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LAW ON THE PUBLIC BROADCASTING SERVICE OF BOSNIA AND HERZEGOVINA

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NOTE: The Law on Amendments to the Law on the Public Broadcasting Service of Bosnia and Herzegovina was published in the “Official Gazette of Bosnia and Herzegovina”, 32/10.

Pursuant to Article IV 4.a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at its 51st session of 28th November 2005, has adopted the

LAW ON THE PUBLIC BROADCASTING SERVICE OF BOSNIA AND HERZEGOVINA

Article 1 (Subject of the Law)

This Law shall regulate the Public Broadcasting Service of Bosnia and Herzegovina (hereinafter: Public RTV service of BiH), and in particular the issues of its registration, activity, and organization.

Article 2 (Definitions)

Definitions from the Law on the Public Broadcasting System of Bosnia and Herzegovina (hereinafter: Law on System) shall apply to this Law.

For that purpose:

"**Advertising**" means any public announcement in return for payment or similar consideration or for self-promotional purposes, including sponsorship (as it is defined below), which is intended to promote, sale, purchase or rent a product or service, to advance an idea or cause, or to bring about some other effect desired by the advertiser or the broadcaster itself;

"**Public RTV service**" means the natural or legal person who has editorial responsibility for the preparation of radio and television program services for reception by the general public;

"**European programs**" mean creative works, the production or co-production of which is controlled by European natural or legal persons;

"**Sponsorship**" means the participation of a natural or legal person, who is not engaged in broadcasting activities or in the production of audiovisual works, in the direct or indirect financing of a program with a view to promoting the name, trademark, activities or achievements of that person;

"**Transmission**" means the initial emission by terrestrial, cable or satellite transmitter, in encoded or un-encoded form, of a radio or television program service for reception by the general public;

“**Virtual advertising**” means the use of electronic systems that partially change the television signal by adding an advertisement to the television picture that actually does not exist on the spot from which the signal is being transmitted;

“**Re-broadcast**” is a time delayed broadcast, through terrestrial, cable and satellite transmitter, in encoded or un-encoded form, of a radio or TV service for reception by the general public;

“**Teleshopping**” means teleshopping clips selling certain products by transmission of a TV signal, the duration of which is defined by the principles of the European Convention on Transfrontier Television;

“**RTV fee**” is a tax for the possession of the radio or television receiver in household or by the legal entity;

“**System License**” - individual licenses of the three public broadcasting services make up the System License.

Article 3 (Registration)

The Public RTV service of BiH shall be registered as public enterprise into the court register with the competent court according to its seat. The following data as regulated shall be entered into the court register:

- a) Company and its seat;
- b) Activities;
- c) Responsibility in domestic legal transactions;
- d) Responsibility in foreign trade legal transactions; and
- e) Names of persons authorized to represent it.

Article 4 (Company Title)

- (1) The name of the public company shall be: “Radio and Television of Bosnia and Herzegovina”.
- (2) An abbreviated title of the public company shall be “BHRT”
- (3) The seat of the BHRT shall be in Sarajevo.
- (4) The names of the public company BHRT and the Public Broadcasting System JRTS BiH must be displayed on a building housing the head office of BHRT, written in the languages in the official use in Bosnia and Herzegovina, in Latin and Cyrillic alphabets.

Article 5 (Seat)

The seat of the BHRT shall be in Sarajevo.

Article 6
(Rights and responsibilities)

- (1) BHRT shall be a legal person and shall be entitled to acquire rights and make commitments in legal transactions, to own movable and immovable property and to be a party before courts, other state authorities and bodies with public powers.
- (2) BHRT shall be responsible for its liabilities with all its assets.

