promotion	Occupied	Manages and organizes work in the Sector; performs the most complex duties within the framework of the Sector; coordinates and guides task performers.
Senior media adviser I	Vacant	Performs duties of market researches and media communication; suggests Ministry's media presence strategy (interviews, educational shows, news items, etc).
Senior adviser I for research organization and information society developmental indicators' monitoring	Occupied	Performs market researches, media communication, proposes strategy for the Ministry's media presence.
Senior adviser I for cooperation with ICT sector	Occupied	Performs duties of coordination with ICT sector; proposes measures for communication improvements and ICT application, Internet penetration rise, cooperation in the field of information society improvements and development.
Senior adviser II for coordination of informatics competitions and support of young talents.	Vacant	Participates in organization of competitions in order to help promote information society and young talents; proposes models and activities aimed at supporting young talents.
Senior adviser I for cooperation with universities	Occupied	Communicates with universities and participates in drafting strategy of educational improvements in ICT field; analyses situation in the region and proposes models and measures for improvements in ICT education
Senior adviser I for marketing strategy development	Occupied	Makes and proposes Ministry's marketing strategy in accordance with activities of all ministerial sectors; analyses market, proposes measures for ministry's public presence.

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Senior adviser I for .me	Vacant	Performs duties of .me domain management monitoring and support; proposes measures for promotion improvement; communicates with the registration agent for .me domain.
Senior adviser III for ID promotion support – two employees	Vacant	Proposes strategies and measures for ministry's public presence; participates in preparation of corresponding parts of developmental documents, analyses, studies, projects, reports and other analytic materials; performs other duties upon senior officer's orders.
Adviser III for information society promotion support	Vacant	Performs less complex duties under sectoral competence; prepares and analyses information society promotion in Montenegro; participates in preparation of developmental documents, analyses, studies and projects.
Deputy Minister for Informatics infrastructure sector	Occupied	Manages and organizes work in the Sector, performs the most complex duties within the framework of the Sector; coordinates and guides work of task performers.
Head of development department	Occupied	Keeps track of new achievement from the field of computer technologies and proposes application of corresponding solution for program systems; takes measures for increasing system efficiency; prepares analyses, elaborates and projects concerning IT development
Senior adviser I for standards	Occupied	Keeps track of contemporary informatics achievements; performs duties of systematic analysis of state bodies' informatics standards; defines mutual relations, flows and data exchange between state bodies; defines and creates methodology and standards for project developments; operating systems' installation and settings; network software and software for information system protection.
Senior adviser I for new technologies and Internet development	Occupied	Keeps track of contemporary informatics achievements; proposes implementation of new technologies and performs specification of standards and procedures for their implementation; participates in defining priorities for new technologies' development and implementation.
Senior adviser I for information system security	Vacant	Keeps track of technologic news in the field of communications and system security; organizes and controls work on planning system enhancement and introducing new technologies in the field of communications.
Senior adviser I for digital certificates	Vacant	Participates in strategy making in the field of development and application of digital certificates in the country: applies advanced authentication and authorization methods (PKI digital certificates, biometrics) and different methods of confidential network traffic; analyses and proposes measures for digital certificate application
Senior adviser I for system software	Occupied	Designs program logic in accordance with specifications and laid down standards; codifies development and advancement of existing applications; prepares test data and tests programs; documents program in accordance with standards; creates procedures for program solution installation.
Senior adviser I for programming and improvement of existing information systems – two employees	Occupied	Designs program logic in accordance with specifications and laid down standards; codifies development and advancement of existing applications; prepares test data and tests programs; documents program in accordance with standards; creates procedures for program solution installation.
Senior adviser III for informatics infrastructure development – two	Vacated	Performs duties under sectoral competence; proposes strategies and measures for improving informatics infrastructure; participates in preparation of specific parts of developmental documents, analyses, studies, projects.
Senior adviser III for informatics infrastructure	Vacated	Performs less complex duties under sectoral competence;

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development		participates in strategy analysis and in proposing measures for informatics infrastructure advancement.
Head of maintenance and support section	Occupied	Performs the most complex duties from the field of maintenance and user support in implementation of existing and introduction of new projects; organizes communication with users and forwards users demands; participates in standards' preparation in the field of user documentation; takes care of computer network security.
Senior adviser I for central electoral roll	Occupied	Keeps track and takes active part in preparation of legislation for Central Electoral Roll; offers professional help to local self-government units and organizes counselling for their representatives regarding electoral roll management; keeps track of documentation about entire correspondence with local self-government units, competent state bodies, parliamentary parties and candidate list submitters; informs competent state bodies about confirmed electoral roll irregularities and monitors implementation of measures that are taken; takes care of merging local self-government units' electoral rolls and creation of the Central Electoral Roll; maintains and improves program solutions for the process of central electoral roll creation; performs other duties as ordered by superior officers.
Senior adviser I for central electoral roll	Occupied	Keeps track and takes active part in preparation of legislation for Central Electoral Roll; offers professional help to roll's users; keeps track of documentation and coordinates activities with the Ministry of Internal Affairs.
Senior adviser I for Internet and mail services	Occupied	Performs duties concerning: ensuring state bodies mail servers; monitors and ensures unobstructed information flow; proposes measures information flow improvement; monitors and ensures information flow security; offers user support.
Senior adviser I for state bodies' network – two employees	Occupied	Performs tasks in server resources administration in the field of operating system and system software administration; takes care of performance of information system's server infrastructure, network supported information systems and proposes solutions from the field of state bodies' network improvement; participates in the process of maintaining information system, subsystems and applications, as well as installing hardware and software; takes care of implementation of security measures at operating system level.
Senior adviser III for gov.me domain maintenance	Vacated	Performs duties of state bodies' network maintenance, in particular .gov.me domain; performs duties of daily server monitoring; controls content; creates user accounts at gov.me; opens e-mail accounts; maintains user support portal.
Senior adviser III for Web development and maintenance	Vacated	Performs duties of maintenance and development of state bodies' websites; prepares standards and rules for web portals' development; maintains user support portal; analyses and develops new portals; proposes measures for web-based communication improvements.
Senior adviser III for system maintenance – three employees	Vacated	Performs duties under sectoral competence; propose strategies and measures for informatics infrastructure improvements; take part in preparation of corresponding parts of developmental documents, analysis, studies,

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		projects.
Chief inspector for information society services	Vacated <sup>5</sup>	Performs inspection control over information society service providers; takes administrative and other measures and activities aimed at attaining compliance with legislation in cases of confirmed irregularities; holds records on performed inspection controls as well as other laid down records; if needed hires professional institutions, i.e. corresponding experts for giving opinion if needed for correct facts assessment.
Inspector I for information society services	Vacated	Performs duties under sectoral competence;; gives support and holds records on performed inspection controls, as well as other laid down records; if needed hires professional institutions, i.e. corresponding experts for giving opinion if needed for correct facts assessment.
Senior adviser I for international cooperation and European integrations	Occupied	Performs the most complex sectoral duties; ensures cooperation with organizational units of the Ministry in Commission for EU Integration; representatives of the Ministry in IPA funds and other bodies; prepares reports and information under sectoral competence.
Senior adviser II for international cooperation and European integrations	Occupied	Performs complex duties of data collecting and information gathering necessary for preparation of action plans, reports and other materials concerning EU integrations.
Head of service for general affairs and finances	Occupied	Manages the service; performs the most complex duties from the scope of service's work; organizes cooperation with other organizational units and incites cooperation; keeps track of organizational problems and problems with internal relations and analyses them; keeps track of public procurement functioning; keeps track and takes care of improvement of human resource capacities; prepares training programme for civil servants and state employees; takes care of legality of duties performance within the service.
Senior state employee I public procurement officer	Vacated <sup>6</sup>	Coordinates operation of the office and performs duties concerning public procurements in accordance with the Law on Public Procurements (prepares public procurement plan, annual reports on public procurements, decisions to initiate public procurement proceedings, appoint commission for opening and evaluation of offers...), free access to information (processes rulings and conclusions in information access proceedings)
Senior state employee II for human resources records	Vacated	Performs administrative and technical duties concerning human resources
Junior state employee IV courier	Occupied	Performs courier duties and mail delivery duties for the Ministry
Junior state employee IV chauffeur	Occupied	Performs duties concerning: chauffeuring for the Minister; taking care of technical state of the vehicle and its registration.
Junior state employee IV archivist	Occupied	Performs duties concerning: mail reception and sending, document forwarding; document recording in a protocol register; document archiving; performing other duties as ordered by the Minister and the head of the service.
Senior state employee I chief accountant	Occupied	Organizes and performs accounting and financial duties.
Junior state employee IV – treasurer- liquidator	Occupied	Performs treasurership
Junior state employee IV accountant	Occupied	Prepares payrolls and other earnings' lists and expense

<sup>5</sup> Appointment procedure started

<sup>6</sup> Duties of public procurement officer are performed by the Head of service for general affairs and finances

		records.
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The necessary level of administrative capacities is defined by the *Act on internal organization and job descriptions*. Therefore, filling the posts provided by these job descriptions is a necessary and sufficient condition for rounding off the necessary administrative capacities.

### **III. AUDIOVISUAL POLICY**

#### **A. General framework**

##### **51. Is the media legislation aligned to European standards?**

Montenegrin media legislation was aligned to European standards through media reforms of 2002.

The said legislation was drafted with professional support and expertise of international media experts and international organizations (Council of Europe, OSCE, European Agency for Reconstruction, Article 19).

In view of the aforesaid, the principles and standards contained in international documents on human rights were incorporated into these laws, in particular the following:

- International Covenant on Civil and Political Rights;
- European Convention on Human Rights and Fundamental Freedoms;
- Council of Europe Declaration on the Freedom of Expression and Information;
- European Union Directive “Television without Frontiers”;
- Council of Europe Convention on Transfrontier Television;
- The following Council of Europe recommendations:
  - Rec(2000)23 on the independence and functions of regulatory authorities for the broadcasting sector;
  - Rec(2000)7 on the right of journalists not to disclose their sources of information;
  - Rec(97)21 on the media and the promotion of a culture of tolerance;
  - Rec(99)15 on measures concerning media coverage of election campaigns;
  - Rec(99)1 on measures to promote media pluralism;
  - Rec(97)20 on “hate speech”;
  - Rec(96)10 on the guarantee of the independence of public service broadcasting.

However, the applicable media legislation does not regulate the new audiovisual media services governed by the new Directive 2007/65/EC on audiovisual media services amending *Television without Frontiers* Directive 89/552/EEC and therefore the Law on Electronic Media, which is currently being prepared (the Draft Law was approved by the Government of Montenegro on 20 May 2009 and a public hearing has been completed), will regulate those services in accordance with the said directive. Furthermore, the Law will implement the binding provisions of Directive 98/84/EC on the legal protection of services based on, or consisting of, conditional access and part of the provisions of Directive 2006/114/EC concerning misleading and comparative advertising.

After the adoption of the Law on Electronic Media (planned for the fourth quarter of 2009), the Montenegrin media legislation will be, for the most part, aligned to European standards.

In particular, we would like to point out that the universal principles of freedom of expression and information have been enshrined in the supreme legal document – the Constitution of Montenegro,

and elaborated additionally through media laws. Everyone is entitled to freedom of expression through speech, writing, pictures or in some other manner. The right to freedom of expression may be limited only by the rights of others to dignity, reputation and honour or in the event of a threat to public morality or security of Montenegro (Article 47 of the Constitution). The Constitution guarantees the freedom of press and other forms of information, as well as the right to establish newspapers and other public information media, without prior approval, by registration with the relevant authority. The Constitution also guarantees the right of reply and the right of correction of untrue, incomplete or inaccurately reported information which violates a person's right or interest and the right to compensation of damage caused by the publication of untruthful data or information (Article 49). There is no censorship in Montenegro. The Constitution provides that a competent court may prevent dissemination of information or ideas through public media only if it is necessary to prevent incitement to forcible destruction of the constitutional order, preserve territorial integrity of Montenegro, prevent propagation of war or incitement to violence or criminal offences and prevent the propagation of racial, national or religious hatred or discrimination (Article 50). In accordance with the Constitution, everyone is entitled to access information in the possession of state authorities and organizations exercising public authority, which may only be limited in the interests of the protection of life, public health, morality and privacy, conduct of criminal proceedings, security and defence of Montenegro, foreign, monetary and economic policy (Article 51).

**52. What is the current legislative framework governing the audiovisual media services and television broadcasting (i.e. linear audiovisual media services including satellite and cable)? When was(were) the main piece(s) of legislation adopted? Please provide a translation in an EU language.**

The legislative framework regulating the work of media in Montenegro includes the following laws:

- Media Law, which was adopted by the Parliament of Montenegro in September 2002 and published in the Official Gazette of the Republic of Montenegro 51/02 and 62/02;
- Broadcasting Law, which was adopted by the Parliament of Montenegro in September 2002 and published in the Official Gazette of the Republic of Montenegro 51/02, 62/02, 46/04, 56/04, 77/06 and the Official Gazette of Montenegro 50/08 and 79/08;
- Law on the Ratification of European Convention on Transfrontier Television, which was adopted by the Parliament of Montenegro in January 2008 and published in the Official Gazette of Montenegro 01/08;
- Law on Electronic Communications, which was adopted by the Parliament of Montenegro in July 2008 and published in the Official Gazette of Montenegro 50/08;
- Law on Public Broadcasting Services of Montenegro, which was adopted by the Parliament of Montenegro in December 2008 and published in the Official Gazette of Montenegro 79/08.

Broadcasting of radio and TV programmes through cable, MMDS, DTH and IPTV networks is currently regulated by the licenses issued and the secondary legislation adopted by the Broadcasting Agency in accordance with former powers, which consists of the following:

- Rulebook on Cable and Wireless Systems for the Distribution of Radio and Television Programmes to End Users (Official Gazette of the Republic of Montenegro 67/06, Official Gazette of Montenegro 28/08);

Rulebook on the Licensing Procedure and Terms of the Licenses for the Distribution of Radio and Television Programmes to End Users through Public Fixed Telecommunication Networks and Satellite Distribution Systems (Official Gazette of the Republic of Montenegro 57/07, Official Gazette of Montenegro 05/07).

### **53. What is the timetable for legislative approximation to the *acquis communautaire*?**

The Government of Montenegro will adopt a Proposal for a Law on Electronic Media by the end of 2009, in accordance with the 2009 Agenda.

Within six to twelve months after the adoption of the Law on Electronic Media, the independent regulatory body for electronic media (working title) will adopt the secondary legislation, which will enable a more thorough harmonization with the *acquis communautaire*.

The adoption of the Law on the Ratification of the European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access is planned for 2010.

