



REPORT

from the Monitoring of the Work of the Broadcasting Council
(January – July 2013)



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INTRODUCTION

The Media Development Centre, in the period from January 1 to July 30, 2013, followed the work of a number of institutions that have an important role in the field of media in Macedonia. The Broadcasting Council (BC) is one of the most important institutions in that system which, as an independent regulatory non-profit body, takes care, among other things, about the freedom and plurality of expression; the existence of diverse, independent and professional media; the economic and technological development of the broadcasting activity; and protection of citizens' interests in the field of broadcasting.¹

In accordance with the Law on the Broadcasting Activity (LBA), the Broadcasting Council is composed of 15 members. Its sessions require a quorum of nine members to be valid and the decisions are adopted with a majority of total number of members, i.e. eight Council members need to vote in favour of a decision for it to be adopted. In the current composition of the Council, only one of the 15 members is a woman, which shows that little attention was paid to equal gender representation in the election of the Council.

According to Article 33 of the LBA, the work of the Broadcasting Council is public and its works and decides in public sessions, with exception of those cases in which confidential information is presented and discussed.

During the seven-month period covered by this report, MDC's team followed at total of 27 sessions of the Council. The Council holds two sessions per week on average. The frequency of its sessions depends on the importance and urgency of the matters and issues that need to be debated and decided on by the BC. The BC announces the coming sessions on its website, several days before the day on which the session will be held. The announcements also offer the agenda of the scheduled session. After each session, a report (the website uses the term "Chronicle") is published. Several weeks after the session was held, the minutes recorded in the session are also published on the website of the Broadcasting Council.

MDC's team focused on the manner of work of the BC, i.e. whether it adhered to the provisions of the Law and the by-laws that regulate its work and operations. The work of the Council is regulated by the Book of Rules and Regulations of the Broadcasting Council, which is not fully aligned with the LBA. That issue is analyzed in more detail in the Analysis of By-Laws prepared by the Media Development Center.

1 Article 21 of the Law on the Broadcasting Activity, Official Gazette of RM, No. 07-4190/1 of November 9, 2005

I. THE PUBLIC IN THE WORK OF THE COUNCIL

The work of the BC is public, as prescribed by the Law, and the Council is obligated to adhere to principles of public operations and transparency.² In a number of cases, whether at the start, the end or during a session, the members of the MDC team, together with the members of the press, were asked to leave the room by the President of the Council with the explanation that the members of the Council (sometimes together with several employees of the Professional Services of the Council) need to coordinate their positions on a given issue or problem on the agenda of the respective session.

Such “coordination” of the Members of the Council is not regulated and prescribed by the Book of Rules and Procedures of the Broadcasting Council. Neither the LBA nor any of the by-laws adopted by the BC grant the Council the right to exclude the public from its sessions and to discuss, away from public’s gaze, issues or differences of opinions that Council Members may have on some issues. The Law does stipulate that the public can be excluded only in cases when confidential information is presented and discussed by the Council.

In its 15th Session of March 21, 2013, the Council discussed the reports from the monitoring of media coverage of election campaign. The Council discussed the violations committed by the broadcasters and pronounced a number of notifications, written warnings and, in some cases, filed misdemeanour charges. It also discussed the violations committed by Sitel TV and the Second Channel of the Macedonian Radio³, issues on which Council members held quite different opinions. Several members held the opinion that Sitel TV’s violation was minor and insignificant and proposed to the Council to issue only notification, while other members stood on the position that those were serious violations for which the Council needed to file misdemeanour charges.⁴ Neither position had the majority support to be adopted, so the President of the Council announced that additional coordination of the members of the Council will be needed to resolve that issue.

In the same session, the Council decided that the Monitoring-report of the programmes of MRT, Macedonian Radio - Radio Skopje, broadcast on March 14, 2013, should be first reviewed in a coordination meeting and to postpone the continuation of the 15th Session, to the effect that the Council didn’t discuss the matter of the Macedonian Radio’s violations at all.