Article 7
(Activities)

- (1) Activities of BHRT shall be the following:
 - a) Commissioning, preparation, production, transmission and broadcasting of its own radio and television programs and multimedia contents;
 - b) Publication and distribution of any printed matter related to its programming or to questions of broadcasting in general;
 - c) Storage and usage of sound and video recordings' archives;
 - d) Organization of cultural, musical and other events;
 - e) Survey of the public opinion (opinion poll), marketing and advertising services; and
 - f) Providing teletext services and activities related to other fields of broadcasting technology.
- (2) Through the Joint Legal Entity, the Corporation of the Public RTV Services of BiH (hereinafter: the Corporation), BHRT shall participate in the following:
 - a) Acquiring programming;
 - b) Introducing and using new technologies in the field of broadcasting;
 - c) Exchanging and participating in joint technical and other technological projects with other broadcasting agencies and program producers;
 - d) Other activities in accordance with the Law on System.
- (3) Subject to compliance with the System License, and the approval of the Communications Regulatory Agency, BHRT may provide additional program services, regardless of the method of delivery (e.g. on-line) or the mode of funding (e.g. pay-TV).
- (4) The Statute may specify additional activities, provided that such activities are not inconsistent with the core activities as stipulated by this Law.

Article 8
(Constitutional representation)

- (1) BHRT shall, in its operations and its staff structure, implement the relevant constitutional provisions regarding the equal rights of constituent peoples and Others in Bosnia and Herzegovina.
- (2) Programs shall be adapted to the needs of the constituent peoples and citizens of BiH, edited and broadcast equally in three official languages and two alphabets.

Article 9
(Program services)

- (1) The activities of BHRT shall be accomplished through production and broadcast of programs on at least one radio and one television network in the territory of Bosnia and Herzegovina.
- (2) BHRT shall be authorized to transmit programs via terrestrial networks, satellites, cable, Internet or any other technical means.
- (3) Requests for expanded services or additional channels shall be submitted to the Communication Regulatory Agency.

Article 10
(International Exchange and Exclusive Rights)

- (1) For the interest of the whole population of Bosnia and Herzegovina, BHRT shall be obliged to ensure coverage of the most important cultural, sporting, entertainment and other events in the country and abroad.
- (2) Broadcasters whose programmes are not available to the whole population of Bosnia and Herzegovina shall not be entitled to acquire exclusive rights to the following sports events:
 - a) Olympic Games;
 - b) World and European championships in football, basketball, handball and other sports;
 - c) Matches within official international competitions with participation of Bosnia and Herzegovina's national team;
 - d) International competitions which take place in Bosnia and Herzegovina.
- (3) BHRT shall make best efforts to acquire the exclusive rights to all important events as they are defined and enumerated in paragraph (2) of this Article.

Article 11
(Membership in International Organizations)

- (1) The Corporation shall represent the interests of the BHRT in international broadcasting organizations and associations.
- (2) BHRT shall be obliged to ensure use of rights and carrying out of responsibilities arising from its membership in the European Broadcasting Union (EBU-UER) and from the European Convention on Transfrontier Television.

Article 12
(Statute)

- (1) BHRT shall have a Statute that shall determine its internal organization, powers and the manner in which individual bodies shall take decisions and shall regulate other issues of importance for operations and transactions of BHRT.
- (2) The Statute shall be published in the “Official Gazette of Bosnia and Herzegovina”.
- (3) BHRT shall have other enactments in accordance with the law and Statute.

Article 13
(Satellite program)

- (1) BHRT may carry out the activity of an international digital satellite operator with objective of providing broadcasting services to the citizens of Bosnia and Herzegovina who live outside the territory of BiH.
- (2) BHRT must separately present the entire costs of providing services via international digital satellite, including the costs of broadcast, technical resources, personnel and program, and separate them clearly from the costs of providing domestic services in accordance with its license.
- (3) Funds acquired for providing services via international digital satellite must not be used for subsidization of broadcast of program of BHRT intended for the population of Bosnia and Herzegovina living in the territory of BiH.
- (4) In providing the international satellite service, BHRT must ensure full application of international and domestic laws regulating the protection of copyrights and similar rights and intellectual property.

Article 14
(Production Capacities)

The Corporation of public broadcasting services in BiH shall manage premises, production and technical capacities of BHRT in line with the Law on System.

Article 15
(Archives)

- (1) BHRT shall hold all rights to the archive materials of the former Public Enterprise of Radio-Television of Bosnia and Herzegovina and shall be obliged to take good care of them as these materials are culturally and historically invaluable and represent a common good of all the peoples and citizens of Bosnia and Herzegovina.