## **B. Audiovisual Media Services Directive**

### **54. What are the competent authorities in the field of audiovisual policy? How are the competencies shared between them? Are there any plans to modify the regulatory structures in place?**

**Ministry of Culture, Sports and Media.** Pursuant to the Decree on the Organization and Procedures of Public Administration (Official Gazette of Montenegro 59/09) this ministry performs the administrative functions which, *inter alia*, refer to the following:

- creation of conditions and material underpinning for the promotion and development of cultural and artistic creativity and cultural activities;
- the art of literature, translation, music, drama, musical drama and film, as well as artistic creation in other audiovisual media;
- cinematography;
- copyright and neighbouring rights;
- protection of cultural assets and cultural heritage;
- media and broadcasting system;
- information activities in the domain of print media, radio, television and other media;
- exercise of the rights to information guaranteed to citizens on the grounds of programme contents of importance for the development of science, education and culture;
- provision of information to people with visual or hearing disabilities;
- provision of information to members of national and ethnic communities;
- promotion and development of international cultural, sports and media cooperation;
- cooperation with regional and international organizations, institutions and professional associations in the areas of culture, sports and media;
- exchange and dissemination of media programmes and information;
- provision and implementation of foreign donations for culture, sports and media;
- alignment of domestic legislation to international regulations and standards.

**Broadcasting Agency** is founded in accordance with the Broadcasting Law. It is an independent regulatory body for the broadcasting sector and performs public authority in accordance with this Law. The Broadcasting Agency has the following bodies: Agency Council and Director. Competencies of the Agency and its bodies are defined by Articles 7 (Agency) and 21 (Agency Council) of the Broadcasting Law. Since the adoption of the Law on Electronic Communication the list of competencies exercised by the Agency and its Council has been reduced.

Article 6 of the Broadcasting Law requires the Broadcasting Agency and the independent regulatory authority for telecommunications to cooperate and coordinate their activities, in accordance with this Law and a separate law governing the area of telecommunications, in order to ensure – a rational and efficient use of the radio-frequency spectrum.

Article 9 of the Broadcasting Law provides that the Broadcasting Agency monitors the work of broadcasters, either independently or by commissioning a legal person competent of performing such an activity. In doing so, the Agency monitors the fulfilment of broadcasters' obligations, particularly their compliance with license terms. In order to enable the exercise of the Agency's legal competencies, broadcasters are obliged to provide all the data, information and documents requested by the Agency to the extent that is necessary for the execution of its functions.

Natural and legal persons are entitled to submit to the Broadcasting Agency their complaints with regard to the work of a broadcaster that is not in compliance with the issued license for the transmission and broadcasting or radio and TV signals (Article 10 of the Broadcasting Law).

The Broadcasting Law (Article 16 paragraph 2) provides that: "for the purpose of sharing experiences, comparing practices and alignment to international experiences and standards, the Agency cooperates with relevant organizations in other countries or relevant international organizations". Having regard to the aforesaid, the Broadcasting Agency has been admitted to the membership of the General Secretariat of EPRA / European platform of independent regulatory authorities for the broadcasting sector ([www.epra.org](http://www.epra.org)).

The Broadcasting Agency may impose a penalty on a broadcaster in the form of a warning or a fine, or it may temporarily or permanently revoke its license for the transmission and broadcasting of radio and TV signals, pursuant to the procedure set forth in the Broadcasting Law (Article 47-52).

Every decision by the Broadcasting Agency to impose a penalty on a broadcaster is made following a procedure in which the broadcaster is allowed to state its case. Every decision to impose a penalty is published in the Broadcasting Agency's reports.

A broadcaster may initiate administrative proceedings against any decision by the Broadcasting Agency to impose a penalty.

The Broadcasting Agency Council has adopted a Rulebook on the Procedure Following the Submission of Complaints in Case of a Violation of Licensing Terms, Decisions and Regulations of the Broadcasting Agency (Official Gazette of the Republic of Montenegro 47/05). This document regulates in more detail the procedure for the adoption of a decision to suspend or revoke a license, which is based on the principles of objectivity and impartiality, and the broadcaster is enabled to state its position on the facts that have given rise to the proceedings.

The Broadcasting Agency is authorized to take *ex ante* (before licensing) and *ex post* (after licensing) measures to prevent unauthorized media concentration (Article 105 – 110 of the Broadcasting Law).

Consequently, there is a plan to adopt a new legislative framework which will, in conformity with international standards, regulate the status, rights and responsibilities of a regulatory authority for electronic media (or audiovisual media services), i.e. the new Agency for Electronic Media (working title), which will take over the competences of the existing Broadcasting Agency. With the redistribution of competencies in broadcasting and telecommunication sectors, which has been regulated by the Law on Electronic Communications, the competencies to (directly or indirectly) influence the area of audiovisual policy have been conferred on:

- Government of Montenegro (Article 4),
- Ministry of Transport, Maritime Affairs and Telecommunications (Article 5),
- Agency for Electronic Communications and Postal Services (Article 8).

The Law on Electronic Communications envisages cooperation between the regulatory authority for electronic communications and the regulatory authority for programme contents.

**55. With reference to the regulatory body for audiovisual media services, please refer to the following:**

**a) have recommendations of experts from the Council of Europe and OSCE been taken into consideration when drafting legislation establishing the regulatory body, in particular Recommendation Rec (2000)23 to Member States of the Council of Europe on the independence and functions of regulatory authorities for the broadcasting sector and its annex containing guidelines on independence and functions of regulatory authorities for the broadcasting sector?**

In the course of drafting the Broadcasting Law of 2002, the principles and guidelines contained in the Recommendation Rec(2000)23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector and its Appendix have been accepted.

Accordingly:

- the introduction of this Law regulated the foundation of an independent regulatory authority, i.e. the Broadcasting Agency;
- its rights, responsibilities and competencies were regulated by conferring on the Broadcasting Agency, as a regulatory authority for the broadcasting sector, the competencies that enabled it to perform its functions in accordance with the law, in an effective, independent and transparent manner, in line with the guidelines set out in the Appendix to this Recommendation. In this manner, the Law regulated the following: independence and legally established status/position of the Agency; independent and legally established sources of finance; legally established accountability to the public, i.e. citizens.

In the course of 2008, the Law on Electronic Communications and the Law on Public Broadcasting Services of Montenegro repealed certain provisions of the Broadcasting Law which affected some competencies of the Broadcasting Agency (participation in the procedure of granting rights to broadcasting frequencies, licensing of radio and TV programmes...), as well as its sources of finance. The Draft Law on Electronic Media incorporates the principles and guidelines contained in the Appendix to the Council of Europe Rec(2000)23.

**b) legal safeguards for the bodies' independence, including rules or other mechanisms against interference from political sphere, and/or market players: nomination/appointment/dismissal of Board members and duration of their mandate, disqualification (incompatibilities) rules for members and rules on conflicts of interest, ethics and remuneration, etc.**

The Broadcasting Law, adopted in 2002, introduced the Broadcasting Agency as an independent regulatory body exercising public authority in accordance with the law.

The Broadcasting Agency is legally separated and financially independent from state authorities and all legal and natural persons involved in the production, transmission and broadcasting radio and television programs or associated activities. The Broadcasting Agency is founded by the State of Montenegro. The founder's rights, on behalf of the state of Montenegro, are exercised by the Broadcasting Agency Council in accordance with the law. Bodies of the Broadcasting Agency are: the Council and the Director.

The law prescribes in detail the procedure for the appointment, as well as the rights and responsibilities of members of the Broadcasting Agency Council (Article 11-24).

The Agency Council comprises five members, who are nominated from among reputable experts in the areas of importance for the performance of broadcasting activity (telecommunications, media, law, economy, etc.).

The nomination of members of the Agency Council is confirmed by the Parliament of Montenegro, and the entities authorized to nominate members to the Agency Council include:

- Government of Montenegro;
- University of Montenegro/Faculty of Electrical Engineering;
- Broadcasters' associations in Montenegro, except for the associations of public service broadcasters;
- Nongovernmental organizations and citizens' associations involved in the protection of human rights and freedoms;
- Nongovernmental organizations working in the field of media.

In order to ensure independence of both individual members and the Agency Council as a whole, Article 17 of the Law provides that member of the Agency Council does not represent the entity authorized for his or her nomination, but performs duties independently, to the best of his or her knowledge and conscience, in accordance with the Broadcasting Law.

The Agency Council meets at least once a month and makes legally binding decisions if a meeting is attended by majority of the total number of its members. Decisions are made by majority vote of all its members.

Members of the Agency Council perform their offices on a part-time basis and are entitled to monthly remuneration determined by the Statute of the Agency (Article 11). The Statute of the Agency provides that members of the Agency Council are entitled to monthly remuneration equivalent to one average salary. In view of the Broadcasting Agency's financial situation after the revocation of all of its stable sources of finance, as from January 2009, the Agency Council adopted a decision to limit the level of payments to members of the Council to the level of an average salary in the Agency in January 2009, which amounts to EUR 685.5.

The nomination conditions and procedure laid down in detail in the law (Articles 11 to 17) are intended to ensure freedom from any interference of political, economic or other authorities and interests in the work of the Broadcasting Agency Council.

With a view to ensuring independence from any state authority, both in the process of nomination of members and through the means of funding, it has been prescribed that the members of the Broadcasting Agency Council shall be nominated by legally authorized entities and that their decision on appointment, adopted in accordance with this law shall be confirmed by the Parliament of Montenegro.

The term of office of members of the Agency Council is five years, with a possibility of reappointment. Exceptionally, when first nominated, two members of the Agency Council are nominated for a period of five years, two members for four years and one member for three years. After the first term, the term of office of members of the Agency Council is five years with the possibility of reappointment (Article 16). On the other hand, in case of a termination of the term of office of a member of the Broadcasting Agency Council, which may only happen under the circumstances provided by law, such decision is again made by the entity that appointed the member in question.

Rules on incompatibility of office, i.e. cases when a certain person may not be appointed member of the Agency Council are prescribed by Article 14 of the Law. Accordingly, the following persons are not eligible as members of the Agency Council:

- MPs and councillors;
- persons elected, nominated and appointed to posts in the Government of Montenegro (ministers, their deputies, assistants and heads of individual organizational units under direct control of the Government of Montenegro and other officials);
- officials of political parties (party presidents, presidium members, their deputies, members of executive and main committees and other party officials);

- persons who, as holders of interest, shareholders, members of management bodies, employees, persons under contract, etc., have interest in legal persons involved in the production and/or broadcasting of radio and/or television programme and associated activities (advertising, telecommunications, etc.), in the manner that membership of such person might lead to a conflict of interest;
- persons found guilty, by a final and enforceable judgment, for criminal breach of duty, crime of corruption, fraud or theft, regardless of the penalty imposed, or convicted, by a final and enforceable judgment, for some other criminal offence to a prison sentence longer than 6 (six) months, as long as the legal consequences of the sentence persist;
- spouses of persons referred to in items 1 to 4 of this paragraph or directly related to them, regardless of the degree of relation, or in collateral line to the second degree and relations by marriage.

The application of this list of rules prevents formal influence of individual centres of political and economic power on the work of members of the Broadcasting Agency Council or the Council as a whole.

The question of the prevention and removal of consequences of conflict of interest is regulated by Article 15 of the Broadcasting Law. Specifically, if a member of the Agency Council has a conflict of interest with regard to adopting decision on certain issue from the competence of the Agency Council, they are obliged to notify other members of that, in order to be exempt from the discussion and adoption of decision on that particular issue. In case that an Agency Council member participated in the work while having a conflict of interest, other members are obliged to examine the adopted decisions and may declare them invalid. Furthermore, it is prescribed that a member of the Agency Council may not be a founder or participate in another way as an applicant for the licence for transmission and broadcasting of radio and TV signals and for the licence for the development and use of the distribution systems within the period of 12 months from the end of their term of office as the Agency Council member.

Independence and autonomy of work of the Broadcasting Agency Council is also provided by strictly prescribed terms and procedures that have to be followed in case of the end of the term of office of the members (Article 18). The term of office of an Agency Council member is terminated:

- with the expiry of the period of their appointment;
- if they are dismissed because of reasons prescribed by this Law;
- if they submit written resignation to the authorized nominator, about which they are obliged to inform the Agency Council and the Parliament of the Republic of Montenegro within eight days;
- in case of death.

Article 19 prescribes that the Agency Council Member may not be dismissed during their term of office, except in the following cases:

- if because of illness, on the basis of results of a competent medical institution, they are not able to perform duty of the Agency Council Member for the period longer than six months;
- if it is established that, when submitting the proposal for appointment, they had submitted inaccurate personal data or omitted to reveal the data that are of relevance for the possible appointment;
- if it is established that, during the term of office of the Agency Council member, any of the circumstances referred to in the Article 14 of this Law occurred;
- if without sufficient reason or approval of the Agency Council, they fail or refuse to perform duty of the Agency Council Member during the period of at least six consecutive months, or if during the period of one year they failed to perform their duty for at least six months.

In these cases, the Parliament ratifies the dismissal of the Agency Council Member only on the basis of the well-explained decision on dismissal, adopted by the authorized nominator of the Agency Council Member. Such a decision is adopted only upon completion of the procedure in

which all relevant circumstances have been determined and in which the Agency Council Member has been allowed to explain all the circumstances.

From the moment when the decision on dismissal is submitted to the Parliament of the Republic of Montenegro until its ratification, the Agency Council may suspend, by the majority vote of the total number of its members, the Agency Council member to whom the decision refers.

Article 20 of this Law prescribes that the Parliament Speaker of Montenegro initiates the procedure for the appointment of the Agency Council members by issuing a public invitation not later than 3 (three) months before the expiry of their term of office. The invitation is sent to the authorized nominators of the Agency Council members.

The authorized nominators of the Agency Council members are obliged to submit to the Parliament of Montenegro the appointment documents of the Agency Council members no later than 60 days from the date of issuing the public invitation.

The Parliament of Montenegro ratifies the appointment of new Agency Council members before the expiry of terms of former members.

In case when the term is terminated before the expiry of the period of appointment of the Agency Council member, their authorized nominator is obliged to submit to the Parliament of Montenegro the appointment document for the new Agency Council member, without any delay and no later than within 30 days.

The Parliament of Montenegro is obliged to ratify the appointment of new Agency Council Member no later than 60 (sixty) days from the day of receiving the appointment document.

The appointment is ratified for the period until the expiry of the former member's term of office.

Until the ratification of the new member's appointment, the Agency Council adopts valid decisions in incomplete composition, but if, due to the termination of certain members' terms, the number of the members is less than 3 (three), the Agency Council may not adopt valid decisions.

This eliminates the possibility of using the dismissal of the Agency Council member as a way to exert pressure on their activities.

Appointment, rights and obligations of the Broadcasting Agency are prescribed by Articles 25 and 26 of the Broadcasting Law. The Agency Council appoints the Agency Director, on the basis of a public tender.

The term of office of the Agency Director is four years, and a person that is not eligible for the Agency Council member according to the provisions of this Law may not be appointed Director.

The Broadcasting Agency Council has adopted the Code of Conduct of the Broadcasting Agency. It prescribes, in Article 2, which all employees of the Broadcasting Agency and the Agency Council members are obliged to:

- complete the activities within the framework of their duties, rights and obligations consistently applying the standards and rules of conduct defined by this Code;
- act within the scope of their authority when proposing or adopting decisions, primarily observing the public interest, general documents of the Agency and valid legislation in Montenegro;
- perform their duties in an impartial and politically neutral manner;
- perform their duties in a responsible, fair and efficient manner, in line with the professional standards.