The 15th Session continued on March 27, 2013, and the two topics were on its

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- 2 Article 33 of the Law on the Broadcasting Activity, Official Gazette of RM, No. 07-4190/1 of November 9, 2005
 - 3 Sitel TV and the Second Channel of Macedonian Radio violated the provisions of Article 75 of the Electoral Code and Article 30 of the Rulebook on Equitable Access to Media Presentation During Election Campaign, i.e. they didn’t provide the information who commissioned a public opinion poll the results of which they presented.
 - 4 Seven members of the Council voted in favour of the proposal to issue a notification to the two broadcasters, five voted against and two abstained from voting.

agenda.⁵ The Council decided, with 11 votes “For” and 3 abstain votes, expressly and without debate, that both broadcasters shall be issued notifications of committed violations. It means that in a period of 7 days, the Council voted two times on the same point of the agenda - first time, with 7 votes “for”, while the second time the number of “For” votes grew to 11, all of it result of the “coordination”.

It should be noted that in that particular case, the monitoring of the coverage of election campaign found that the two broadcasters engaged in seriously unbalanced coverage of activities of political parties.⁶

The actions of the Council in this particular case raise a number of questions about its independence and objectivity and whether it truly protects the interests of the citizens in the broadcasting activity.

Although the LBA prescribes that the sessions of the Council are open to the public and the stakeholders, the established practice to hold “ coordinations ” points out that that the Council is not all that transparent and that some of its decisions are actually adopted “ behind closed doors ” and then a public vote is held on them in a formal session. Such actions of the Broadcasting Council are in collision with its function as an independent, non-profit authority.

The practice of exclusion of the public from its sessions was applied in the adoption of several decisions related to the financing of the Council, i.e. on fixed-term depositing of BC’s funds. One of the points on the agenda of the 18th Session of the Council of April 10, 2013, was the Proposed-Decision on Fixed-Term Depositing of the Funds of the Broadcasting Council. Before the vote on that point, the President of the Council asked all journalists to leave the room. After the session, we asked why we were removed from the conference room and the response was that the decision was made to prevent the journalists from learning the interest rates offered by the bank, which is against the bank’s policies. In this case, it should be noted that the decision of the Council to remove the journalists from the session was against the law. Also, the decision to deposit its funds in a bank on a fixed-term savings account is illegal, having in mind the BC’s status of non-profit organisation.

5 Report from the monitoring of programmes broadcast by “TRD Televizija SITEL DOOEL” on March 16 and 17, 2013; and Report from the monitoring of prgrammes broadcast by MRT PE, Macedonian Radio – Radio Skopje, on March 16 and 17, 2013.

6 The Broadcasting Council found that, during the Local Elections 2013, the “greatest levels of unbalanced coverage was registered with MRT1, Macedonian Radio – First Programming Service and Sitel TV”, in: BC, Report on the media coverage of the election campaign for the Local Elections in 2013, p.11.

II. MANNER OF HOLDING OF SESSIONS

The sessions of the Council are called several days in advance and information on the session, with the proposed agenda, is published on the official website of the Council.

In the seven months in which we monitored the work and operations of the Council, in at least two cases the sessions were called just one day earlier, or even just several hours before the scheduled time of the respective session. That practice is contrary to the provisions of the Book of Rules and Regulations of the Broadcasting Council. In a number of cases, the agenda was changed at the last possible moment, including points that concerned important and crucial issues. That manner of scheduling of sessions prevents the Council members from preparing properly for the sessions. One example of such action was the 19th Session of April 17, 2013, in which, on proposal presented by the President of the Council, the agenda was changed to include the point on publication of a public call for allocation of license for terrestrial television broadcasting. One member of the Council asked for that point of the Agenda to be postponed, because he received the materials too late to be able to review them properly. His proposal was not accepted. On the other hand, it should be mentioned that, over the monitoring period of seven months, on only two occasions members of the Council proposed additional points to be included in the agenda. That indicates the lack of personal initiative by the members of the Council.

The sessions usually start on time and are 40 to 60 minutes long. Almost always, the first point on the agenda is the adoption of the minutes recorded in one of the previous sessions. Although the Book of Rules and Regulations prescribes that the Council shall adopt the minutes of the last session held before the ongoing session of the Council, the Council doesn't follow that provision to the letter and it usually adopted the minutes recorded in an earlier session (for example, three or four sessions before the ongoing session).

If necessary, members of the Professional Service of the Council provide explanations on the proposed points on the agenda. They also present a proposed conclusion that is then voted by the members of the Council. The President of the Council always opens the floor for discussion of the matters at hand. However, it happens quite often that decisions are adopted without any debate or discussion by the members of the Council. They simply refrain from taking the floor and a vote is called on the respective issue on the agenda.