(2) BHRT shall hold all rights to new intellectual property that BHRT adds up to its archive materials.

(3) Other public broadcasting services shall have access to archive materials of BHRT and vice versa.

(4) The Corporation shall manage the procedure of preservation, processing and use of all archive materials in accordance with applicable laws, and BHRT and the Corporation shall enter into a contract on managing.

Article 16 (Status of Employees)

Applicable labor provisions and the Statute as a basic act shall be applied to the legal status of employees in BHRT, to employment contracts' terms, salaries and other issues.

Article 17 (Minimum Service Requirements)

(1) In the event of a strike of employees, minimum service broadcasting of BHRT must not be put at risk.

(2) The Director General shall, after consultation with a major trade union's representative, choose individuals from the BHRT staff who will perform minimum service broadcasting defined under paragraph (1) of this Article.

(3) If the staff chosen to perform the minimum service broadcasting refuses to work as required by this Article, the Director General may hire employees who are not members of the union of BHRT as well as persons not employed in the BHRT to fulfill these duties.

Article 18 (Implementation of relevant laws)

Relevant laws that are in force in the seat of the BHRT shall apply to the business operation of BHRT that is not specifically regulated by this Law.

Article 19 (Assets)

(1) The BHRT property shall consist of assets transferred to it in the process of the liquidation of Public Enterprise Radio-Television of Bosnia and Herzegovina, as well as assets which were obtained from other sources.

(2) The Corporation shall manage the property in accordance with the Law on System.

Article 20

(Funding of Regular Operations)

(1) Regular operations of BHRT shall be primarily financed from the following sources:

- a) Radio and television tax (hereinafter referred to: RTV fee),
- b) Marketing.

The distribution of income collected as above shall be carried out in accordance with Article 23 of the Law on System.

(2) BHRT may generate revenues on the basis of its own activities, including commercialization of copyrights and related rights, production and sale of audio and visual works, rendering teletext services and other services.

Article 21 (Financing responsibility)

(1) The Director General shall prepare a financial plan for the next year to be delivered to the Board of Governors of BHRT (hereinafter: Board of Governors) for adoption at the latest by November 1 of the current year.

(2) The Director General shall submit a report on business operations for the previous year to be delivered to the Board of Governors at the latest by February 28 every year.

(3) BHRT must ensure that its total revenues shall cover its total expenditures in any financial year.

Article 22 (Audit Obligation)

An annual audit of the business operations of BHRT shall be required to be done by an independent auditing company.

Article 23 (Bodies of BHRT)

(1) The bodies of BHRT shall be the following:

- a) Board of Governors;
- b) Management Board.

(2) The Management Board, which consists of the Director General and Heads of BHRT Departments, shall manage the BHRT's work.

- (3) Public RTV services must ensure compensations for the members of their respective Board of Governors of BHRT, including also compensations for the work in the System Board and for those members who are also its members.

Article 24
(Board of Governors)

The Board of Governors shall represent and protect the interests of the public with regard to radio and television programming, shall supervise the entire operation as well as the use and management of the BHRT property.

Article 25
(Composition of the Board of Governors)

- (1) The Board of Governors shall consist of four (4) members.
- (2) The members of the Board of Governors may only be citizens of Bosnia and Herzegovina.
- (3) The Board of Governors shall consist of four (4) members:
 - a) one from among each of the constituent peoples of BiH and Others;
 - b) two of those four members must have permanent residence in the Federation of Bosnia and Herzegovina;
 - c) two of those four members must have permanent residence in Republika Srpska.
- (4) Members of the Board of Governors shall be independent in their work and shall not take instructions from their appointing authority.
- (5) The term of office of the members of the Board of Governors shall be four (4) years, and may not be renewed.
- (6) The member of the Board of Governors serving the final year of his/her four-year term shall chair the Board of Governors during that year.
- (7) The Board of Governors shall pass its own Rules of Procedure.