Articles 4 to 8 of the Code regulate the issues of identification, prevention and elimination of consequences of the conflict of interests in the work of the employees and members of the Broadcasting Agency Council.

c) bodies' organisational, technical, financial and human resources considering also the tasks related to on-demand audiovisual media services, particularly online services, according to the Audiovisual Media Services Directive (e.g. protection of minors): the analysis shall cover notably issues of personnel (number of employees, required level of expertise in comparison with their tasks and their status), issues of technical and financial resources, whether they are a separated entity or are converged with telecoms regulator.

The Broadcasting Agency is separated from the regulatory authority for telecommunications.

In compliance with the Broadcasting Law (Article 27), the Statute of the Broadcasting Agency, adopted by the Agency Council, regulates its following activities and duties:

- internal organisation of the Agency;
- manner of operation, decision making and competences of the managing bodies of the Agency;
- procedure of adopting decisions regarding petitions and complaints of natural and legal persons concerning activities of broadcasters and companies for the transmission and broadcasting of radio and TV signals;
- manner of publicizing operating reports, financial plans, statements of income and expenditures and other documents the Agency is obliged to present to the public in compliance with this Law.

Statute of the Broadcasting Agency, prescribes that the internal organization of the Agency (sectors, departments, etc.) is regulated by the Rulebook on the Internal Organization and Job Classification of the Agency, adopted by Agency Director, with the consent of the Council.

On the basis of competencies defined by the Broadcasting Law of 2002, the Rulebook on the Internal Organization and Job Descriptions of the Agency of 2006, established three sectors in charge of the activities and duties within the remit of the Agency:

- Sector for Legal and Economic Affairs: Department for Legal Affairs; Department for Economic Affairs; Department for Common Affairs.
- Monitoring Sector: Radio Monitoring Department; TV Monitoring Department.
- Technical Sector: Department for Planning of the Broadcasting Frequency Spectrum, Implementation of Recommendations and Standards and International Coordination; Department for Control, Measuring and Inspection.

After the Electronic Communications Law – came into effect, out of seven employees of the Technical Sector, six were taken over by the Agency for Electronic Communications and Postal Services.

Apart from the Agency Director, the Broadcasting Agency currently has 16 employees.

The Monitoring Sector is in charge of the monitoring of programme contents of the Broadcasters in Montenegro in compliance with the Media Law, the Broadcasting Law, and the Law on Public Broadcasting Services of Montenegro and the secondary legislation of the Broadcasting Agency. Detailed competencies of the sectors are prescribed by Article 4 of the Rulebook on the Internal Organization and Job Descriptions of the Broadcasting Agency.

The Sector has three staff members (Deputy Director and two advisers), who successfully respond to the numerous and growing demands for permanent monitoring of the media, by providing prompt and professional analyses of the broadcast contents, timely registration of their potential departure from the prescribed standards, timely notification concerning the found irregularities and defining of the proposals, in cooperation with other sectors, for adequate reacting and taking measures for their redress.

The Monitoring Sector has satisfactory technical resources for recording, logging, and playback of the programming of 21 TV and 54 radio stations. The Monitoring Sector staff has all the skills and expertise necessary for performing their duties ensuing from the current legal framework.

The Sector for Legal and Economic Affairs performs professional normative, administrative, accounting and financial operations related to the supervision of functioning and development of the broadcasting system in Montenegro and undisturbed functioning of the Agency. Detailed competences of the sectors are prescribed by Article 3 of the Rulebook on the Internal Organization and Job Descriptions of the Broadcasting Agency. The Sector has 11 staff members (Deputy Director, four advisers – four for economic and two for legal affairs, four administrative staff members).

The Broadcasting Agency is organized on the principle of employment of the latest technology, with completely rational involvement of human resources.

Taking into consideration the digital switchover process and the expected growth (both in terms of scope and structure) in the media services offered (both radio and TV broadcasts and other audiovisual media services), an increase in the number of programmes of radio and TV stations available to the audience in Montenegro can be expected in the forthcoming period. That implies that the scope of Agency's duties will increase.

In view of the aforementioned, it is absolutely certain that both technical and human resource development will be necessary in the coming period, in order to successfully perform the duties in the considerably changed circumstances. Redefining of the position and capacitating for the completion of its remit as a regulatory authority for broadcast media will require from the employees of the Broadcasting Agency more intensive training and acquaintance with the practice and experience of other regulators in terms of introduction, promotion and monitoring, and evaluation of individual standards related to the audiovisual media services.

The planned investment activities will primarily deal with the technical and human resource capacity building, with the unchanged strategy: focusing on modern technology and minimum number of highly-professional staff members.

That implies professional development of the staff for the implementation of European standards defined by the Council of Europe and the European Union. Given the obligation to "apply efficient dispute resolution mechanisms," as well as to guarantee the right of appeal, position of the professional staff considerably gains in importance when adequate decisions of the Agency Council and Director are adopted.

Bearing in mind that Montenegro has ratified the European Convention on Transfrontier Television, the Broadcasting Agency has a responsible task to monitor the implementation of obligations related to the observance of minimum regulations necessary for the protection of individual rights and obligations the broadcasters have to adhere to when broadcasting TV programmes, including advertising, teleshopping, and sponsorship.

Given that the Broadcasting Agency monitors the operation of cable, MMDS, DTH and IPTV operators, involved in the distribution of radio and TV programme, the professional development and improvement of knowledge and experience are planned in the field of regulation of these and other audiovisual media services with conditional access.

Bearing in mind that it was adopted in 2002, the current legislation does not regulate the provision of on-demand audiovisual media services, particularly online services, in line with the Audiovisual Media Services Directive. In view of the aforementioned, the Broadcasting Agency has neither competence nor specialised staff to monitor the operation of providers of these services.

Given that the preparations for a new legal framework for this field are planned, as well as the harmonization with the EU AVMS Directive in the field of content monitoring, different forms of professional development of current and future staff members (specializations, study visits, and visits to the relevant regulators and organizations) are planned, for the purpose of acquaintance with the experience, recommendations, and trends in the field of importance for their work. Therefore, it is planned to increase a number of employees of the Broadcasting Agency. According to the National Programme for Integration of Montenegro into the EU, an increase in the number of employees of the Broadcasting Agency by three people has been planned until 2012.

Human resource capacity building and professional development of the Broadcasting Agency staff is especially important for the preparation, promotion and implementation of new secondary

legislation, which will be one of the priority tasks of the Broadcasting Agency, i.e. future regulatory authority for broadcast media. The aim is to set up a team capable of monitoring and implementing *Acquis* in the field of audiovisual policy. Setting up of this team requires the training of staff and cooperation with relevant international and local institutions.

As regards the regulation of audiovisual media services from the technical aspect (technical monitoring and regulation of the broadcasting frequency spectrum), the Agency for Electronic Communications and Postal Services is competent for these issues.

**d) considering also the tasks related to on-demand audiovisual media services, particularly online services, according to the Audiovisual Media Services Directive (e.g. protection of minors): monitoring, regulatory and sanctioning powers conferred to the bodies, their ability to create their own structures and to decide on their long term goals, impact of their regulatory functions and decisions on the audiovisual sector and the appeals procedure.**

Given that the current media legislation was adopted in 2002, its harmonization with the Audiovisual Media Services Directive is yet to be done in the segment related to new or more detailed standards compared to those contained in the Television without Frontiers Directive. Consequently, the competences and tasks of the Broadcasting Agency are primarily related to the linear audiovisual media services, namely television and radio broadcasting.

Given that drafting of a new electronic media law, which should ensure alignment with the Audiovisual Media Services Directive, is under way, adoption of a provision is planned that will make a clear distinction as regards the competences related to on-demand audiovisual media services, particularly online services.

An overview of tasks and duties the Broadcasting Agency is currently in charge of, and which will be the basis for the regulation of new, or extension of the existing competences of the future electronic media regulator, are given below.

The Broadcasting Law regulates the competences of the Broadcasting Agency with respect to monitoring of the broadcast media. Specifically, the Broadcasting Agency is authorized to supervise the operation of broadcasters independently or by engaging a legal entity qualified for such an activity. Furthermore, the Agency supervises the fulfilment of the broadcasters' obligations in particular, making sure that they observe all terms and conditions of the awarded licences. For the purpose of exercising legal competences, the broadcasters are obliged by law to supply the Agency with all data, information and documents required to the extent necessary for the fulfilment of its duties (Article 9).

In the Broadcasting Agency, the Monitoring Sector is in charge of the monitoring of programme content of the broadcasters in compliance with the Media Law, the Broadcasting Law, the Law on Public Broadcasting Services of Montenegro and secondary legislation of the Broadcasting Agency. The Sector is in charge of the monitoring, analytical processing and logging of the audiovisual recordings of the programme broadcast by the broadcasters. Moreover, the Monitoring Sector prepares documentary and analytical basis for the supervision of legality of operation of the broadcasters in Montenegro, observance of programme standards, quotas, and other general documents and regulations by broadcasters.

The Broadcasting Agency is authorized by law to adopt adequate secondary legislation (instructions, rulebooks, decisions, etc.) regulating in more detail the relations and procedures prescribed the Broadcasting Law in cases of illicit practice on the part of broadcasters related to advertising, sponsorship, programme quotas, etc. The instructions are adopted in a transparent manner, with obligatory public consultations and publication in the Official Gazette of Montenegro. All pieces of secondary legislation of the Agency adopted within the framework of its regulatory function are available at the website of the Agency [www.ardcg.org](http://www.ardcg.org).

Starting from the Council of Europe Recommendation (2000) 23, special attention in the process of adoption of the Broadcasting Law in 2002 was paid to the regulation of one of the main

competences of the independent regulatory authority for the broadcasting sector, namely supervision of the operation of broadcasters and distributors of radio and TV programmes, i.e. sanctioning powers in case of infringement of the law and licence terms.

The Broadcasting Law (article 47 to 52) prescribes that, in case of the infringement of the Law, secondary legislation adopted on the basis of it, or the awarded licences, the Agency is authorized to impose the following penal measures prescribed by law:

- warning,
- fine,
- suspension of the licence,
- revocation of the licence.

Every decision to impose sanctions to broadcasters is adopted by the Agency following a procedure in which the broadcaster is given the opportunity to present its position, and it is published in the Agency's Operation Bulletin and in other ways prescribed by this law and the Agency Statute.

The Law prescribes that a broadcaster may lodge an appeal to the Agency Council against the Agency's decision to impose a sanction. Administrative proceedings may be initiated against a decision on the appeal adopted by the Agency Council.

The purpose of the Electronic Media Law is, *inter alia*, to define the provisions that will enable the independent regulatory authority to have an efficient mechanism available for prevention and sanctioning of the violation of programme-related and other standards.

The Broadcasting Law (Article 10) prescribes that natural and legal persons are entitled to submit complaints to the Agency concerning the activities of broadcasters and the company for transmission and broadcasting of radio and TV signals (Broadcasting Centre). On the basis of the principles contained in the Broadcasting Law, the detailed elaboration, rules and procedures for processing the appeals of natural and legal persons and other cases of violation of the licence terms, decisions, and other regulations of the Broadcasting Agency are prescribed by the Rulebook on the Appeals Procedure in Case of Violation of the Licence Terms, Decisions, and Regulations of the Broadcasting Agency.

The law prescribes the competence of the Broadcasting Agency Council to adopt the Broadcasting Agency Statute, regulating the internal organization of the Agency. Furthermore, on the basis of the Agency Statute, the Agency Director adopts, with the consent of the Council, the Rulebook on Internal Organization and Job Descriptions. In that way, high level of independence of the Broadcasting Agency has been provided in defining its own structure, and the number and structure of employees, enabling undisturbed, timely and efficient execution of the competences prescribed by law.

The Law prescribes that, *inter alia*, the Broadcasting Agency Council has the competence to:

- 1) adopt the Statute, investment plans and other general documents of the Agency;
- 2) appoint and dismiss the Director of the Agency;
- 3) adopt and publicize operating reports and interim and annual statement of accounts of the Agency;
- 4) give consent to decisions of the Agency Director regarding payments exceeding the amount determined by the Agency Statute;
- 5) appoint authorized auditor for periodical and annual accounts of the Agency;
- 6) determine minimum quotas both for the own and European programme production, in compliance with European standards;
- 7) determine minimum quotas to the public broadcasting services for broadcasting independent production programmes, in compliance with European standards;
- 8) determine terms and quotas for the broadcasting of advertisements, in compliance with European standards.

The Law prescribes that the financial plan is public and that it is publicized in the manner prescribed by the Agency Statute (in the Bulletin of the Agency, both in the print and digital format).

All income and expenditure accounts of the Agency are subject to annual audit by an independent authorized auditor, hired by the Agency Council.

The Law prescribes that the Agency is obliged to publish, no later than three months from the end of the fiscal year, the annual operating report and the report of the authorized auditor on the annual account, as well as to make them available in a convenient manner to every interested party.

All financial plans, biannual and annual financial reports, annual operating reports and the reports of an authorized auditor are published at the website of the Agency, and the Agency Council timely informs the public about their adoption through the media.

From the aspect of impact of the regulatory functions of the Broadcasting Agency and its decisions on the audiovisual sector, it may be concluded that its foundation and work gave an important contribution to the media reform in Montenegro.

Please note that the issue of protection of minors will be regulated by the Electronic Media Law, in compliance with the Directive 2007/65/EC on the Audiovisual Media Services.

**e) accountability and transparency mechanisms, (towards stakeholders, citizens).**

Accountability and transparency of the Broadcasting Agency have been regulated by:

- Broadcasting Law;
- Broadcasting Agency Statute;
- Rules of Procedure of the Agency Council;
- Code of Conduct of the Broadcasting Agency.

Moreover, the duties of the Agency Council are regulated separately (Articles 22-23 of the Broadcasting Law). It is prescribed that the activities of the Agency Council are public, that it convenes when needed, at least once a month (regular session). The Agency Council may have extraordinary session at the request of two Council Members or upon the proposal of the Agency Director.

The Agency Council adopts valid decisions provided that the majority of the total number of members is present at the session. Decisions of the Agency Council are adopted by majority vote of the total number of the Agency Council Members. Chairman of the Agency Council is elected and dismissed by the majority vote of the total number of members.

The Broadcasting Agency Statute (Article 68) prescribes that the Agency is obliged to inform the citizens about its activities by means of its Bulletin, media and in other adequate manner which results in the transparency of its work. In addition, the Agency provides access to information concerning its activities on a regular basis, through its website ([www.ardcg.org](http://www.ardcg.org)) and e-mail ([ard@mn.yu](mailto:ard@mn.yu) and [sard@mn.yu](mailto:sard@mn.yu)).

Pursuant to the Free Access to Information Law, the Broadcasting Agency adopted in April 2006 the Instructions for Access to Information Held by the Agency. The Instructions prescribe that the access to information held by the Broadcasting Agency is free and provided in the manner prescribed by law and the Instructions.