It should be noted that only a few members of the Council take active participation in the sessions. Only three or four members regularly take the floor to debate the points on the agenda and have critical approach to the work and the decisions of the Council. They read the minutes before they are adopted, note all omissions and issues and propose changes that need to be made to the minutes to be adopted.

Majority of the Council members are passive, don't take part in the debate on the points of the agenda and their participation in the session is practically reduced to voting on the points listed in the agenda. The President of the Council is similarly passive, although one should expect from the President to be one of the more active participants in the discussions. His activity is usually reduced to mere technical management of the sessions.

As a consequence of that lack of proper active debate and participation by all members, some sessions of the Council have taken just 25 to 30 minutes to complete. For example, a session with 15 or 20 points on its agenda lasts about 40 minutes. That is a problem, especially in the cases when the agenda lists important issues and decisions that require thorough and high-quality discussion and debate. As an illustration of that problem, we offer the example of the 34th Session of the Council of July 10, 2013, with 23 points on the agenda, including 14 requests for registration of programming service packages. The session started at 11:15 hours and was concluded at 12:00 hours. 23 points on the Agenda were covered and decisions adopted in just 45 minutes. Not a single member of the Council took the floor to discuss any of the 14 requests for registration of programming packages.

The passivity of the members of the Council who often act just as voting machine, unavoidably implies the need to reconsider the criteria for election of Council members. The biographical information offered on the Broadcasting Council's website shows that only 4 of the 15 members have experience in media, and just one of them has university degree in journalism. In order to improve the quality and the competence of the Council, we recommend that the persons nominated for membership in the Council should have the expertise and past experience in broadcasting, media, journalism or communication sciences. The Assembly of the Republic of Macedonia, as the institution that elects and dismisses the members of the Broadcasting Council, should demonstrate greater responsibility in the appointment of Council members.

III. ACCESS TO PUBLIC INFORMATION

The MDC team, during the monitoring period, met some difficulties related to the access to public information held by the Council. In May 2013, we submitted a request to the Council for the decisions it adopted in 2011 and 2012. We asked for the decisions to use them in the preparation of an analysis of BC's decision-making processes. The Council asked us to reduce the number of decisions we sought and MDC submitted another request for access to information covering a smaller number of decisions. We didn't get them within the deadline prescribed by the Law on Free Access to Public Information, but they were issued to us in July 2013.

IV. PROTECTION OF CITIZENS' INTERESTS

According to the LBA, the Council has the role to protect the interests of the citizens in the area of broadcasting. In view of that legal role, the Book of Rules and Regulations of the Council, in Article 32, prescribes that a monitoring of broadcasters may be performed on basis of submissions and complaints filed by citizens.

During the period covered by this monitoring, the Council didn't receive any submission or complaint from individual citizens or citizens' groups. This leads us to conclusion that the citizens probably know little, or lack sufficient information about the opportunity they have to react to the Council and demand that it acts on their submissions or complaints.

In view of that issue, we recommend that the Council should implement public awareness campaign, for example, on the programmes of the public service broadcaster and using other forms of promotion, to inform the citizens about their role in the work and operations of the BC and in the efforts to improve the quality of programmes and contents offered by the broadcasters in Macedonia.

V. IMPOSITION OF MEASURES

In November 2012, the Broadcasting Council adopted the Manual for imposing measures and their execution, which prescribes in detail the procedure of pronouncement of measures against broadcasters by the Council and the manner in which it will execute the pronounced measures. The Manual was adopted on basis of the LBA and the Book of Rules and Regulations of the BC. Although the Manual aims to assist the Council and the broadcasters in the correct execution of measures, the practical implementation indicates serious omissions by the BC.

The Broadcasting Council, before filing misdemeanour charges on certain violations of the LBA in front of the competent court, implements a settlement procedure that aims to reduce the number of cases that end in courts. The settlement allows the broadcasters to pay one half of the minimal fine levied for the given infringement. According to the Analysis of misdemeanour and settlement procedures for the period January 1 - June 30, 2013, prepared by the Broadcasting Council, of the total of 41 settlement procedures, 22 were completed successfully while 19 settlement procedures failed. Of the 19 failed settlements, on which the Council subsequently filed misdemeanour charges to the competent court, by the time of writing of this report, 4 misdemeanour procedures were concluded with a

court sentence in the first instance, while the remaining 15 are still being litigated⁷

For certain (minor) violations committed by the broadcasters, the Council usually issues a notification as the first measure. Such a measure is not prescribed or mentioned at all by the Law on the Broadcasting Activity or the Book of Rules and Regulations of the Council.