Article 26
(Selection, Appointment and Dismissal of the Board of Governors)

- (1) The Parliamentary Assembly of Bosnia and Herzegovina shall appoint members of the Board of Governors from a ranking list of short-listed candidates (hereinafter: the ranking list) provided to it by the Communications Regulatory Agency, within thirty (30) days from the presentation of such a short-list to the Parliament Assembly of Bosnia and Herzegovina. The Communications Regulatory Agency shall conduct a fair, open and transparent selection process, while applying the standards and deadlines described by the Law on Ministerial, Council of Ministers and Other Appointments of Bosnia and Herzegovina, with a view to selecting the most qualified

candidates. The Communications Regulatory Agency shall start the procedure to compile a ranking-list of short-listed candidates four (4) months prior to the expiry of the term of office of the members of the Board of Governors.

(2) The following individuals may not be appointed as members of the Board of Governors:

- a) Office holders in legislative, executive and judicial structures, at any level of government;
- b) Members of political party organs;
- c) Employees of BiHRT, RTFBiH and RTRS and the Corporation;
- d) Employees in other companies carrying out activities of radio or television broadcasting, including agencies collecting RTV fee, members of their governing and supervisory bodies, or persons who carry out businesses that may cause a conflict of interest.

(3) The Parliamentary Assembly of BiH shall be authorized to make a decision on dismissal of the Board of Governor's member in any of the following cases:

- a) if the member himself/herself asks to be dismissed;
- b) if s/he fails to attend the session without justification three times;
- c) if s/he does not participate in the work of the Board of Governors for three months.

(4) The Parliamentary Assembly of BiH shall also be authorized to make a decision on dismissal of a member of the Board of Governors upon recommendation of the Communication Regulatory Agency where the said member has failed to comply with the requirements from the System License and/or BHRT License.

Article 27

(Quorum and Decision-Making of the Board of Governors)

(1) The Board of Governors can make valid decisions by a majority of votes of the total number of its members (quorum). The Board of Governors shall decide by majority vote of total number of present members, an in case of equal number of votes, the vote of the Chair shall be decisive.

(2) The appointment and dismissal of the Director General, adopting the statute, the programming plans of radio and television, as well as the adoption of the financial plans and annual budgets shall require votes of at least three of Board of Governors' members.

Article 28

(Fee for the work of members of the Board of Governors)

The members of the Board of Governors shall be obliged to work no less than 5 (five) days a month in the Board of Governors and they shall be entitled to a fee for their work in the amount of 3 minimum wages in the entity they are coming from, as well as reimbursement of reasonable travel and material expenses in accordance with the applicable acts of BHRT.

Article 29
(Competence of the Board of Governors)

The Board of Governors shall be responsible for:

- a) Adopting the Statute and other general enactments;
- b) Deciding on the management of assets, in accordance with the Law and the Statute;
- c) Deciding on investments for the development of BHRT, in accordance with the Law and the Statute;
- d) Adopting the reports on financial operations;
- e) Approving the annual budget and financial plan;
- f) Adopting programming plans for radio and television;
- g) Appointing and dismissing the Director General;
- h) Giving approval for the appointment of the officeholders at the highest programming positions;
- i) Deciding on the name and logo of the radio and television;
- j) Monitoring and controlling the legality and the success of the activities of BHRT;
- k) Presenting the annual financial plans and program plans and the reports on the realization thereof to the Parliamentary Assembly of BiH and the public;
- l) Performing other duties, in accordance with the Law and the Statute; and
- m) Ensuring the delivery of the requirements of the System License.

Article 30
(Advisory Bodies)

The Board of Governors may establish advisory bodies for the purpose of considering of and advising on various aspects of the activities of BHRT.

Article 31
(Appointment and Term of the Director General)

- (1) The Board of Governors shall appoint the Director General on the basis of a public announcement in accordance with Article 27 paragraph (2) of this Law.
- (2) The term of the Director General shall be five (5) years and it can be renewed only once.
- (3) The Director General shall only be a national of Bosnia and Herzegovina and shall meet all the conditions as stipulated in the Statute.
- (4) The Director General may not be a person who holds any executive, legislative or judicial office at any level of authorities in Bosnia and Herzegovina, or who owns or co-owns any company involved with radio or television broadcasting or whose function is incompatible with the Law on Conflict of Interests.

