



Proposal of the amendment of Law on media ("Off. Gazette of Montenegro", no. 51/02 of 23.09.2002, 62/02 of 15.11.2002, and "Off. Gazette of Montenegro", no. 46/10 of 06.08.2010, 73/10 10.12 .2010, 40/11 of 08.08.2011)

Amendment 1

New paragraph 2 is added to Article 6, which states:

In terms of this Law, media shall include editorial-designed websites or portals containing electronic versions of print media or the information from media, in a publically available manner.

Paragraphs 2 and 3 of Article 6, become paragraphs 3 and 4.

Explanation:

Research "Equal opportunities for all media", which Centre for Civic Education (CCE) has been conducting from 2011, indicated that Montenegrin media legislation does not recognise, and consequently lacks the normative definition of portals as forms of media.

This deficiency in media legislation must be solved in order to protect the public interest and acknowledge the undisputed significance and popularity of portals in media space of Montenegro, as well as the significant amount of financial resources gained from public funds for services of advertising, or based on contracted services, specialised services or on other grounds.

Amendment 2

After Article 49, new Article 49a is added, which states:

Media defined by Article 6 of this Law, are obliged to keep the record on every payment of public sector bodies on all grounds, and segregate the payments for advertising services, or services based on contracted services and specialised services.

Model of record keeping form, which provides a detailed and concise overview of structure of payments from public funds on all grounds, shall be determined by the Ministry of Culture within 30 days from the day new Law comes into force.



Record keeping is done in two identical copies, whereby one is submitted to competent Ministry, and the other goes to record keeping payer.

Competent ministry shall publish every record on its internet page no later than 8 days after the submission of records.

Media must submit their records to competent body during January of current year for the previous year, and no later than 31 January of the current year.

Explanation:

Financing of media in Montenegro from public funds remains unregulated, uncontrolled and opaque, authorities failed to invest the efforts in this respect in order to improve this area, even though this matter has been the subject of discussion for more than four years now, and presents a matter of growing concern for relevant international organisations.

Authorities exert inappropriate pressure on media market, through opaque and selective financial allocations of public funds allocated on various basis to media. In addition to existing challenging economic situation and reduction of marketing budgets of companies operating on Montenegrin media market, along with the simultaneous increase of participation of public funds and their expenditure without clear criteria, soft censorship of media in Montenegro is exercised.

This article determines the obligation of media to keep the record of deposited funds from public sources, and basis of payments for all payments. This would contribute to transparency of media financing by public sector bodies, and make room for the continued insight of public into the amount, type and basis of these affairs.

Amendment 3

After Article 49b, new Article 49c is added, which states:

All state bodies are obliged to publish records of advertising in media once a month, for the previous month, on a form prescribed by competent ministry.

These records also include the funds placed through marketing agencies, with a clear division between the advertising in individual media or other services paid to media.

Total cross section of advertising of public body in media shall be done by competent ministry, in the form of annual report.

Ministry is obliged to put the report on a public debate no later than 31 March of current year for the previous reporting year.



Report is adopted in Government and published no later than 1 June of current year.

Explanation:

It is necessary to achieve the full transparency and determine the expediency of advertising of state bodies, where the mechanism prescribed with this amendment provides broad insight of public into the advertising.

Reason behind the introduction of tracking the money flow placed through marketing agencies lies in the fact that CCE's researches indicated on tendency of centralisation of funds allocated for the advertising of services and advertising in media, based on the agreement on provision of services, specialised services or other basis. This aggravates the tracking of further transfer to media or related subjects, thus leaving ample space for misuse, because public sector bodies can opaquely distribute the funds to those media which they independently, without clearly determined procedures and criteria, deem most expedient. Currently, there is no legal possibility of further research in this case, nor the insight into the information regarding the further allocation of these funds to media, which is directly addressed based on the said solution.

Amendment 4

After Article 49c, new Article 49d is added, which states:

Every body of local self-government unit and companies founded by local self-governments are obliged to submit their records of advertising in media to Chief Administrator once a month, for the previous month.

Form in which every body of local self-government unit and company founded by local self-government will keep the record on advertising in media shall be prescribed by competent ministry.