In cases of broadcasters committed a violation for which the Law prescribed a fine or filing misdemeanour charges, the Council issues notification to the offending broadcasters. If a broadcaster has repeated the violation of that same provision, it is issued a written warning. For a third violation, the Council pronounces a written warning with request for publication and, as a result, the sanction prescribed by the Law is applied only if one provision is repeatedly violated several times. That is obviously a case of inappropriate and incorrect implementation of the laws by the Broadcasting Council.

That practice, developed throughout the years, should change. In cases of violations, the Law should apply directly, without giving a broadcaster several chances to correct its actions and behaviour. Examples of such sanctioning policy were witnessed during the election campaign in March 2013. For example, the Broadcasting Council ruled to issue notifications to broadcasters that engaged in surreptitious advertising or didn't note the party that commissioned the paid political advertising. For such violations, the Law on the Broadcasting Activity prescribes a fine of €4,000 to 5,000. Similar fines are prescribed by the Electoral Code. With exception of very minor, minimal violations (for example, when a broadcaster has exceeded the allowed advertising time by a handful of seconds), the Council should apply the penalty prescribed by the Law, i.e. file misdemeanour charges and leave it to the court to decide whether to sanction the broadcaster or not.

During the elections, there were many cases in which a broadcaster was sanctioned with some measure, or misdemeanour charges were brought against it, while the burden of proof fell on the charged broadcaster. According to Article 85 of the LBA, the broadcasters are obligated to store the recordings of their total broadcast programmes for at least 30 days after the day of broadcasting. In our

7 It should be noted that the misdemeanour departments of competent courts in the Republic of Macedonia, judging from the misdemeanour procedures completed in the courts in 2013, tend to levy fines closer to the legal minimum and to take into consideration all mitigating circumstances prescribed in the Law on Misdemeanours. Past experience shows that it is possible to avoid being sanctioned by the misdemeanour court if the judge decides to declare a court warning to the defendant/s in a case. However, after the entry into force of the Law on Changes and Amendments to the Law on Misdemeanours (Official Gazette of the Republic of Macedonia, No. 51/2011), which states that "if the misdemeanour was committed under special mitigating circumstances, and the Law prescribes the minimal fine to be levied, the fine can be reduced to one third of the minimal prescribed fine", the tendency has emerged with the courts to abandon their practice to levy fines that tend towards the legally prescribed minimum, Legal analysis of the outcomes of the implemented settlement procedures and launched misdemeanour procedures against broadcasters (for the period January 1 – June 30, 2013), Broadcasting Council, July 2013.

monitoring, we noted several cases in which a broadcaster would submit a recording of its programme to prove that its operations and actions were in accordance with the Law, only for the Professional Service of the Broadcasting Council to conclude that it was a forged, edited version of the programme. Therefore, we recommend that the Broadcasting Council itself should be legally obligated to keep and store the recordings of the programmes of all broadcasters. Also, the law needs to prescribe sanctions for broadcasters who submit forged footage or footage edited after the broadcast.

VI.ALLOCATION OF BROADCASTING LICENSES

On April 17, 2013, in its 19th Session, the Council announced a public call for allocation of one broadcasting license for broadcasts and transmission of television programming service on national level. The explanation offered by the President of the Council was that last year, several broadcasting licenses were terminated and that the public opinion survey conducted by the regulatory body showed that the public believes that there was need for a new entertainment format television. Another public call for allocation of broadcasting license for broadcasts and transmission of radio programming service was announced in the same session. Several members of the Council engaged in a prolonged debate in the 19th session. One member of the Council noted that the materials related to that point of the agenda were presented too late for the members to be able to read them thoroughly. The President of the Council responded that the Members had sufficient time to review all the materials they received. The Deputy President of the Council, too, expressed his surprise about the announced public call and said he intended to vote against the proposal, although he agreed that there was a need for a new broadcaster. He noted as reason for his opposition the fact that the license was being allocated just two months before the start of the digital switchover.

Also, several members of the Council proposed that sometimes in the near future, a new public call for allocation of broadcasting license for Albanian language television should be announced, but that proposal has not been adopted by the time of the writing of this report. The proposal to announce a public call for allocation of broadcasting licenses for one national radio and one national television was adopted in the same session. 30 days later, after the analysis of the submitted applications by a Commission composed of three members of the Council, the broadcasting license for broadcasting and transmission of a television programming services was given to Alfa TV.