A person has been authorized for processing of the requests for access to information and the types of materials held by the Broadcasting Agency have been determined, including:

1. Normative documents related to publication and completion of public tenders for awarding the rights to transmission and broadcasting of radio and TV signals and the rights to development and use of cable and wireless systems for distribution of radio and TV programmes to end users;
2. Documents of the Agency Council related to the completed public tenders;

3. Other decisions of the Agency Council related to the level of the broadcasting fee, broadcasting frequencies for the national and local broadcasting services; decisions on the criteria for distribution of money from the Agency's funds for support to the local public service broadcasters, and commercial broadcasters;
4. Secondary legislation dealing with technical, programme and financial issues the Agency Council provides consent for or adopts;
5. Registries kept by the Agency in compliance with the Broadcasting Law;
6. Licences awarded by the Agency in compliance with the Broadcasting Law;
7. Decisions of the Agency, adopted following the submitted complaints;
8. Operating Reports of the Agency;
9. Financial Plans of the Agency;
10. Financial Reports of the Agency (biannual, annual);

The Instructions are published at the website of the Agency.

**f) the level of cooperation with other regulatory bodies within Montenegro and with other countries.**

The Broadcasting Law (Articles 6 and 7) prescribes that the Broadcasting Agency and the independent regulatory authority for telecommunications are obliged to co-operate with each other and coordinate their work in order to provide rational and efficient use of the radio-frequency spectrum. In the previous work, this cooperation has been at a high level, providing for a development of both media and telecommunication market. Special attention has been paid to a need to reduce or eliminate any barriers or difficulties the broadcasters might have as a result of distribution of competencies between the two regulators.

Moreover, Article 16 paragraph 2 of the Law prescribes that the Broadcasting Agency co-operates with relevant organizations of other states or with relevant international organizations in order to exchange experiences, advance its activities and harmonize its work with international experiences and standards. Consequently, the Broadcasting Agency became a member of the General Secretariat of EPRA - European Platform of Regulatory Authorities.

In addition to its multilateral relations, the Broadcasting Agency has very good bilateral relations with regulatory authorities of the neighbouring countries (Serbia, Croatia, Bosnia and Herzegovina, Albania, Italy) and beyond (Slovenia, Hungary, etc.).

In the initial phase of the Broadcasting Agency's work, consultation meetings with the Communications Regulatory Agency of Bosnia and Herzegovina were organized, with the support of OSCE, aimed at establishing rules and procedures for operation of the independent regulator and different aspects of its work.

In 2007, a two-week study visit of a group of employees of the Broadcasting Agency was organized together with the Post and Electronic Communications Agency of the Republic of Slovenia. Financial assistance for this study visit was provided through TAIEX (Technical Assistance and Information Exchange Instrument of the Institution Building unit of Directorate-General Enlargement of the European Commission - <http://taiex.cec.eu.int/>). The training programme included visits to the RTV Slovenia – the Department for Transmitters and Links, the Post and Electronic Communications Agency of the Republic of Slovenia, and Elti-Gornja Radgona and IMP Ljubljana factories.

As an especially important form of its cooperation with the regulators from the neighbouring countries, there is a cooperation the Broadcasting Agency has within the framework of the Adriatic Group, which includes the administrations of Italy, San Marino, Slovenia, Croatia, Montenegro and Albania. This group was formed prior to the Regional Radiocommunication Conference for planning of the digital terrestrial broadcasting service in the frequency bands 174-230 MHz and

470-862 MHz (held in Geneva between 15 May and 16 June 2006) for the purpose of contributing to better coordination, and observance and protection of interests of the countries participating the process of coordination of digital plans.

Please refer to the procedure for assignment of frequencies for television broadcasting in Montenegro. Which authority is responsible for assigning the frequencies, selecting the television broadcaster and setting the conditions for broadcasting?

The procedure for assignment of frequencies for broadcasting of radio and TV signals was prescribed by the Electronic Communications Law (Chapter VII, Limited Resources, Articles 62 – 74). The Agency for Electronic Communications and Postal Service, which sets up a commission and defines the criteria, in cooperation with the regulatory body for programme contents, is in charge of conducting the tender procedure.

Namely, Article 68 paragraph 4 of the Electronic Communications Law prescribes that, if the Agency for Electronic Communications and Postal Services, on the basis of the response of interested parties, determines that assigned radio frequencies are not be sufficient for all interested parties, or receives an initiative for public tender from regulatory body in charge of program content, it is obliged to organize a public tender for the assignment of radio-frequencies. Moreover, Article 69 prescribes that the Agency manages public tenders, through a specially appointed committee. The committee and criteria are determined in cooperation and with consent of the regulatory body for programme contents. Tender for the assignment of radio frequencies for provision of broadcasting activities also contains conditions that a bidder must meet in terms of programme content and other conditions in compliance with the media legislation.

The Broadcasting Agency, i.e. future Electronic Media Agency is in charge of defining the broadcasting conditions.

#### **56. What is the regime governing the granting of licences and the allocation of frequencies or satellite capacity? What are the conditions attached to the granting of licences and the assignment of frequencies or satellite capacity?**

Frequencies are allocated by the regulatory body in charge of electronic communications – the Agency of Electronic Communications and Postal Services. Natural and legal persons may use radio-frequencies only on the basis of decision on authorization for use of radio-frequencies issued by the Agency of Electronic Communications and Postal Services, while the line ministry – the Ministry of Transport, Maritime Affairs and Telecommunications prescribes, in compliance with the Radio Frequency Allocation Plan and the international documents Montenegro has acceded to, which frequencies and under which conditions may be used without the decision on authorization for use of radio-frequencies.

The Agency issues decision on authorization for use of radio-frequencies on the basis of a submitted request for authorization for use of radio-frequencies. If it is determined that there is higher interest in certain radio-frequencies, the Agency is obliged to obtain the opinion of all interested parties through the consultation process, on the basis of which it conducts the tender procedure for the allocation of radio-frequencies if it concludes that there are no sufficient frequencies for all interested parties. For the frequencies from the Radio-frequency Allocation Plan used for the broadcasting service, the assignment is done only through the tender procedure initiated by the interested parties, or directly by the regulatory authority for programme content.

The radio-frequency allocation procedure is based on a non-discriminatory principle, while the allocations must be in compliance with the Radio-frequency Allocation Plan, radio-frequency assignment plans and conditions for use of certain bands prescribed in the form of secondary legislation.

Radio-frequencies used for the purpose of satellite radio-communications have been harmonized with the provisions of the international treaties and agreements of the organizations in charge of satellite communications (ITU, INTELSAT, INMARSAT, EUTELSAT, etc.).

In the implementation of the Electronic Communications Law related to the issuing of new authorizations for radio-frequencies, it was not specified which body will play the role of a regulatory authority for programme content until the adoption, coming into effect and implementation of the Law governing the field of broadcast media. Provisions of Article 143a of the Law on Amendments to the Electronic Communications Law, adopted on 21 October 2009 (Official Gazette of Montenegro 70/09) prescribe that duties of the regulatory authority for programme contents related to the assignment of radio-frequencies for radio and TV broadcasters will be executed by the Broadcasting Agency until coming into effect and implementation of the Law regulating the broadcast media sector.

**57. What are the distribution systems in place (terrestrial, cable, satellite)? What (if any) are the “must carry” regulations (obligations for the network to distribute certain channels)?**

Distribution of radio and TV programmes in Montenegro is done by means of: satellite distribution systems (DTH, Direct-to-Home), public fixed telecommunication networks (IPTV), cable and wireless (MMDS) systems.

The obligation to distribute programmes of the national and local public service broadcasters, free of any charge, is contained in all the licences issued to the operators of cable, MMDS, and IPTV systems. Consequently, all cable, MMDS, and IPTV operators distribute programmes of the national public service broadcasters (two channels of the Television of Montenegro).

The Electronic Communications Law (Article 38) prescribes that, in case a network used for distribution of signal of radio and television programme, represents a dominant method of reception of such programmes in a particular area of the service, the Agency, upon a request of the regulatory body for programme contents, which determines the scope and type of the programmes and contents, may impose an obligation on the network operator to broadcast particular programmes or contents.

**58. What are the arrangements as regards technical broadcast standards?**

In compliance with the relevant recommendations of the International Telecommunication Union (ITU), ETSI standards and valid legislation, the following documents are currently in effect:

1. Rulebook on the Highest Allowed Radiated Power of the Radio Stations in Cities and Urban Areas (March 2005);
2. Rulebook on the Technical and Exploitation Conditions for the Frequency Modulated Emissions of the Broadcasting Stations (June 2005);
3. Rulebook on the Technical and Exploitation Conditions for Use of Broadcasting Stations for Broadcasting TV programme in the VHF I and III and UHF IV and V frequency bands (June 2005).

**59. What legal measures apply to encryption of broadcast signals?**

Article 38 of the Rulebook on Cable and Wireless Systems for Distribution of Radio and TV Programmes to End Users prescribes that distribution of the encrypted satellite programmes is allowed only if the operator has concluded a distribution contract with the owner of such programmes, allowing decryption of such programmes for the purpose of further distribution.

Furthermore, the Rulebook prescribes that the distribution of contents contrary to the Media Law, the Broadcasting Law, and the Decision on Minimum Programme Standards in Broadcast Media is not allowed within the basic package.

In view of the aforesaid, certain programme contents (e.g. pornography) may be broadcast only as a part of extra packages, which are additionally encrypted.

Article 37 paragraph 2 of the Electronic Communications Law prescribes that the operator that provides the conditional-access service, enabling the access to the digital television and radio services the broadcasting of certain programmes depends on, is obliged to offer technical services to the broadcasters of these programmes under non-discriminatory conditions, enabling the subscribers to access the services of these broadcasters using their decoders.

The Agency for Electronic Communications is in charge of monitoring of the technical quality of the encrypted signal.

On the other hand, monitoring of programme aspect of the provision of conditional-access services is currently not regulated. This issue should be defined by the Law on Electronic Media, more precisely, this competence should be assigned to the independent regulatory authority.

## **60. Which public and private broadcasters are currently licensed or authorised and how are they financed?**

The Broadcasting Law of 2002 classifies the broadcast media into national public service broadcasters, local public service broadcasters and commercial broadcasters.

This classification is a result of an intention to make a general division of broadcasting into public and commercial, in line with international standards, with their respective specific features in the manner of financing, programme structure, etc.

According to the Law on Public Broadcasting Services of Montenegro, there are two national public service broadcasters: Radio of Montenegro and Television of Montenegro. Both services have two channels each, broadcasting nation-wide. Furthermore, this Law gives the right to these services to broadcast their own radio and television programme via satellite.

Since its establishment, the Broadcasting Agency has conducted four public tenders for awarding the right to transmission and broadcasting of radio and TV signals (assignment of broadcasting frequencies). On the basis on that, it has granted 43 licences for commercial radio broadcasters and 21 licences for commercial TV broadcasters. An Overview of Commercial Broadcasters is available at the website of the Broadcasting Agency [www.adcg.org](http://www.adcg.org).

In compliance with the Broadcasting Law of 2002, 17 local public service broadcasters have been established, out of which 14 are radio stations and 3 are TV stations. Their founders are local self-government assemblies, on the territory of which their programme is broadcast. An overview of Public Service Broadcasters is also at the website of the Broadcasting Agency [www.adcg.org](http://www.adcg.org).

One of the differences between public and commercial broadcasters recognized by the Broadcasting Law is the manner of financing. While the public service broadcasters are financed and controlled by the public, commercial broadcasters are financed by a privately owned legal person or an entrepreneur for the purpose of making profit.

Both national and local public service broadcasters are financed from the public revenues.

Chapter V – Financing, of the Law on Public Broadcasting Services of Montenegro prescribes that that Public Enterprise Radio and Television of Montenegro (hereinafter referred to as: RTCG) acquires funding:

- from a part of general revenues of the budget of Montenegro;
- from the production and broadcasting of advertising contents;

- from the production and sale of audiovisual works (programmes, films, series, etc.) and sound and image recording media, of interest to the public;
- from the sponsorship of programme content;
- by organizing concerts and other events;
- from the budget of Montenegro;
- from other sources, in compliance with law.

For the purpose of carrying out the main activities of RTCG, the funds at a level of 1.20% of the current budget of Montenegro, determined by a budget law for the given year, are allocated from the general revenues of the budget of Montenegro. A report on allocated funds is submitted together with the annual financial statement of the budget of Montenegro.

The Ministry of Finance is obliged to allocate the funds to the RTCG on a monthly basis, in compliance with separate Instructions for the Manner of Reallocation of Funds from the General Revenues of the Budget of Montenegro for financing of the main activity of Radio and Television of Montenegro (Official Gazette of Montenegro 03/09).

The Instructions define that the funds from the general revenues of the budget of Montenegro – excise duties, are reallocated for the financing of the main activity of RTCG, at the annual level of 1.20 percent of the current budget of Montenegro, determined by a budget law for the given year.

If the funds obtained on the basis of excise duties are not sufficient for the provision of the aforementioned amount, the deficient funds are provided from the revenues obtained on the basis of the value added tax.

The payment of funds is done to the amount of 1/12 of the determined funds, between the 15<sup>th</sup> and 20<sup>th</sup> day in the month, for every current month, on the basis of a decision of Minister of Finance.

Moreover, the Budget of Montenegro provides a part of funding for the exercising of the rights to information by the citizens, on the basis of the RTCG programme contents of importance for:

- development of science and education;
- cultural development;
- information intended for people with visual and hearing impairments.

For the purpose of exercising of the aforementioned rights, the state provides a part of funding for the programme contents in Albanian and the languages of the members of national minorities and other minority groups.

The aforementioned funds may be used for the production of the aforementioned programme contents only.

The Ministry of Culture, Sports and Media and the RTCG regulate mutual rights and liabilities related to the use of the aforementioned funds by means of an agreement, within 30 day from the date of coming into effect of the law on budget of Montenegro for the given year. The agreement is published in the RTCG Bulletin and sent to the independent regulatory authority for programme contents for examination.

The manner and conditions of provision of funds from the budget of Montenegro must not affect the editorial independence and autonomy of RTCG. Payment of funds from the budget of Montenegro is done in four equal instalments, in compliance with the Budget Law.

At the local level, one of the sources of funding of the local public broadcasters are the budgets of local-self government units, which are their founders.

In compliance with Article 100 of the Broadcasting Law, budget of the local self-government unit provides a part of the funds for the exercising of citizens' rights to be informed without discrimination, guaranteed by the Constitution and law, based on the programming of importance for:

- development of science and education;

- cultural development;
- information intended for persons with visual and hearing impairments.

Same as at the national level, for the purpose of exercising the aforementioned rights, a local self-government unit provides a part of funding for the programme contents in the native languages of the members of the national and ethnic groups.

Competent authority of the executive power of the local self-government and the public service broadcaster stipulate mutual rights and liabilities related to the use of funds by means of an agreement. The manner and conditions of provision of the funds must not affect the editorial independence and autonomy of the public service broadcaster. The agreement is published in a manner defined by the broadcaster's founding document and submitted to the Broadcasting Agency for examination.

Budgets of the local self-government units provide funds for the payment of services of transmission and broadcasting of programmes of public service broadcasters they founded. Competent authority of the executive power of the local self-government and RDC stipulate mutual rights and liabilities related to the terms and conditions of payment of the aforementioned funds by means of an agreement.

In case it is not possible to reach a consent concerning the agreement between the administrative body in charge of public information issues and RDC, a temporary decision on this matter is adopted by the Broadcasting Agency.

