

*April 7, 2015*

## Meeting on “beauty contest” draft regulation

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The Audiovisual Media Authority (AMA) convened a meeting on April 7, to discuss the draft of the regulation “On licensing of digital networks and their programs, through ‘beauty contest’ procedure.” The draft was sent to the so-called historical commercial operators for consultation on February 16 and Top Channel and Digitalb were the only ones that had sent written comments to the regulation, which the regulator stated had been reflected in the current draft. The meeting aimed to gather the five operators and discuss with them the new draft of the regulation that is key to the next steps of licensing process of digital networks. Present at the meeting were the representatives of Digitalb, Top Channel TV, Klan TV, Supersport, and Tring. The representatives of the Tring platform complained against the decision to not invite also Vizion + as part of the historical operators. The regulator said that they did not consider Vizion + TV as a historical operator, as it did not have a national license and it was not involved in digital broadcasting. The Tring/Vizion + owner replied that it was a national satellite TV station, as specified in the license terms, and it had paid regularly its dues to the regulator and state, which was not the case for other operators. The regulator replied that they refer to AMA data and documents in this respect, hence the basis for this decision.

Afterwards the discussion went on with the present operators commenting on different sections of the regulation. One of the main points of discussion was related to financial demands as drafted in the regulation. According to the regulation, applicants for a national license must have a capital of no less than ALL3,500,000 (app. € 25,000,) while they must also present evidence of bank guarantee in the amount of ALL 15,800,000 (app. €113,000,) which must be frozen for 2 years, unless the subject has already met license terms in broadcasting and has paid its annual dues. The operators considered the amount a high one and unnecessary financial restriction. However, the regulator explained that this was a guarantee that was necessary for the license and investment they would make, and the sooner they would meet license terms, the sooner the bank guarantee would be free for them to use.

Another point of discussion was related to the standards set for broadcasting, DVB-T or DVB-T2. The regulation allows for three years of adoption, if the operator starts to use

the DVB-T technology, to transition to DVB-T2. The operators claimed that this was a long period and should be shortened. Moreover, a major concern of the operators was the transition to DVB-T2 in terms of decoders and TV sets. They claimed that only a small percentage of the population would be able to watch DVB-T2 in case they start to broadcast in this technology, as it would be normal from the economic point of view, in order to avoid unnecessary investments. They also mentioned that they had made significant investment so far, which will go lost with the change of technology, and the state could foresee some sort of compensation for the operators, as well as for the decoders of the population. The regulator explained that the issue of decoders and their subsidies was the competence of Ministry of Innovation, in cooperation with the Ministry of Social Welfare, and the plan was to start a tender on provision of decoders to cover transition of broadcasting for the poorer households. The operators insisted that this was not just an issue of decoders, but most TV sets would also be incompatible with DVB-T2, which poses significant problems for all population and operators.

The operators also focused on the division of thematic programs as required by the regulation. The network should host at least one program of each kind, according to the draft regulation: general, informative, children's program, youth, science, sport, movies, Albanian production, and music. According to the operators, posing such content requirements at a time when you administer only 60% of the network, and PAY-TV has to be included, is an arrangement that is limiting to the multiplexes. The regulator said that these requirements of the law and Strategy and the program has to meet the demands of all community it addresses.

The co-existing period between analogue and digital broadcasting was another source of concern for the operators. They suggested that the regulator should determine the date for switch-off, in order to motivate all operators to meet such a deadline, as the co-existing period was too costly for all operators, digital and analogue ones, covering the double of cost. In addition, they pointed out that while existing "historical" operators might be ready to switch off, many frequencies are occupied by local analogue operators, so it has to be a coordinated action. The regulator said this process will also depend on the process of public broadcaster's building of its multiplexes, as they are supposed to host a large part of local analogue stations. This process is currently estimated to take at least 6 months, according to the regulator, a deadline which operators were pessimistic about.

The operators also asked for a more tuned definition of several terms and requirements for the license application, such as plan to broadcast European works, weekly schedule as forecast in the future, the Steering Board of the multiplex and its characteristics, the distinction of programs between free-to-air and conditional access or encrypted ones. The draft regulation also demands that the multiplexes present to AMA contracts with the programs that will be hosted in 40% of the platforms. This requirement was opposed by the operators, claiming that the regulator has to know they are guaranteeing fair access to other operators, but contracts per se are not subject of public interest. However, the regulator opposed this line, stating that the regulator has to act as an arbiter and guarantee

that the frequency, which is a national resource, is being used in a good, fair, and transparent manner.

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*This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of the Albanian Media Institute and can under no circumstances be regarded as reflecting the position of the European Union.*