On May 30, 2013, MDC requested information on all applications submitted after the published call for allocation of broadcasting license. On June 12, 2013, the Council responded that that information was not on the list of public information held by the Council. MDC filed a complaint to the Commission for Protection of the Right to Free Access to Public Information and it confirmed the decision of the Broadcasting Council.

The process leads to conclusion that the procedure for allocation of broadcasting licenses of the Broadcasting Council is not transparent. The whole process, i.e. the speed of implementation and the secrecy of procedures, raises some serious dilemmas and suspicions, for example, if the decision to whom the license shall be allocated was made in advance, regardless of the number and quality of bids submitted to the Broadcasting Council?

The same assessment refers to the license for broadcasting and transmission of radio programming service granted to Radio Ravel in the 35th Session of the Council of July 15, 2013. The chairperson of the Commission that reviewed the applications, composed of three members of the Council, provided an explanation of the Commission's opinion, why and how Radio Ravel met the terms and requirements of the public call better than the other applicant - Radio Libertas.

The Commission took into consideration several aspects of the presented bids, for example, which has bigger offices and facilities, the sizes of their respective staff, etc. The chairperson of the Commission did note that it was a matter of pure arithmetical approach to the assessment of fulfilment of requirements, i.e. adding the points that are allocated in each area to the applicants for broadcasting license.

Such a manner of assessing the bids is not appropriate to a process of allocation of a broadcasting license. Instead of reducing it to pure addition of points (the points are allocated by the members of the Commission), the process should introduce a new qualitative and transparent manner of evaluation of candidates.

At the same time, we should note that two members of the Council presented their objections to the decision to grant the license in the session in which the license was granted.⁸ The chairperson of the Commission noted the uncertainty of financing of the entity that lost the race for the license, in spite of submitted guarantees by donors amounting to a much greater sum than the sum presented by the entity that got the license.

The manner of thinking of Council members and the manner of adoption of decisions don't guarantee the impartiality and objectivity by themselves. We propose reconsideration of the manner of allocation of licenses to allow for greater transparency of the procedure and, of course, to prescribe efficient legal remedies in cases when the bidders have suspicions about the evaluation and the decision of the Council.

8 One member of the Council remarked that, although the entity proposes in its bid to employ nine journalists (compared to the other applicant that proposed to employ three journalists), just two of the nine positions required a university degree. Also, after the remark by one member of the Council that no mention was made of the financial capacities, the Chairperson of the Commission that reviewed the applications noted that the applicant that didn't get the licence submitted guarantees from a donor that it shall receive a grant of €600,000, unlike the applicant that won the license and had €20,000 deposited on its bank account. The explanation offered by the chairperson of the Commission was that although the donor guaranteed a substantial donation, it wasn't sufficient because there was a chance for the donation to not materialize.

VII. DIGITAL SWITCHOVER

The analogue television signal was switched off in Macedonia on May 31, 2013 and the broadcasting of digital signal started on June 1, 2013. The Broadcasting Law was amended at the end of May 2013 to provide for the digital switchover. While all other television broadcasters completed the switchover to the digital signal, problems in the process were noted only with the public broadcasting services MRT. In mid-July 2013, 45 days after the switchover, the public broadcasting service continued to broadcast analogue signal, a fact strongly criticized by the owners of the commercial television broadcasters. The Broadcasting Council didn't address this issue until the 33rd Session of July 3, 2013, when the Deputy President of the Council proposed to the Council to review the matter and schedule a meeting with the Director of MRT.

In the 34th Session, after the meeting that the President and Deputy President of the Council held with the MRT Director, the Deputy President informed the Council that the public broadcasting service was airing an analogue signal because it failed to install the equipment necessary to ensure successful switchover in time. He emphasized that the public broadcasting service should complete the installation of the equipment and start broadcasting digital signal by the end of August 2013. However, to the day of writing of this report, the public broadcasting service remains the only broadcaster that still broadcasts analogue signal. - The broadcasting of digital signal in the Republic of Macedonia started on June 1, 2013. The only problems in the switchover process were registered with MRT. Although it was said in a session of the Council that the public service broadcaster will complete the switchover in August 2013, MRT continues to broadcast analogue signal.