## **61. What are the criteria used for determining national jurisdiction over audiovisual media services in Montenegro?**

The basis for determining jurisdiction over radio and TV programme broadcasters is provided by the Broadcasting Law and the Law on Ratification of the European Convention on Transfrontier Television (Official Gazette of Montenegro 01/08).

The Broadcasting Law prescribes that broadcasters may be natural or legal persons registered for the production, transmission and broadcasting of radio and TV programme, with the license for transmission and broadcasting of radio and TV signals obtained in compliance with the Broadcasting Law. Therefore, a company involved in broadcasting of radio or TV programme is under the jurisdiction of Montenegro if it is registered with the Financial Court of Montenegro and licensed for the transmission and broadcasting of radio and TV signals.

Given that the current legislation, apart from the aforementioned, contains no explicit provisions defining national jurisdiction over radio and TV broadcasters, it should be taken into consideration that, after coming into effect of the Law on Ratification of the European Convention on Transfrontier Television, the criteria for determining national jurisdiction contained in this document may be applied (Article 5 of the Convention).

The Draft Law on Electronic Media of 2009 prescribes that the activity of providing audio and/or audiovisual media services in Montenegro may be performed by a media service provider entered into an adequate registry, with the head office and editorial offices in Montenegro. The Draft prescribes the cases when it is implied that the providers of audiovisual media services operating in the European Union Member States or third countries fall under the jurisdiction of Montenegro, its authorities and Montenegrin regulations. Such a provision is in compliance with Article 2 of the Directive 2007/65/EC of the European Parliament and of the Council on Audiovisual Media Services.

**62. Are there any restrictions on reception or retransmission of audiovisual media services from other European States? Please refer to both television broadcasting and on-demand audiovisual media services.**

After coming into effect of the Law on Ratification of the European Convention on Transfrontier Television, Montenegro, as a contracting party, is obliged to guarantee freedom of expression and information in compliance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and not to limit retransmission of programme services that are in compliance with the provisions of this Convention.

The Law on Electronic Media, the Proposal of which is currently being prepared, will implement the provisions of the Directive 2007/65/EC of the European Parliament and of the Council on Audiovisual Media Services related to the reception and retransmission of audiovisual media services from other countries, which Montenegro is obliged to ensure in compliance with Article 2a of the aforementioned directive, with the possibility of introducing limitations in cases prescribed by Article 2a paragraphs 2 and 4 of the Directive.

The Law on Copyright and Neighbouring Rights (Official Gazette of Serbia and Montenegro 61/04) and the Law on Application of Legislation Regulating the Protection of Intellectual Property (Official Gazette of the Republic of Montenegro 45/05) contain no provisions limiting the reception and retransmission of programme contents from European countries if the obligations related to the copyright and neighbouring rights have been regulated in compliance with law.

Article 23 of the Decision on Minimum Programme Standards in the Broadcast Media of Montenegro prescribes that the broadcast media are obliged to observe copyrights and other intellectual property rights. The broadcast media are not allowed to broadcast copyrighted programme contents. Moreover, the broadcast media are obliged to acquire programming only from the authorized distributors, production companies and right holders of the copyrighted audiovisual work. In order to broadcast private audiovisual works, the broadcast media are obliged to previously conclude a Contract with the owner.

**63. Do you have specific measures applying to the retransmission of audiovisual media services in Montenegro?**

Article 56 of the Broadcasting Law prescribes that the broadcasters are responsible for the content of the broadcast programme in compliance with this Law and the Media Law.

They are also obliged:

- 1) to inform the public of the events and matters of public importance in the country and abroad in a truthful, complete, impartial and timely manner;
- 2) to contribute to the observance and promotion of fundamental human rights and freedoms, democratic values and institutions, pluralism of ideas, to promote the culture of public dialogue and observe linguistic standards.
- 3) to respect the privacy and dignity of citizens.

The same Law prescribes (Article 57) that the name, logo or abbreviated identifying symbol of a radio or TV programme has to be broadcast in the following manner:

- for a television programme – during the entire programme broadcasting;
- for a radio programme – every two hours of programme broadcasting.

Moreover, it is prohibited to use a name, sign or abbreviated identifying symbol that does not correspond to the registered name of the broadcaster's programme. Name, logo or abbreviated identifying symbol of a broadcaster's programme must also be provided if the programme has been taken over from other broadcasters, and when the independent production programmes are broadcast, that is specified in the opening and/or closing credits of the programme.

These regulations apply both for the broadcasting and retransmission of radio and TV programmes.

The Law on Copyright and Neighbouring Rights (Official Gazette of Serbia and Montenegro 61/04) and the Law on Application of Legislation Regulating the Protection of Intellectual Property (Official Gazette of the Republic of Montenegro 45/05) prescribe that the only condition for obtaining the right to re-transmit programme contents is fulfilment of the obligations based on the copyrights and neighbouring rights.

Article 37 of the Rulebook on Cable and Wireless Systems for Distribution of Radio and TV Programmes to End Users prescribes that an operator (cable or MMDS operator) may distribute radio and television programmes of broadcasters, previously signing contracts on mutual rights and liabilities with them, which are submitted to the Broadcasting Agency for record-keeping.

Moreover, distribution of encrypted satellite channels is permitted only if an operator has signed a distribution contract with the owner of the channels, allowing for the decryption for the purpose of further distribution (Article 38).

Article 38 of the Rulebook prescribes that, in the basic package of channels, an operator is not allowed to distribute programme contents violating the Broadcasting Law, the Media Law, and the Decision on Minimum Programme Standards in the Broadcast Media of Montenegro (Official Gazette of the Republic of Montenegro 33/05).

An operator is obliged to stop, without any delay, any distribution of channels violating minimum programme standards. Temporary or permanent interruption in distribution of these channels may be ordered by the Agency. The operator shall not distribute programme of broadcasters from Montenegro, whose licence for the transmission and use of radio and TV signals has been suspended or revoked by the Agency.

Furthermore, Article 40 prescribes that an operator is obliged to distribute radio and/or television channels at the same time, completely and without any changes, in compliance with the obtained licence, as well as to broadcast the name, logo or abbreviated identifying symbol of the radio or TV channel it signed the distribution contract with.

The Rulebook on the Licensing Procedure and Conditions for Use of Licences for Distribution of Radio and Television Channels to End Users by Means of Public Fixed Telecommunication Networks and Satellite Distribution Systems (Official Gazette of the Republic of Montenegro 57/07 and Official Gazette of Montenegro 05/07), prescribes the same obligations for the operators of IPTV and DTH networks for distribution of radio and TV programmes.

**64. Please provide details of any international commitment(s) which may affect audiovisual services, in particular, in the framework of Montenegro's accession to the WTO.**

The following international instruments/documents that have been ratified by Montenegro apply to the provision of audiovisual services:

- European Convention on Human Rights and Freedoms with the related protocols;
- European Convention on Transfrontier Television (Law on Ratification of the European Convention on Transfrontier Television (Official Gazette of Montenegro 01/08);
- UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Law on Ratification of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Official Gazette of Montenegro – International Treaties 03/08)
- International Covenant on Civil and Political Rights;
- Berne Convention for the Protection of Literary and Artistic Works (Official Gazette of SFRY – International Treaties 15/75).

- WIPO Copyright Treaty (Official Gazette of SRY – International Treaties 13/02).
- WIPO Performances and Phonograms Treaty (Official Gazette of SRY – International Treaties 13/02).
- Brussels Convention Related to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Official Gazette of SFRY – International Treaties 51/74)
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Official Gazette of SRY – International Treaties 13/02).

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Official Gazette of the Federal Republic of Yugoslavia – International Treaties 13/02).

**65. What (if any) are the provisions in the national audiovisual legislation setting standards in the fields of audiovisual commercial communications, in particular the ban on incitement to hatred, accessibility of people with visual or hearing disabilities, respect of copyrights of cinematographic works, television advertising including teleshopping and sponsorship, product placement, surreptitious advertising, ban on tobacco advertising and limitation of alcohol advertising and medical products; protection of minors (please refer to the watershed and the protection of minor from detrimental advertising in both television broadcasting and on-demand audiovisual media services ) and public order; and the right of reply? Has Montenegro introduced specific regulations in the field of television advertising that can be considered to be a more detailed or stricter rule compared with the rules in the audiovisual media services directive (for instance: ban on political advertising, ban on alcohol advertising, restrictions concerning children's programmes, etc?)**

Standards in the field of commercial audiovisual communications are defined by the following regulations:

- Media Law;
- Broadcasting Law;
- Law on Ratification of the European Convention on Transfrontier Television;
- Rulebook on Advertising and Sponsorship in the Broadcast Media;
- Decision on Minimum Programme Standards in the Broadcast Media.

Please note that the provisions related to certain issues (ban on incitement to hatred, accessibility of people with visual or hearing disabilities, respect of copyrights of cinematographic works, protection of minors and public order, right of reply) apply not only to the commercial audiovisual communications (advertising, sponsorship and teleshopping) but also to all programme contents, as prescribed by the Media Law. The overview of provisions below outlines how individual issues are defined by Montenegrin legislation or regulations, especially providing detailed provisions related to advertising, sponsorship and teleshopping.

a) Ban on incitement to hatred

The legal framework recognizes the role and importance of media, especially broadcast media, in the prevention of and fight against intolerance and discrimination. This contribution is especially recognized through the development of a culture of understanding among different social groups, aimed at preventing the hate speech and improving tolerance and understanding.

Consequently, the Media Law bans publication of information and opinion in the media, inciting to discrimination, hatred or violence against persons or group of persons based on their belonging or not belonging to a certain race, religion, nation, ethnic group, sex or sexual orientation (Article 23 of the Media Law). The Law prescribes that the media founder and author are not accountable if

the published information and opinions are a part of scientific or expert work the subject of which is a public issue and is publicised:

- without intention to instigate discrimination, hatred or violence, especially if it is a part of an objective news report;
- with intention to criticize discrimination, hatred or violence or any phenomena which represent or might represent incitement to such behaviour.

Chapter III of the Media Law - Media Distribution (Articles 10 to 17) prescribes that, on the basis of the State Attorney's proposal, the competent court may ban the distribution of the publicised programme content of the media outlet inviting to national, racial, or religious intolerance or hatred. The judicial proceedings based on the proposal for ban on distribution of the programme content publicised by a media outlet, with the established right to compensation for the damage, caused by the measures resulting from an unfounded temporary ban, if the court rejects the proposed ban on distribution, are prescribed in detail.

Chapter 3 of the Decision on Minimum Programme Standards in the Broadcast Media Programmes – Offensive Language and Hate Speech (Article 12 and 13) prescribes that programme contents of the broadcast media must not be directed at hate speech or promotion of any kind of intolerance and violence. Moreover, it is prohibited to use offensive terms that might be associated with certain social group in the broadcast media programmes. Exceptionally, the use of these terms is allowed only when scientific, expert or documentary works are in question, with intention not to incite to discrimination, hatred or violence, but to criticize them.

Article 22 of the Rulebook on Advertising and Sponsorship in the Broadcast Media prescribes that advertising contents must not be aimed at the promoting intolerance against certain social groups on the grounds of their ethnic, religious, national, political, gender, sexual or other orientation or belonging to any of these groups.

**b) Accessibility for people with visual or hearing disabilities**

There are no provisions in the Montenegrin legislation obliging broadcasters or producers of advertising messages to make them accessible to people with visual or hearing disabilities.

However, the Broadcasting Law establishes the obligation of both national and local public service broadcasters to produce and broadcast programmes intended for people with visual and hearing disabilities.

Article 95 of the Broadcasting Law prescribes the obligation of all public service broadcasters to produce and broadcast programs intended for all segments of the society, without any discrimination, especially taking into account specific social groups such as children and youth, minority ethnic groups, disabled people, socially and medically challenged people, etc. in order to ensure the general interest in the field of information and broadcasting. This obligation of the national public service broadcasters Radio of Montenegro and Television of Montenegro is especially underlined in Article 9 of the Law on Public Broadcasting Services of Montenegro.

In order to enable people with visual or hearing disabilities to exercise their right to information, Article 100 of the Broadcasting Law prescribes that the state or the local self-government units are obliged to provide a part of funds for the realization of such programmes.

**c) Respect of copyrights of cinematographic works**

Article 19 of the Media Law prescribes that a media outlet is obliged to publish at the appropriate place of every individual programming, *inter alia*, the name of legal or natural person that is a copyright holder.

Protection of copyrights of cinematographic works is regulated by the Law on Copyright and Neighbouring Rights and the Law on Application of Legislation Regulating the Intellectual Property Rights.

Given that Montenegro has ratified the European Convention on Transfrontier Television, Article 10 paragraph 4 of the Convention applies to the observance of copyrights of cinematographic works. It prescribes that, unless a television company and the copyright holder have agreed otherwise, the

cinematographic work must not be broadcast before the expiry of two years from the day of its first screening in the cinema, or within one year if the cinematographic work was coproduced with the television company.

Article 23 of the Decision on Minimum Programme Standards in Broadcast Media of Montenegro prescribes that the broadcast media are obliged to observe copyrights and other intellectual property rights. The broadcast media are forbidden to broadcast copyrighted programme contents without authorization. Moreover, the broadcast media are obliged to acquire programmes only from authorised distributors, production companies and other holders of rights over the copyrighted audiovisual material. In order to broadcast private audiovisual material, the broadcast media are obliged to previously sign a contract with the owner.

d) Television advertising, including teleshopping and sponsorship

The Media Law (Article 24) prohibits the advertising of sale and purchase of human organs or tissues for transplantation or transfusion. It is also prescribed that the media are not allowed to advertise weapons, narcotics, tobacco products, trade in commodities and providing services prohibited by law, medicines and medical treatments available only with medical prescription, curing procedures and methods that are not in compliance with the provisions of a separate law on healthcare.

Chapter X of the Broadcasting Law – Advertising and Sponsorship (Articles 111 to 115) regulates the terms and conditions of broadcasting of advertising and sponsored programme contents.

The Law empowers the Broadcasting Agency Council to adopt secondary legislation, in compliance with European standards, prescribing the quotas related to advertising and sponsored programme contents, as well as to other aspects of broadcasting of advertising and sponsored programme contents.

The Law prescribes that the advertisement are published in exchange for financial or other compensation or with the intention of self-advertising. Advertisements must be clearly recognizable, and separated from other programme contents by optical and acoustic means, while free advertisements must be specifically indicated as such.

As to the provisions of this law, the following are not considered to be advertisements:

- free announcements of public works and charity campaigns;
- free presentations of works of art;
- free publicizing of information on producers, organizers, sponsors or donors of works of art, cultural and entertainment events and charity campaigns.

Article 113 of the Broadcasting Law prescribes that sponsored programming must not instigate the sale, purchase or renting of products or services of the sponsor or a third party, particularly not through special presentation of such products or services.

The programming may not be sponsored by natural and legal persons whose basic business is the production or sale of products or provision of services the advertising of which is forbidden by the Media Law.

It is also prescribed that political parties, coalitions and other political organizations may not be sponsors of broadcasting programmes.