Chief Administrator will do the cross section of advertising of body of local self-government unit, in the form of annual report. Local self-government unit is obliged to put the report on public debate no later than 31 March of current year.

Report is adopted in the parliament of local self-government unit and published no later than 1 June of current year for previous reporting year.

Explanation:

Explanation of this amendment is identical to the previous one, because the norm has the same purpose, only this one is related to the implementation on the level of local self-government.



Case amendment entirely respects the autonomy of local self-governments and principle of decentralisation.

Amendment 5

After Article 49d, Article 49e is added, which states:

State bodies, public services, bodies of local self-government unit and companies in the majority of state ownership shall make the decision on advertisement based on the criteria of readership, listenership, viewership and trust.

Exception is the advertising related to local topics, ethnical communities and marginalised groups, when basic decision-making criteria does not have to be implemented, or it can be modified with the accompanying explanation.

Rest of the criteria shall be regulated in detail with bylaw act, proposed to Government by the competent ministry within 60 days from the day new Law on amendments of Law on media comes into force.

Explanation:

It is necessary to determine the criteria that would serve as basis for decision-making as to which media will be used to advertise state bodies, public services, body of local self-government unit and companies in the majority of state ownership.

Law shall regulate the basic criteria with the exception, and the base must include readership, listenership, viewership and trust that the media enjoys.

Bylaw act shall further regulate the rest of the criteria that will contribute in the introduction of clear rules on media market.

Amendment 6

Article 45a is added, which states:

A fine of 10,000 euros to 20,000 euros shall be imposed on media defined in Article 6 of this Law, if they fail to deliver the records specified in Article 49a by 31 January of current year for the previous year, on a form prescribed by the Ministry of Culture.



Those media that fail to submit this form ending with 31 January cannot receive funds during that year from public funds for services of advertising, or based on contracted services, specialised services or on other basis.

Explanation:

In order to secure the full respect of law, it is necessary to prescribe precise tort liability of subjects obliged under case law, and introduce the according punitive provisions.

In addition, those who do not respect the provisions under which they have to render the information on expenditure of those funds available to tax payers, should be deprived of further use.

Proposal of the amendments on Law on Control of State Aid ("Off. Gazette of Montenegro", no. 74/09 from 13.11.2009, 57/11 of 30.11.2011)

Amendment 1

After Article 17, Article 17a is added, which states:

State aid allocated to media is requested only as a state aid scheme.

Proposer of scheme of state aid is obliged to submit the draft, i.e. the act proposal, to the Commission, in order to assess the harmonisation with this law.

Commission is obliged to publish the act proposal on its website no later than 24 after it receives the act.

All media have the right to file the request for the re-evaluation of scheme within 15 days from the day of publication.

Commission is obliged to decide on request within 8 days.

Proposer of scheme of state aid can remove the scheme from the procedure, or accept the resulting changes, in case the request is adopted.

Requested state aid shall not be allocated until the Commission makes the decision on harmonisation of state aid with this law.



Explanation:

It is important and necessary to distinguish the media as separate category in Law on control of state aid.

Practice indicates on unequal conditions on media market through various forms of emphasised discrete decision-making on the allocation of state aid to media. In order to regulate this situation legally, and disable the dominant discrete manner of decision-making with the deficit of transparency, it was necessary to intervene in this part of the Law.

Proposal of the amendment on Law on Public Procurement ("Off. Gazette of Montenegro", no. 42/11 from 15.08.2011, 57/14 from 26.12.2014, 28/15 of 03.06.2015)

Amendment 1

Article 3, paragraph 1, item 10, is amended and states:

Advertising services, information on public procurement procedures in media, but they must be published in at least two print media with largest circulation.

Explanation:

With regard to the fact that Law on public procurement does not prescribe the obligation of publishing the announcement on public procurement procedures, and that this obligation of publishing the report exists solely for the portal of public procurement, it is necessary to amend Article 3, paragraph 1, item 10 of the Law.

Namely, there is no ban on publication of public procurement procedures, and the same is exempted from the application of the Law, hence it is necessary to regulate this in a manner in which all payers of implementation of Law on public procurement will oblige to advertise in at least two print media with largest circulation.