No sanctions or penal measures were pronounced by the Council against MRT for the delay. The Council should abandon such practice and should take care that all broadcasters adhere to the legal obligations equally.

On July 2, 2013, the Broadcasting Council held a public meeting with the owners of radio and television broadcasters, the owners/representatives of operators of cable networks, with participation of the Director of the Agency for Electronic Communications (AEC). The meeting was organized to hear the positions of the owners of broadcasting companies and cable operators and find common solution for the problems that emerged in the digital switchover process. The owners of broadcasting companies complained that cable operators didn't offer the same terms and conditions to all media and asked them to pay for encoding equipment, which would present the broadcasters with an additional expenses amounting to several thousands of Euros. Broadcasters proposed that cable network operators should be ordered to give advantage to domestic media in the selection of programmes they will re-transmit. That especially in view of the fact that some regional TV broadcasters in Macedonia are re-transmitted by just one or two cable operators, which prevents them from reaching sufficient number of viewers to ensure their sustainability. That issue is especially important for the

Albanian language broadcasters who feel threatened by the competition presented by media based in Kosovo and Albania.

In the meeting, the President of the Council and the Director of AEC proposed to the broadcaster, in order to resolve the problems with digital switchover they faced, to present an official request to AEC to assist them in the process. That proposal angered the owners of broadcasting companies who emphasized that they sought a concrete solution and that the procedure proposed by the Director of AEC had not been successful in the past. At the conclusion of the meeting, the President of the Council and the Director of AEC announced another meeting for August 2013. That meeting never took place.

VIII. CONCLUSIONS

1. The sessions of the Broadcasting Council are open to the public and the team of the Media Development Centre sat in the sessions. The openness of the session, however, was seriously undermined on a number of occasions. In several sessions, the present journalists and observers were asked to leave the room because the members of the Council needed to “coordinate”.

The “coordination” as a manner of work of the Council is not mentioned or prescribed in any law or other act and it undermines the openness of the sessions, having in mind that the members of the Council should not agree their positions in advance, “behind closed doors”, and should argue, discuss and vote on the points of the agenda independently in the sessions of the Council.

In other words, the “coordination” threatens the transparency of operations of the Council and has no legal ground whatsoever. In view of all of the noted above, the Broadcasting Council should terminate the practice of “coordination”. Alternatively, it needs to be regulated properly and in detail and it should never, under no circumstances, be used to by-pass the public and adopt decisions “behind closed doors”.

2. The practice of exclusion of the public from its sessions was applied in the adoption of several decisions related to the financing of the Council, i.e. on fixed-term depositing of BC’s funds. Before the vote on that point, the President of the Council asked all journalists to leave the room. After the session, we asked why we were removed from the conference room and the response was that the decision was made to prevent the journalists from learning the interest rates offered by the bank, according to the bank’s policies. In this case, it should be noted that the decision of the Council to remove the journalists from the session was against the law. Also, the decision to deposit its funds in a bank on a fixed-term savings account is illegal, having in mind the BC’s status of non-profit organisation.

3. Sessions of the Council are often called just one day earlier, or even just several hours before the scheduled time of the respective session. That practice is contrary to the provisions of the Book of Rules and Regulations of the Broadcasting Council. In a number of cases, the agenda was changed at the last possible moment, including points that concerned important and crucial issues. One example of such action was the 19th Session of April 17, 2013, in which, on proposal presented by the President of the Council, the agenda was changed to include the point on publication of a public call for allocation of license for terrestrial television broadcasting. One member of the Council asked for that point of the Agenda to be postponed, because the members received the materials too late to be able to review them properly. His proposal was not accepted.

The Broadcasting Council should abandon the practice to schedule meetings and introducing extremely important point in the agenda at the last possible moment, because it seriously undermines the transparency and the quality of the work of the Council. The members of the Council are prevented from acquiring thorough and timely information and from preparing for each of the points of the agenda to be able to adopt quality and competent decisions.

4. The Media Development Centre wasn't able to monitor fully the process of allocation of licenses to perform the broadcasting activity on national level. The Broadcasting Council refused our request to present all the bids submitted to the public call, with the explanation that those documents were not on the list of public documents held by the Council.

However, we could conclude from the monitoring of the process that the procedure for allocation of broadcasting licenses of the Broadcasting Council was not fully transparent. The whole process, i.e. the speed of implementation and the secrecy of procedures, raises some serious dilemmas and suspicions, for example, if the decision to whom the license shall be allocated was made in advance, regardless of the number and quality of bids submitted to the Broadcasting Council?