Article 114 of the Broadcasting Law prescribes that:

- news or current affairs programmes may not be sponsored.
- each sponsored programming must be distinctly marked as such by indicating names or logos of the sponsors.
- if a program is fully or partially sponsored, it must be distinctly marked as such by the sponsor identification given at the beginning, during or at the end of such broadcast.
- for sports, cultural and art programmes, sponsor identification may be given both at the beginning and the end of natural breaks.

In compliance with the Broadcasting Law (Article 8 and 21), the Broadcasting Agency Council adopted a Rulebook on Advertising and Sponsorship in the Broadcast Media. It prescribes in detail the standards and conditions for advertising, sponsorship, and teleshopping, quantity/quota, types and scheduling of advertisements in the broadcast media programmes, terms of broadcasting and scheduling of teleshopping in compliance with the Media Law, the Broadcasting Law, the Council of Europe Convention on Transfrontier Television and other positive national and international documents.

e) Surreptitious advertising

The Broadcasting Law (Article 112) prohibits surreptitious advertising, aimed at convincing a listener and/or viewer that a broadcasting of particular advertisement is actually not an advertising content. Both the ordering party and the broadcaster are responsible for surreptitious advertising. Any surreptitious advertising is assumed to be intentional.

f) Advertising of tobacco products

The Media Law (Article 24) prescribes that the advertising of tobacco products is forbidden. Moreover, this Law does not allow to the natural and legal persons involved in the production or sale of the tobacco products as their basic activity to sponsor programme contents.

Article 43 of the same Law prescribes a fine chargeable from twenty-fold to fifty-fold amount of the minimum salary in Montenegro if a media outlet broadcasts an advertisement of a tobacco product. Article 14 of the Rulebook on Advertising and Sponsorship prohibits advertising of tobacco products, including the products that share brand name or logo with tobacco products.

g) Advertising of alcohol

The Media Law (Article 24) prescribes that, when advertising alcoholic beverages, a media must observe the provisions of a separate law.

Given that there is no separate law on advertising, alcohol must be advertised in compliance with the regulations defined by the Convention on Transfrontier Television (Article 15).

Consequently, the Rulebook on Advertising and Sponsorship in the Broadcast Media (Articles 14, 38-40, and 46) elaborate in detail the rules of advertising of alcohol, as well as sponsorship of programmes by persons involved in the production of and trade in alcoholic beverages.

h) Limitation in advertising of medical products

The Media Law (Article 24) prohibits advertising of medicines and medical treatments available only with medical prescription, curing procedures and methods that are not in compliance with the provisions of a separate law on healthcare. It is also prescribed that any advertisement of medicines or medical treatments must be clearly recognisable as such and truthful.

A fine chargeable from twenty-fold to fifty-fold amount of the minimum salary in Montenegro is prescribed for the violation of these restrictions.

Articles 14, 28, and 35-37 of the Rulebook on Advertising and Sponsorship in the Broadcast Media provides detailed rules of advertising of medicines and medical treatments.

i) Protection of minors

Article 22 of the Media Law prescribes that the media are obliged to protect the integrity of minors. It is particularly prescribed that any media programming that could endanger health, moral, intellectual, emotional and social development of a child must be clearly and visibly marked as such in advance and distributed in a way with the least probability for a child to use it.

These rules are elaborated by the secondary legislation of the Agency, including:

- Decision on Minimum Programme Standards in the Broadcast Media Programmes (Articles 4-6, 8, 10, and 11),
- Rulebook on Advertising and Sponsorship in the Broadcast Media (Articles 23-34, 38 and 46).

The watershed is regulated by Articles 4-6 of the Decision on Minimum Programme Standards in the Broadcast Media Programmes. It lasts between 11 p.m. and 6 a.m.

j) Protection of public order

Article 47 of the Constitution of Montenegro prescribes that everyone has the right to freedom of expression by speech, writing, picture or in some other manner. The right to freedom of expression may be limited only by the right of others to dignity, reputation and honour and if it threatens public morality or security of Montenegro.

Article 2 of the Media Law, prescribes that Montenegro guarantees the right of free founding and undisturbed work of the media based on: the freedom of expression; freedom of investigation, collection, dissemination, publicising and receiving information; free access to all sources of information; protection of man's person and dignity and free flow of information.

The Republic shall guarantee equal participation in information to both domestic and foreign legal and natural persons in compliance with both this Law and the Broadcasting Law.

In the event that the published media content invites to forceful destruction of the constitutional order and violation of the territorial integrity of the Republic, infringement of the guaranteed human and citizen's freedoms and rights, or incitement to national, racial or religious intolerance or hatred, further publication of such a content may be banned. Detailed procedure, competences, deadlines, and rights and liabilities in that case are prescribed by Articles 12-17 of the Media Law.

k) Right of replay

The Constitution of Montenegro (Article 49) guarantees the right of reply and the right of correction of any untrue, incomplete or incorrectly conveyed information that violates a person's right or interest and the right to compensation of damage caused by the publication of untruthful data or information.

This constitutional right is further elaborated by Article 25 and Chapter VI of the Media Law – Rights of correction and reply (Articles 26 to 35).

The Law prescribes in detail the rights and liability of the media, the manner and deadlines for exercising the rights of reply or correction, as well as the judicial proceedings if a media outlet rejects to publish a reply or correction of information, or publishes them contrary to the law.

The procedure following a lawsuit for publication of a reply or correction is urgent and media are obliged to keep the texts and recordings of information at least thirty days after their publication and make them available for examination of persons who have the right of reply or correction in compliance with the Law. Article 26 of the Decision on Minimum Programme Standards in the Broadcast Media of the Republic of Montenegro prescribes that, in compliance with the Media Law, commercial broadcasting services are obliged to have, within their job organisation, an authorised employee in charge of the archiving of the broadcast programme content and an employee in charge of processing petitions and complaints.

Commercial broadcasting services are obliged to define the procedure for processing the petitions and complaints about the broadcast programme content.

When a legal or natural person presents a reasonable claim that the broadcast programme content has harmed his/her/its reputation or is incorrect, the broadcast media is obliged to send written explanation or apology to the damaged party.

In every petition or complaint procedure, a broadcast media is obliged to inform the person who has lodged the petition or complaint about the possibility of lodging the petition or complaint to the Broadcasting Agency.

If an agreement is not reached between the person who has lodged the petition or complaint and the broadcast media, the broadcast media is obliged to submit the recordings and other documentation to the Broadcasting Agency.

When considering petitions and complaints, the Broadcasting Agency Council takes special care of the sensitive nature of the problem of expression of opinions and ideas in the broadcast media,

primarily concerning the violence, sexual orientation, etc., having necessary regard to the differences in tastes and beliefs resulting from the diversity of the overall audience.

- I) More detailed or stricter rules compared with the rules in the Audiovisual Media Services Directive

The Broadcasting Law (Article 96) prescribes that political advertising is not allowed in the programmes of public service broadcasters, except during election campaigns.

The political advertising includes: press releases, videos and other forms of advertising aimed at influencing the choice of voters when voting at the elections for the President of Montenegro, Members of Parliament and City Councillors.

Only the political parties, coalitions, and candidates with accepted electoral lists and candidatures may be presented, subject to regulations adopted by the Council of the Public Broadcasting Service.

Councils of the public service broadcasters are obliged to adopt the rules of presentation no later than 15 days after the elections have been scheduled.

Furthermore, Article 98 of the Broadcasting Law prescribes that an ordering party of the political advertising contents, responsible for the truthfulness and accuracy of information, must be clearly specified, while the public service broadcaster is responsible for compliance of the political advertising with the provisions of the Broadcasting Law and the Media Law.

Article 120 of the Broadcasting Law also prescribes fines chargeable to the amount from ten-fold to thirty-fold minimum salary in Montenegro on the grounds of the infringement if a public service broadcaster broadcasts political advertising outside an election campaign, or if it fails to indicate an ordering party of a political advertising, as well as if it fails to publicise the terms and conditions for presentation of political parties, candidates and their programmes within the deadline prescribed by law.

The Broadcasting Law (Article 96) prohibits religious advertising.

Furthermore, Article 20 of the Decision on Minimum Programme Standards in the Broadcast Media Programmes prescribes that any abuse of religion, faith or denomination is prohibited in the broadcast media programmes.

The broadcast media are obliged to pay special attention while broadcasting programme contents related to religion, faith and denomination, and to make sure that beliefs and activities of religious communities are not unjustly presented. Broadcast media are obliged to broadcast such programme contents in a correct and objective manner, respecting all religious communities.

- m) Product placement

Product placement as a form of commercial audiovisual communication is not regulated by the national legislation.

**66. Has a list of major events to be broadcast on free-to-air television been adopted in your country? If so, please provide us with the list of such events and the conditions of transmission.**

The Broadcasting Law (Article 59) prescribes that the Agency Council defines a list of events of major importance for the citizens of Montenegro in compliance with European standards, and notifies the Standing Committee for Transfrontier Television.

Public consultations concerning a Draft Decision on the List of Events of Major Public Importance in Montenegro with a List of Organized Events were organized in the third quarter of 2008. The Decision has not been adopted yet.

**67. Has any measure been taken concerning access by other broadcasters to events of high interest to the public which are transmitted on an exclusive basis by a broadcaster? Are there possibilities for other broadcasters to access such events and broadcast short reports?**

The Broadcasting Law (Article 59) prescribes that the broadcaster with an exclusive right to broadcast a major event is obliged to allow all other interested broadcasters to record and broadcast short reports from that event in the duration of up to 120 seconds, which may contain both authentic picture and sound from the event.

Given that Montenegro has ratified the Convention on Transfrontier Television, relevant provisions of the convention apply to this issue.

**68. Have audiovisual media services providers in your country developed codes of conduct on inappropriate commercial communications for foods and substances high in fat, sugar and salt directed to children?**

There is no code of conduct on inappropriate audiovisual communication for foods and substances high in fat, sugar and salt directed to children.

**69. What (if any) regulatory measures are used to encourage or require the audiovisual media services of, or the investment in, certain types of programmes (e.g. cultural, educational) or programmes of specific geographical, linguistic or sectoral origin (independent productions, European works, national works, programmes made or broadcast in certain languages etc.)? Please refer to television broadcasting and on-demand audiovisual media services. Are there such measures as regards other media (cinema theatres, video, etc.)?**

Article 95 of the Broadcasting Law prescribes that in order to ensure public interest in the field of information and broadcasting, public broadcasting services are required to:

- produce and broadcast programs intended for all segments of the society, without any discrimination, especially taking into account specific social groups such as children and youth, minority ethnic communities, people with disabilities, the socially and medically challenged, etc.;
- produce and broadcast programmes expressing the cultural identity of the nation, national and ethnic groups;
- produce and broadcast programmes in native languages of national and ethnic groups in the areas inhabited by them.

Furthermore, Article 100 of the same law prescribes that the state budget or budget of a local self-government unit provides a part of the funds for ensuring the right of citizens to be informed without discrimination, guaranteed by the Constitution and law, based on the programming important for:

- development of science and education;
- cultural development;
- information intended for persons with visual and hearing impairments.

In order to ensure the aforementioned rights, the state or a local self-government unit provide a part of the funds for the programming on the native tongues of national and ethnic groups.

Article 8 of the Law on Public Broadcasting Service of Montenegro prescribes that regional radio and television studios may be established for the need of Radio of Montenegro and Television of

Montenegro, with specific obligation to produce and broadcast regional programmes and programmes in the languages of national minorities and other minority groups in that area.

Article 9 of this Law prescribes that the Radio and Television of Montenegro are obliged to produce and broadcast, applying high professional ethical and quality standards, without any discrimination or social difference, the programme contents that:

- satisfy the public interest both at national and local level in a balanced manner, with appropriate share of educational, scientific, sports and entertainment programmes;
- promote and cherish Montenegrin national and cultural identity, cultural and ethnic identity of national minorities and other minority groups, European cultural heritage and cultural diversity;
- promote Montenegrin cultural heritage, encourage and cherish its cultural and artistic creation, and disseminate information about other cultures present in Montenegro;
- reflect different ideas and religious beliefs in the society in order to strengthen the understanding and tolerance and promote multicultural, multiethnic and multi-confessional character of Montenegro;
- contribute to the observance and promotion of fundamental human rights and freedoms, democratic values and institutions, pluralism of ideas, culture of public dialogue, linguistic standards, privacy and dignity of people;
- stimulate development and improvement of democratic culture of the society;
- promote and support the values of civil society and present civic initiative;
- provide impartial, accurate, timely, clear and balanced information on both national and international events of public importance;
- present and promote historical sources and material evidence concerning the past times;
- provide production and presentation of Montenegrin cinematographic and audiovisual works.

Moreover, Article 17 of the same Law prescribes that the Budget of Montenegro provides a part of the funds for ensuring the right of citizens to be informed, based on the RTCG programming important for information intended for persons with visual and hearing impairments.

In order to ensure the aforementioned rights, the state provides a part of the funds for the programming in the Albanian language and native languages of national minorities and other minority groups.

The aforementioned funds may be used only for the production of the aforementioned programme contents.

## **70. What definitions are used to distinguish television broadcasting from other audiovisual services?**

Currently, there are no definitions prescribed by law and used to distinguish television broadcasting from other audiovisual services.

The Broadcasting Law defines the following terms (Article 4):

- broadcasting: transmission and airing of radio and/or television programmes and other telecommunication signals in encrypted or unencrypted form by means of terrestrial transmitters, cable or satellite, intended for the direct reception by the public;
- public broadcasting service: an activity focusing on the production, transmission and broadcasting of radio and/or television programmes of public interest financed and controlled by the public;

- commercial broadcasting service: an activity focusing on the production, transmission and broadcasting of radio and/or television programmes of public interest financed by a privately owned legal person or entrepreneur for the purpose of making profit;

The Electronic Communications Law defines the following terms (Article 3):

- Broadcasting: one-way radio-communications service that includes delivery, transfer and reception of audio, video and other signals intended for direct reception in open space, broadcast via terrestrial or satellite transmitter.

Conditional access system is a system, for which access to protected broadcasting service in unencrypted form is conditioned by concluding a subscriber agreement or by other form of prior individual authorization.

**71. What (if any) are the regulations covering other audiovisual services, in particular interactive, on-demand audiovisual media services, including Internet?**

Other audiovisual services, in particular interactive, online services, including Internet, are not regulated in Montenegro.

**72. What rules and regulations govern public and private television broadcasting? What rules ensure the editorial independence of the public broadcaster? Please refer to the source of financing the public broadcaster.**

The work of commercial broadcasters and public service broadcasters is regulated by the following laws, secondary legislation and other regulations:

- Media Law;
- Broadcasting Law;
- Electronic Communications Law;
- Rulebook on Advertising and Sponsorships in the Broadcast Media;
- Decision on Minimum Programme Standards;
- Code of Conduct of Montenegrin Journalists.

In compliance with the Broadcasting Law, public service broadcasters may be: national and local public service broadcasters. The Broadcasting Law (Article 94) prescribes that public service broadcasters are founded on the basis of law for the territory of Montenegro (national) and by a decision of the competent parliament of a relevant local self-government unit (local).