Article 32
(Competence of the Director General)

- (1) The Director General shall manage operations, represent and act for BHRT and be responsible for the legality of operations and the implementation of the Board of Governors' decisions.
- (2) The Director General shall be responsible for ensuring compliance with the determined programming guidelines and principles set out by law.
- (3) The Director General shall appoint managerial staff, according to the highest professional criteria and in the manner established in the Statute.
- (4) The Director General shall perform other activities in accordance with the law and the Statute.
- (5) The Director General shall be responsible for delivering the requirements of the System License and the BHRT License.
- (6) The Director General shall ensure the development of annual financial plan and budget for BHRT, in co-operation with the Director General of the Joint Legal Entity.
- (7) The Director General shall ensure co-operation and co-ordination with the Directors General of BHRT, RTRS and the Joint Legal Entity.

Article 33
(Dismissal of the Director General)

- (1) The Board of Governors shall be bound to dismiss the Director General in the following cases:
 - a) if the Director General himself or herself requests to be dismissed in accordance with the Contract on Employment;
 - b) if such reasons arise which, according to special regulations or regulations on employment arrangements, lead to the termination of the Contract on Employment.
- (2) The Board of Governors may dismiss the Director General if it determines that the Director General has failed to perform his/her duties in accordance with the Law, the System License, the BHRT License, the Statute, the bylaws or his/her Contract on Employment.
- (3) In the case of the dismissal of the Director General, the Board of Governors shall be obliged to appoint an Acting Director General immediately and a new Director General within the period of sixty (60) days.

Article 34
(Termination of BHRT)

- (1) The Decision on the termination of BHRT may only be made in the form of a law.
- (2) The Law on the Termination of BHRT shall specify the procedure of termination and manner of distribution of property.

Article 35
(Transitional Provisions)

- (1) Until the establishment of the RTV service at the level of Bosnia and Herzegovina that shall broadcast at its own frequency, BHRT shall broadcast the following:
 - a) Central news programme and other news programmes;
 - b) The most important international sports, cultural and other events, whenever possible;
 - c) Foreign programmes of high-quality production, in the quantity determined in agreements with RTVFBiH and RTRS;
 - d) Advertisements;
 - e) Other programmes, in agreement with RTVFBiH and RTRS within the joint programming schedule.
- (2) The programmes of BHRT shall be broadcast during prime time and shall have a priority in network utilisation.

Article 36
(Formation of the Board of Governors)

- (1) The term of office of the existing Public RTV Service of BiH Board of Governors shall continue until such time as the Board of Governors has been established in accordance with this Law.
- (2) Upon entry into force of this Law, within 30 days the Communication Regulatory Agency shall prepare a short-list of candidates, whereas within 60 days the Parliamentary Assembly of BiH shall appoint all the members of the first Board of Governors consistent with the provisions of this Law.
- (3) The inaugural session of the first Board of Governors of BHRT shall be convened within 15 days from the appointment of all members. The Board of Governors shall be bound to adopt the Statute, appoint the Director General and ensure registration within 60 days from the inauguration.
- (4) The term of office for members of the Board of Governors shall be four years, however when the Board is initially constituted, the members shall be appointed as follows:
 - a) one member appointed for four years;
 - b) one member appointed for three years;
 - c) one member appointed for two years; and

d) one member for one year appointed from amongst members of the existing Board of Governors of the Public RTV Service of BiH.

(5) The member appointed for three years shall remain in office as Chair for the period of a three-year term of office. After that, the office of Chair shall be rotated amongst the members of the Board of Governors in accordance with Article 25 of this Law.

Article 37
(Final Provisions)

All previously adopted laws and bylaws regulating the Public RTV Service of BiH shall become repealed after the entry into force of this Law.

Article 38
(Entry into Force)

This Law shall enter into force eight days after its publication in the "Official Gazette of BiH".