We propose reconsideration of the manner of allocation of licenses to allow for greater transparency of the procedure and, of course, to prescribe efficient legal remedies in cases when the bidders have suspicions about the evaluation and the decision of the Council.

5. Although the Book of Rules and Regulations prescribes that the Council shall adopt the minutes of the last session held before the ongoing session of the Council, the Council doesn't follow that provision to the letter and it usually adopted the minutes recorded in an earlier session (for example, three or four sessions before the ongoing session).

Therefore, we believe that the Council should abandon the practice of delayed adoption and publication of minutes recorded in its sessions. That

will greatly improve the transparency of its work.

6. It happens quite often that decisions are adopted without any debate or discussion by the members of the Council. They refrain from taking the floor and a vote is called on the respective issue on the agenda. It should be noted that only a few members of the Council take active participation in the sessions. Only three or four members regularly debate the points on the agenda and have critical approach to the work and the decisions of the Council. They read the minutes before they are adopted, note all omissions and issues and propose changes that need to be made to the minutes to be adopted. Majority of the Council members are passive, don't take part in the debate on the points of the agenda and their participation in the session is practically reduced to voting on the points listed in the agenda. The President of the Council is equally passive and his activity is usually reduced to mere technical management of the sessions.

The passivity of the members of the Council who often act just as voting machine, unavoidably implies the need to reconsider the criteria for election of Council members. The biographical information offered on the Broadcasting Council's website shows that only 4 of the 15 members have experience in the field of the media. In order to improve the quality and the competence of the Council, we recommend that the person nominated for membership in the Council should have the expertise and past experience in broadcasting, media, journalism or communication sciences. The Assembly of the Republic of Macedonia, as the institution that elects and dismisses the members of the Broadcasting Council, should demonstrate greater responsibility in the appointment of Council members.

7. During the period covered by this monitoring, the Council didn't receive any submission or complaint from individual citizens or citizens' groups. This leads to the conclusion that the citizens probably know little, or lack sufficient information about the opportunity they have to react to the Council.

In view of that issue, we recommend that the Council should implement public awareness campaign, for example, on the programmes of the public service broadcaster and using other forms of promotion, to inform the citizens about their role in the work and operations of the BC and in the efforts to improve the quality of programmes and contents offered by the broadcasters in Macedonia.

8. The monitoring of the sessions of the Council noted that for certain (minor) violations committed by the broadcaster, the Council usually issues a notification as the first measure. Such a measure is not prescribed or mentioned at all by the Law on the Broadcasting Activity or the Book of Rules and Regulations of the Council.

In cases of broadcasters that committed violations for which the Law prescribed a fine or misdemeanour charges, the Council issues notification

to the offending broadcasters. If a broadcaster has repeated the violation of the same provision, it is issued a written warning. For a third violation, the Council pronounces a written warning with request for publication and, as a result, the sanction prescribed by the Law is applied only if one provision is repeatedly violated several times. That is obviously a case of inappropriate and incorrect implementation of the laws by the Broadcasting Council.

That practice, developed throughout the years, should change. In cases of violations, the Law should be applied directly, without giving a broadcaster several chances to correct its actions and behaviour.

9. The Broadcasting Council monitors the broadcasts aired by broadcasters and pronounces measures or files misdemeanour charges for detected violations and infringements. However, the Council has no recordings of its own to prove that a broadcaster engaged in violation of legal provisions. The burden of proof falls on the broadcaster. In our monitoring, we noted several cases in which a broadcaster would submit a recording of its programme to prove that its operations and actions were in accordance with the Law, only for the Professional Service of the Broadcasting Council to conclude that it was a forged, edited version of the programme.

Therefore, we recommend that the Broadcasting Council itself should be legally obligated to keep and store the recordings of the programmes of all broadcasters. Also, the law needs to prescribe sanctions for broadcasters who submit forged footage or footage edited after the broadcast.

10. The broadcasting of digital signal in the Republic of Macedonia started on June 1, 2013. The only problems in the switchover process were registered with MRT. Although it was said in a session of the Council that the public service broadcaster will complete the switchover in August 2013, MRT continues to broadcast analogue signal.

No sanctions or penal measures were pronounced by the Council against MRT for the delay. The Council should abandon such practice and should take care that all broadcasters adhere to the legal obligations equally.