Consequently, the work of Radio of Montenegro and Television of Montenegro is also regulated by the Law of Public Broadcasting Services. Chapter IV – Independence of RTCG (Article 13 and 14) of this piece of legislation prescribes that the RTCG has editorial independence and consequently:

- defines programme scheme;
- defines the concept of programme production and broadcasting;
- edits and broadcasts information related to the current affairs;
- organizes its activities;
- journalists employed in RTCG are independent in their work and act in the public interest.

This law prescribes that a journalist may not be dismissed, her/his salary reduced, her/his status in the editorial office changed or held accountable for her/his views or opinions expressed in compliance with the professional standards and programme regulations.

Moreover, Article 18 of the Law prescribes that the terms and conditions of provision of funds from the Budget of Montenegro must not affect the editorial independence and autonomy of RTCG.

Council of the national public service broadcaster adopted in 2003 a document entitled *Programme Principles and Professional Standards* regulating, inter alia, the issues of editorial independence of these media.

At the local (municipal) level, the work of individual local public broadcasters is regulated by a decision on their establishment, adopted by a municipal assembly on whose territory the programme is broadcast.

For detailed information concerning the sources of financing of public service broadcasters, see the answer to question No. 60.

Article 1 of the Media Law and Article 3 of the Broadcasting Law guarantee editorial independence by prohibiting any form of censorship or illegal interference with the work of the media.

### **73. What are the legal provisions governing exclusive rights for the broadcast of major events (cultural, sporting, etc.)?**

The Broadcasting Law (Article 59) prescribes that no broadcaster may have exclusive right for broadcasting of an event of major importance for the citizens of Montenegro unless they are able to provide the quality reception of the broadcasting programme for at least 85% of the population in Montenegro.

It is prescribed that more than one broadcaster may be granted an exclusive right for the broadcasting of the events of major importance for the citizens in Montenegro in case their networking provides the quality reception of broadcasting programme for at least 85% of the population in Montenegro.

There are certain initiatives on the part of IT operators. No other activities of develop a filtering and rating system for the Internet content have been undertaken in our country.

A broadcaster with exclusive right to broadcast an event of major public importance is obliged to allow all other interested broadcasters to record and broadcast short reports from that event in the duration of up to 120 seconds, which may contain both authentic picture and sound from the event.

Moreover, Chapter XII – Penal Provisions (Article 117 paragraph 1 indents 5 and 6) prescribes a fine chargeable to the amount from twenty-fold to fifty-fold minimum salary in Montenegro if a broadcaster:

- broadcasts events of major importance for the citizens of Montenegro with an exclusive licence for the broadcasting but fails to provide the quality reception of broadcasting programme for at least 85% of population in Montenegro;
- fails to enable or allow to all interested broadcasters to record and broadcast short reports from the events of importance for the public, for which the broadcaster obtained the exclusive licence for broadcasting.

The Broadcasting Agency Council is in charge of defining a list of events of major importance for the citizens in Montenegro.

## C. Cinema

### 74. What are (if any) the financial support systems in place for the audiovisual sector (including cinema)?

The financial support system for cinematography and audiovisual sector is regulated by the Cinematography Law (Official Gazette of Montenegro 14/08).

Pursuant to Article 48 of the Law, the cinematographic activities are financed by the funds coming from: the budget of Montenegro; budget of local self-governments; cinematographic fee; producers; donations; participations, etc; international funds and other sources in compliance with law.

Funds from the budget of Montenegro are used to finance the activities prescribed by the National Cinematography Development Programme, a strategic document, adopted in 2008, defining the obligations and activities of the Ministry of Culture to be carried out in the period between 2008 and 2012 in the field of development of this segment of culture (support to cultural institutions, support to the film production and coproduction, professional development, membership in *Eurimages* and *Media Programme*, financing of complementary activities, etc.).

Funds from the local self-government budgets are used for the provision of conditions for presentation and public screening of cinematographic works in cinemas.

The Law introduces a cinematographic fee as a new, separate source of support to the cinematography and audiovisual sector. The fee is a compensation for the exploitation of cinematographic works, and the Law defines the payers, basis, level and manner of payment (Articles 50, 51, 52). The effects of collection of the cinematographic fee will be known by the end of 2009.

The Ministry of Culture has been supporting the film production and audiovisual sector so far by means of annual public calls for co-financing of new film productions. The funds allocated at the annual level from the current budget of the Ministry on the basis of competitions were at the level of small grants (around EUR 200 000 in total for all genres), and they provided only for a low-budget local production. It is expected that the support to this sector will considerably increase with the inflow of funds from the cinematographic fee.

From 2003 through 2008, the Ministry provided, on the basis of competitions for co-financing of film production, a part of funding for the implementation of 38 film projects (13 full-length, 1 medium-length, 9 short, 11 documentary and 4 animated films).

The amounts allocated in the previous period are the following: between EUR 50 000.00 and EUR 80 000.00 for the full-length films; between EUR 5 000.00 and 15 000.00 for the documentary and short films; and up to EUR 5 000.00 for the animated films.

The evaluation of film projects and project proposals for co-financing is done by the professional commissions, including at least three members who are established film artists and experts in this field.

A decision on co-financing of the selected film projects is published, and contracts are signed with the implementing parties, defining the pace of project implementation, payment and manner of use of the allocated funds, as well as the obligation of the beneficiary to submit the programme and financial report on implementation after the implementation of the project.

In addition to the financial support to the film production, the Ministry of Culture, Sports and Media also supports the participation of Montenegrin films in the international film festivals, and one of the major film festivals in Montenegro "Montenegro Film Festival" in Herceg Novi has a status of the festival of special importance, financed by the Ministry and the municipality.

**75. What legal and/or financial arrangements are in place for international co-productions (cinema and/or TV)?**

International co-production is regulated by the Cinematography Law. It has been harmonized with the European Convention on Cinematographic Co-Production, ratified by Montenegro.

The Ministry of Culture did not have any budget means so far for the co-financing of co-productions. The problem is in the fact that the Ministry of Culture can provide only small grants for films from the current budget. It is expected that conditions for co-production applications will be created through the funds collected from the cinematographic fee.

Local producers whose full-length films were supported at the public calls, have applied for the film funds of Croatia and Slovenia and received support, which resulted in three local films made as regional co-productions.

**76. What legal regime applies to radio sound broadcasting?**

**Provisions of the Electronic Communications Law referring to the regime of granting authorizations for frequencies apply to the part related to the radio sound broadcasting by means of broadcasting frequencies. The authorizations for frequencies for the radio sound broadcasting are granted in the manner explained in the answer to question 56 of the Questionnaire.**

[The answer to question "What is the regime governing the granting of licences and the allocation of frequencies or satellite capacity? What are the conditions attached to the granting of licences and the assignment of frequencies or satellite capacity? was:

Frequencies are allocated by the regulatory body in charge of electronic communications (Agency of Electronic Communications and Postal Services). Natural and legal persons may use radio-frequencies only on the basis of a decision on authorization for use radio-frequencies issued by the Agency of Electronic Communications and Postal Services, while the line ministry prescribes, in compliance with the Radio Frequency Allocation Plan and the international documents Montenegro acceded to, which frequencies and under which conditions may be used without the decision on authorization for use radio-frequencies.

The Agency for Electronic Communications and Postal Services issues decisions on authorization for use of radio-frequencies on the basis of a submitted request for authorization for use of radio-frequencies. If it is determined that there is higher interest in certain radio-frequencies, the Agency is obliged to obtain the opinion of all interested parties through the consultation process, on the basis of which it conducts the tender procedure for allocation of radio-frequencies if it concludes that there are no sufficient frequencies for all interested parties. For the frequencies from the Radio-Frequency Allocation Plan used for the broadcasting service, the assignment is done only through the tender procedure initiated by the interested parties, or directly by the regulatory authority for programme contents.

The radio-frequency allocation procedure is based on non-discriminatory principle, while the allocations must be in compliance with the Radio-Frequency Allocation Plan, radio-frequency assignment plans and conditions for use of certain bands prescribed in the form of secondary legislation.

Radio-frequencies used for the purpose of satellite radio-communications have been harmonized with the provisions of international treaties and agreements of the organizations in charge of satellite communications (ITU, INTELSAT, INMARSAT, EUTELSAT, etc.).

**77. What limitations (if any) are there on the ownership of television and/or radio stations? Are there any specific limitations to foreign investors?**

Article 7 of the Media Law (Official Gazette of the Republic of Montenegro 51/02) prescribes that the Republic, a local self-government unit or a legal person the majority share of which is owned by the state, or completely or in a greater part funded from public revenues, may not be the founder of media, except under the conditions prescribed by the Broadcasting Law.

Furthermore, Article 32 of the Broadcasting Law (Official Gazette of the Republic of Montenegro 51/02) prescribes that holder of the license for the transmission and broadcasting of radio and TV signals may be domestic or foreign, natural or legal person, registered for the production, transmission and broadcasting of radio and/or television programmes, with residence or head office on the territory of the republic.

Article 33 prescribes that the following entities may not be holders of the license for the transmission and broadcasting of radio and TV signals:

- religious community or another religious organization or legal entity founded by it, except when the license for radio programme broadcasting at the local level is concerned;
- political party, organization or coalition, or a legal entity founded by the political party, organization or coalition.

Furthermore, the Broadcasting Agency (Article 108 paragraph 1) is not allowed to adopt a decision on issuing the license for the transmission and broadcasting of radio and TV signals to the applicants to the public tender if it determines that such issuing would result, according to the provisions of this Law, in unauthorized media concentration.

Domestic legal person some of the founders of which are foreign legal persons registered in the countries where it is not allowed or possible to determine the origin of the founding capital, is not allowed to participate in the public tender for issuing licenses for the transmission and broadcasting of radio and TV signals. If a foreign legal entity referred to in paragraph 1 of this Article appears as one of the joint owners of the broadcaster licensed for the transmission and broadcasting of radio and TV signals after the license has been obtained, the provisions of the Broadcasting Law related to termination of validity of the license for the transmission and broadcasting of radio and TV signals before its expiry shall be applied (Article 110).

**78. What systems are in place as regards statistics pertaining to the audiovisual sector?**

The Cinematography Law (Article 39) prescribes that the competent authority (Ministry of Culture, Sports and Media) keeps a Cinematography Registry of natural and legal persons involved in the cinematographic activities, which is a database according to which all stakeholders in the cinematographic industry are registered. The development of this database is under way and it will be completed by the end of 2010.

The second system of statistical registration in the audiovisual sector includes data gathered by the Statistical Office of Montenegro – MONSTAT. At the end of each year, the Office prepares annual statistical reports on both public service and commercial broadcasters: TV and radio broadcasters, as well as the annual cinema report. Data on TV and radio broadcasters are obtained from the forms MONSTAT sends them through the Broadcasting Agency. Data requested from the broadcasters are related to: type of the company, activity, type of ownership, employees, coverage of territory with their signal, classification of the broadcast programme according to language of broadcast and origin of production, and the types of programmes and films broadcast from their own production. The data obtained from the forms sent to the cinemas include the data on: cine-projectors, number of seats, number of feature or short films screened, cinema projections, number of spectators, etc.

**79. Is there any certification system for tickets sold in officially recognised cinema theatres at the national level?**

At the national level, there is no centralized certification system for box-office cinema tickets sale. Every theatre has its own system of ticket designing, numbering and issuing.

The cinema network in Montenegro is underdeveloped. Films are projected in a very small number of cinema theatres within Montenegrin municipal cultural centres. The municipalities are their founders. Such an image of Montenegrin cinema network has been improved to a certain extent at the end of 2008, with the opening in Podgorica of a multiplex cinema by *Ster Cinemas*, the renowned Greek theatre chain.

Bearing in mind the existing cinema network in Montenegro, in 2008, the Ministry of Culture, Sports and Media made a cinema revitalization project which provided reparation works and new equipment for eleven theatres in the northern parts of Montenegro, which will eventually result in an improved state of cinema projection services.

**D. Film heritage****80. What legislative, administrative or other appropriate measures have you adopted to ensure that cinematographic works forming part of your audiovisual heritage are systematically collected, catalogued, preserved, restored and made accessible for educational, cultural, research or other non-commercial uses of a similar nature, in all cases in compliance with copyright and related rights?**

In order to ensure that the cinematographic works that are a part of audiovisual heritage of Montenegro are systematically collected, categorized, preserved, restored and made accessible for educational, cultural, research and other non-commercial uses of a similar nature, Montenegro adopted the following legislative and administrative measures:

- 1) On 12 February 2008, the Parliament of Montenegro adopted the Cinematography Law (Official Gazette of Montenegro 14/08), prescribing the following measures:
  - Montenegrin cinematographic works and the related cinematographic material, as well as foreign cinematographic works about Montenegro or filmed on the territory of Montenegro are permanently kept by the Film Archives of Montenegro (Article 40 paragraph 1)
  - regulations for the protection of cultural assets and archive material (Article 14), i.e. the Law on the Protection of Cultural Monuments apply to the cinematographic works and cinematographic material of historical, cultural, educational or scientific importance, prescribing in Article 22 that the film material may be a movable cultural monument or cultural asset and, in Article 32 of the same law, the criteria for the categorization of cultural monuments related to cinematographic works;
  - the Film Archives of Montenegro collects and keeps both domestic and foreign cinematographic works and cinematographic material, regardless of the type and quality of the recording media (Article 41);
  - keeping of the cinematographic works includes technical and technological, restoration, conservation and documentation processing, systematization into adequate collections, their popularization, and use for scientific, educational and other purposes... in the manner that cannot result in their damaging or reduction of cinematographic value (Article 42);

- cinematographic works and cinematographic material kept by the Film Archives of Montenegro are not in circulation, except in case of the exchange with other film archives (Article 43);
- cinematographic works and cinematographic material kept by the Film Archives of Montenegro may be temporarily transferred abroad for restoration and conservation or presentation at the international events, with the permission of the Ministry of Culture (Article 44);
- cinematographic works and cinematographic material kept by the Film Archives of Montenegro shall not be copied for commercial purposes (Article 45);
- cinematographic works and cinematographic material kept by domestic state-owned producers and cinema operators shall not be privatized (Article 46 paragraph 1);
- before their privatization is completed, state-owned domestic producers and cinema operators are obliged to deliver the cinematographic works and cinematographic material to the Film Archives of Montenegro (Article 46 paragraph 2);
- a domestic producer is obliged to submit to the Film Archives of Montenegro a copy of a cinematographic work, as well as the related documentation, no later than six months after the post-production of that work has been finished (Article 47 paragraph 1);
- foreign producer is obliged to submit to the Film Archives of Montenegro a copy of a cinematographic work filmed on the territory of Montenegro, no later than 12 months after the filming has been finished or six months after the post-production has been finished (Article 47 paragraph 2).

2) On 26 April 2000, the Government of Montenegro adopted the Decision on Establishment of the Film Archives of Montenegro (Official Gazette of the Republic of Montenegro 29/00), prescribing, *inter alia*, that the Film Archives of Montenegro is in charge of the following activities:

- registration, collection, organizing, use and presentation of Montenegrin cinematographic works and cinematographic material;
- collection, keeping and presentation of cinematographic works of important authors of Yugoslav and world cinematography;
- provision of assistance to natural and legal persons involved in the practical and theoretic cinematographic research;
- organization of symposia, festivals, lectures, consultations, forums, thematic programmes and other events of importance for the cinematographic life and culture in general;
- publication of professional cinematographic literature and publications in the field of cinematography.

3) Until the establishment of the Film Archives of Montenegro, the cinematographic works were kept at the Yugoslav Film Archives in Belgrade, which became the institution of the Republic of Serbia.

On 15 May 2006, the Government of Montenegro adopted the Report on Situation in the Montenegrin Film Fund and instructed the Film Archives of Montenegro to:

- take over the total film material belonging to Montenegro from the Yugoslav Film Archives and to deposit positive film copies to its archives and to temporarily deposit the negative copies of films to the film archives of the Republic of Croatia;
- make copies of inflammable negative copies of films using non-flammable videotape;
- retrieve and deposit the negative copies of films to its archives after the spatial and technical conditions have been provided;

- organize a research of film material on Montenegro, kept by the archives of European countries and consider the possibility of its collection by means of copying, purchasing or in some other manner;
- consider the possibility of acquiring (collecting) the copies of films by Montenegrin authors filmed outside of Montenegro;
- conduct the procedure of identifying Montenegrin films for the moveable cultural monuments in compliance with the Law on the Protection of Cultural Monuments, and organize their protection on that basis.

Through the Agency for Public Works, the Government of Montenegro has developed project documentation and started construction of adequate premises for the Film Archives of Montenegro, i.e. for depositing, keeping, preservation and use of the cinematographic works and cinematographic material. The finalization of the aforementioned works is planned by mid-2011.

**81. How do you define the notion of cinematographic works forming part of your audiovisual heritage?**

The Cinematography Law (Article 5 paragraph 1 and Article 12) defines the notion of a cinematographic work forming a part of the audiovisual heritage of Montenegro in the following manner:

Montenegrin cinematographic work (film or television work) is an original creation of an author, showing a sequence of motion pictures, recorded on a recording medium, with or without sound, intended for public screening or some other manner of economic exploitation, provided that:

- the work has been produced by a domestic producer, independently or in cooperation with one or more domestic producers;
- the work, the director, screenwriter or most the remaining crew of which are citizens of Montenegro;
- the work created in co-production with a foreign producer in compliance with the provisions of the European Convention on Cinematographic Co-Production.

**82. Please list the Film Heritage Institutions in Montenegro, including also those of regional or local character, as well as their websites (if any).**

The film heritage institutions in Montenegro are the following: the Film Archives of Montenegro ([www.cg-kinoteka.org](http://www.cg-kinoteka.org)) and the Public Enterprise Radio and Television of Montenegro ([www.rtcg.me](http://www.rtcg.me)).

**83. Please describe the type of deposit in Montenegro as: Legal Deposit, Compulsory Deposit of all funded films, Voluntary Deposit, Other (please specify).**

The Cinematography Law prescribes statutory, i.e. compulsory deposit of domestic cinematographic works, as well as foreign cinematographic works about Montenegro and cinematographic works filmed on the territory of Montenegro, in the following manner:

Montenegrin cinematographic works and the related cinematographic material, as well as foreign cinematographic works about Montenegro or filmed on the territory of Montenegro are permanently kept by the Film Archives of Montenegro.

A domestic producer is obliged to submit to the Film Archives of Montenegro a copy of a cinematographic work, as well as the related documentation, no later than six months after the post-production of that work has been finished (Article 47 of the Cinematography Law).

A foreign producer is obliged to submit to the Film Archives of Montenegro a copy of a cinematographic work filmed on the territory of Montenegro, no later than 12 months after the filming has been finished or six months after the post-production has been finished.

Cinematographic works and cinematographic material owned by state-owned domestic producers and organizations involved in screening of cinematographic works may not be privatized, and they must be delivered to the Film Archives of Montenegro before the privatization process has been completed.

In addition to the compulsory deposit, the Film Archives of Montenegro stimulates and accepts any deposit of cinematographic works it has the conditions to keep.

**84. Is there any provision / practice in Montenegro concerning the collection of non-film material?**

The Cinematography Law (Article 5) prescribes that the Film Archives of Montenegro collects and keeps the cinematographic material, which includes, apart from the cinematographic works, the non-film material: screenplays, musical and artistic materials and publications related to the cinematographic industry (Article 5 paragraph 1 indent 17).

**85. Could you describe the databases that are used by your Film Heritage Institutions? Are they searchable via internet?**

The Film Archives of Montenegro has its own catalogue database of the collected cinematographic works and cinematographic material, with the following sections and data:

Basic data: film title, serial and catalogue number, date of archiving, year of production, origin of the film, manner of acquisition, number of reels, duration, colour format, language, evaluation, type and genre of the film, emulsion, type of positive or negative copy;

Data related to authors: producer, distributor, director, screenwriter, camera, photography, editing, sound, original music, critic, scenography, choreography, selection of music, narration, cast;

Other data in the sections: contents of the film, cinematographic information, opening – closing credits; film records including technical and chemical details of the copy, the state of the copy, with the evaluation and date of the inspection of the copy archiving, records of the issuing of the copy, with separate data of importance for the takeover and retrieval of the copy.

Development of a digital database searchable within the computer network of the Film Archives is currently under way. They are not searchable via Internet.

**86. What measures/programmes have been taken in order to ensure preservation of deposited cinematographic works?**

In order to ensure preservation of cinematographic works, the Film Archives of Montenegro has: made copies of inflammable negative copies of films to non-flammable videotapes; cleaned and deposited available positive copies.

Project documentation has been developed and construction of adequate premises for the Film Archives of Montenegro has started, meeting contemporary technical and technological conditions

for depositing, keeping, preservation and use of cinematographic works and cinematographic material. The finalization of the aforementioned works is planned by mid-2011.

**87. How have you encouraged projects for the restoration of cinematographic works with high cultural or historical value?**

Restoration of cinematographic works with high cultural and historical value is one of the primary tasks of the Film Archives of Montenegro. Given that Montenegro has no technical conditions for the restoration of negatives and making of new positive copies, this process is done, depending on the available funds, at the relevant laboratories of the neighbouring countries. At the moment, new copies of some 60 feature, documentary and short films are being made in cooperation with the Yugoslav Film Archives. Funds for the copying of cinematographic works are provided from the Budget of Montenegro.

**88. Have you adopted legislative or administrative measures to allow designated bodies to make deposited cinematographic works accessible for educational, cultural, research or other non-commercial uses of a similar nature, in compliance with copyright and related rights? Please give details of the measures taken.**

According to the Cinematography Law (Article 42), the Film Archives of Montenegro is authorized, *inter alia*, to popularize and use the available cinematographic works for educational, cultural, research and other non-commercial purposes of a similar nature, in the scope and manner that cannot result in their damage or reduction of their cinematographic value.

This legal provision is applied in compliance with the principle of the protection of author's right to free expression, as well as the protection of intellectual property in the field of cinematography (Article 3). (Reference: question 81).

**89. What steps have been taken to promote professional training in all fields related to film heritage?**

Training of the associates hired by the Film Archives of Montenegro, involved in the process of digitalization of film material, is currently under way. Internal and legal documents envisage the involvement of adequate number of preservers of film, video and television material, as well as their additional training in the field of restoration and preservation of film heritage. New capacities will enable hiring of additional number of archivists and filmographers, who will be involved in the research and popularization of the film heritage we have available.

**90. Have you established a strategy for their national film heritage and annual plans for specific issues (digitisation, restoration, education, etc)?**

Until the adoption of the National Cultural Development Programme (November 2009), which will define a five-year strategy for the national film heritage, the activities in this field are completed, in line with the objective possibilities, on the basis the annual plans and agendas of the Film Archives of Montenegro, including the issues of digitalization and restoration of cinematographic works and their use for educational purpose, financed from the Budget of Montenegro.

## **E. Protection of minors**

**91. Has an association of Internet Service Providers (ISPs) been established in your country? Please give details of the ISP association(s).**

The association of Internet Service Providers (ISP) has not been established in Montenegro. There is an ICT Forum, at the level of the Chamber of Commerce, including the internet providers: Promonte, Telekom (Telecom) and M-Tel.

**92. Has a code of conduct been drawn up by the ISPs in your country? If possible, please provide a copy or the web address where it can be accessed.**

The code of conduct of the Internet Service Providers has not been drawn up. Individual Internet companies (Telekom and Promonte) have their internal codes of conduct, but these codes of conduct include all services provided to the clients by these companies.

**93. Are there any legal requirements in your country which apply specifically to ISPs and how they should deal with illegal or harmful content accessed over the Internet? If so, what are they?**

There are no legal requirements. The Law on Electronic Communications does not establish the control method of Internet content neither the authority in charge of this issue.

**94. Are there any specific requirements for ISPs to inform the police or judicial authorities about illegal content offensive to human dignity, which is available over the Internet?**

The Agency for Electronic Communication and Postal Services, as a regulatory authority, has not prescribed any requirements for ISPs with regard to this issue, since there are no legal grounds for that. Therefore, there are no specific requirements for ISPs to inform the police or judicial authorities about illegal content offensive to human dignity, which is available on the Internet.

**95. Has a “hotline” for reporting harmful or illegal content been established in your country? If so, please give details (including web and e-mail address) of the hotline(s), including their method of financing.**

No “hotline” for reporting harmful or illegal content has been established in our country, i.e. there is no telephone number one can dial to report harmful or illegal content on the Internet.

**96. Have any efforts been made, either by industry or public authorities, to develop a filtering and rating system for the Internet in your country? If so, what progress has been made and what are the difficulties encountered?**

There are certain initiatives on the part of IT operators. No other activities focused on development of filtering and rating system for the Internet content have been undertaken in our country.

**97. What measures have been taken at national, local or regional level to spread awareness of safer Internet issues? Have these been part of a larger plan for “media education”? Have they been supported by public funds or by private funding (e.g. from industry or from voluntary associations) or by a mixture of public and private funding?**

The Ministry for Information Society is carrying out a series of advertising and PR activities related to this issue.

Among other activities, the Ministry for Information Society has carried out, in cooperation with Montenegrin Telecom, an action of selection of the best website during the last school year among the primary and secondary school students. The action included a training of students and teachers to design their school websites. At the end of the action, the best web teams of Montenegrin elementary and secondary schools were selected.

Through the entire action, the students received an effective training in proper and safe use of the Internet.

At the end of the action, the students received valuable awards from the Ministry for Information Society and Montenegrin Telecom, and the project attracted great media attention.

Reference: question 99

**98. Please describe any initiatives which have been taken to control online chat-groups, in particular measures taken in order to avoid any abuse, which could be harmful to minors?**

No initiatives have been taken to control online chat-groups. On their websites, some providers offer support to the parents in the form of advises on how to protect their children taking part in chatting and blogging.

**99. Please describe measures which have been taken in order to improve media-literacy (e.g teaching children how to make a responsible use of new media)?**

The World Telecommunication and Information Society Day – 17 May, is observed throughout the world in order to promote the information and communication technology, i.e. the importance they have for the development of modern society. Montenegro joined the celebration of this day, and the Ministry for Information Society was in charge of this event.

This year's theme, adopted by the International Telecommunication Union, was “Protecting Children in Cyberspace” and it referred to children between 12 and 16 years of age. In order to familiarize the citizens with this topic, the Ministry for Information Society carried out an advertising and public relations campaign. The campaign focused on the parents and children with the main message that it was impossible, even unnecessary, to prohibit the use of the Internet and modern technologies in general by children. What parents can do is control how their children use time they spend on the computer, who they have correspondence with, who they chat with, what websites they visit. With such an attention, all risks will be eliminated, children will accept new technologies as an integral part of their lives, as something necessary for a modern life, but also as something that requires a reasonable caution, same as many other things we are living with.

Representatives of the Ministry have been guests in TV programmes in order to present the importance of this issue to a wider audience. Apart from them, some programmes featured psychologists, pedagogues, and representatives of the ICT sector, who contributed to a better understanding of this issue, from their respective aspects. Moreover, several newspaper articles have been published. In addition, an appropriate poster has been printed and displayed at the entrance of all elementary and secondary schools in Montenegro.

Furthermore, a promotional flyer has been designed and distributed as a supplement in all daily newspapers published in Montenegro, with a circulation of 68,000 copies.

**100. Is there any specific regulation or self-regulation concerning the specific question of the right of reply with respect to online-media?**

There are no specific regulations concerning the question of the right of reply with respect to online-media.

**101. Have broadcasters in your country established a system of self-regulation relating to the protection of minors? Please give details of this, particularly with regard to membership. Does it include a code of conduct regarding the protection of minors and harmful content?**

The Journalists' Self-Regulatory Body, as a nongovernmental organization, was established in 2006, for the purpose of:

- Improvement and development of journalists' and media self-regulation in Montenegro;
- Implementation of the Code of Conduct of Montenegrin Journalists;
- Protection and improvement of the freedom of speech;
- Protection of the rights of citizens, journalists and the media.

This body is involved in the following activities:

- Supervision of implementation of the Code of Conduct of Montenegrin Journalists in the media;
- Informing the public about the implementation of the Code of Conduct of Montenegrin Journalists;
- Adopting decision on the appeals against any media institution in Montenegro, concerning alleged violation of the Code of Conduct of Montenegrin Journalists;
- Issuing of publications related to self-regulation;
- Training of media professionals in the field of self-regulation.

Item 9 of the Code of Conduct of Montenegrin Journalists prescribes the obligation of journalists to protect the integrity of minors, different and disabled persons.

**102. Are on-screen warning icons required, either by law or by codes of conduct, for potentially harmful television programmes? Are acoustic warnings before such programmes required, either by law or by codes of conduct? Where such measures are used, are they considered to be effective?**

Articles 7 through 11 of the Decision on Minimum Programme Standards in the Broadcast Media of Montenegro prescribe the obligation and manner of broadcasting of an audience advisory and a visual sign and audio message before and during the programme unsuitable for minors or family viewing.

Article 19 of the Decision prescribes that short images or some other techniques intended for surreptitious influencing the consciousness (sub-consciousness) of viewers (e.g. for commercial or political purposes) are prohibited in the broadcast media programmes. It is also prescribed that

broadcast media should take into consideration when broadcasting their programmes that flashing or intermittent light and some types of repetitive visual patterns might cause problems for viewers with photosensitive epilepsy.

The prescribed measures are effective, but there is room for their improvement, as well as for the improvements in their implementation. One of these measures is introduction of the programme rating. Until this system is defined, the broadcasters are using the ratings information provided with certain programme contents, which are usually defined in the country of origin or in the country where the natural person the broadcasting rights have been acquired from has its head office (especially when the contents with subtitles are concerned).

**103. Are there any specific legal provisions in your country concerning the sale of video games? (This question concerns the physical sale of video game software, not the provision of software over the Internet for downloading onto computers.)**

There are no specific legal provisions concerning the sale of video games.

**104. Is there any self-regulatory system in place which covers questions relating to age-rating for video games? (e.g. such as the system of self-rating which has been announced by the Interactive Software Federation of Europe (ISFE)) If so, please give details.**

There is no self-regulatory system in place which covers questions relating to age-rating for video games.

**List of Annexes:**

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