

GRANTING A LICENSE FOR THE PROVISION OF AUDIOVISUAL AND RADIO SERVICES THROUGH TERRESTRIAL DIGITAL BROADCASTING SYSTEMS

I. Legal basis

- Article 116f et seq. of the Radio and Television Act (RTVA);
- Rules of the procedures organised by the Council for Electronic Media for the awarding of radio and TV licenses to programmes distributed through electronic communication networks for terrestrial digital broadcasting.

II. Administrative arrangements, requirements and documents needed

The Council for Electronic Media (CEM) will take a decision to open a procedure ('the Decision') upon a request from an interested party or at its own initiative, or at the initiative of the Communications Regulation Commission (CRC). The Decision will be published in the State Gazette (the Bulgarian Official Journal) and on the CEM website.

The candidates can then submit their licensing applications and supporting documents in writing at the Registry Desk of the CEM either in person or through an authorised representative within the time-limit set in the Decision. The application form can also be downloaded from the CEM website (www.cem.bg), section *Licensing and registration*, subsection *Licensing documents for digital broadcasting services*.

Candidates which are not listed in the public register as per Article 125k of the Radio and Television Act (RTVA) should append to their applications the following documents:

1. The applicant's Articles of Association;
2. Certificate of commercial registration or documents certifying the establishment of the legal entity;
3. Certificate of good standing or an equivalent document (for foreign entities), issued not earlier than one month before the date on which the application is submitted;
4. The decision by which the company's competent management body approves the candidate's participation in the procedure;
5. Proposed method for the distribution of the programme;
6. Declaration confirming that the circumstances referred to in Article 105(4) of the RTVA are not in place;
7. Declaration pursuant to Article 108 of the RTVA;
8. Evidence of the candidate's financial capacity to carry out the proposed operations;
9. Programme project;
10. Programme concept;
11. Programme profile;
12. Programme scheme;
13. List of additional radio and TV services;
14. Evidence of the candidate's capacity to create its own productions of appropriate quality;
15. Draft version of the business plan for carrying out the operations;
16. Tentative contracts with rightholders for the use of copyrighted works in the programme and for the use of neighbouring rights in respect of the distribution of foreign programmes;
17. Documents which demonstrate the origin of the candidate's capital in the three years

- preceding the date on which the documents are submitted, including certified financial statements;
18. Documents which explain the structure of the candidate's capital and the allocation of the capital among the various owners and — if the candidate is a legal entity in which other legal entities are partners or shareholders — documents which explain the structure of the candidate's capital and the amount of stock owned by these partners or shareholders in the candidate's capital;
 19. List of the media operators in which the candidate is a shareholder or partner;
 20. Evidence of the candidate's rights on the brand/mark which will be used as a name of the programme;
 21. Paper-based and electronic versions of the logo of the programme;
 22. The date on which the distribution of the programme will begin ('the Go Live date');
 23. Proof of payment of the fee for examination of the documents as per the Tariff of Fees for Radio and TV Operations;
 24. Declaration by which the candidate confirms that the documents submitted in electronic format are identical with their paper-based counterparts.

Candidates which are not listed in the public register as per Article 125k of the Radio and Television Act (RTVA) should append to their applications the following documents:

1. Evidence of the candidate's capacity to create its own productions of appropriate quality;
2. Draft version of the business plan for carrying out the operations;
3. Proof of payment of the fee for examination of the documents as per the Tariff of Fees for Radio and TV Operations;

The programming documents (project, concept and scheme of the programme) and the draft of the business plan should be provided both in paper-based and electronic versions.

All documents should be in Bulgarian language. Applicants may also submit documents in other languages provided that they are accompanied with a legalized translation in Bulgarian.

The CEM will not require the presentation of any information or documents which are already in the possession of CEM or other authorities. Instead, CEM will obtain them on an *ex-officio* basis for the purposes of the administrative procedure.

After the time-limit for the submission of applications, a Technical Committee will vet the documents.

If any inconsistencies or deficiencies in the documents are found, the CEM will instruct in writing the applicant to rectify such inconsistencies or deficiencies within seven days. The seven-day period will commence on the date on which CEM's notice is delivered. The notice will be delivered in accordance with the process set out in the Code of Administrative Procedure. Where the deficiencies or inconsistencies are not rectified within the seven-day period, the affected documentation **will not be considered**.

The CEM will set up an Expert Committee (EC) on the basis of Article 116f(4) of the RTVA. Each EC will be composed of three members from the Council for Electronic Media and two members from the Communications Regulation Commission.

The EC will examine the documentation provided by the candidates. Following this work the Expert Committee will issue a report in which the EC presents to the Council for Electronic

Media the candidates eligible and respectively ineligible for a license.

Within 30 days of the appointment of the Expert Committee, the CEM will decide which candidates will be granted and respectively refused a license.

The Council for Electronic Media will adopt an individual decision for each candidate on the basis of the submitted documents, the principles laid down in Article 116f(7) of the RTVA and the report of the Expert Committee ('the Licensing Decision').

The CEM will grant the TV license within 10 days of the date of the Licensing Decision.

The Licensing Decision will be published on the CEM website and communicated to the party concerned through a licensed postal operator.

The decision can be appealed at the Administrative Court of Sofia District within 14 days of the announcement that the decision has been issued. The appeal has to be submitted through the Council for Electronic Media.

The licensee can choose how to obtain its license — at CEM's Head Office: Sofia, 69 Shipchenski Prohod Boulevard, Floor 6; through a licensed postal operator or by electronic means.

III. Fees

There are fees for the examination of the documents and for the issuance of the license. These fees are set out in Article 4 of the Tariff of Fees for Radio and TV Operations.

The fees can be paid either by a bank transfer or at CEM's cash office at Sofia, 69 Shipchenski Prohod Boulevard, Floor 6.

Details of the bank account:

IBAN BG49 BNBG 9661 3000 1788 01

BIC BNBGBGSD

Bulgarian National Bank (BNB), Head Office

IV. Validity period

The validity of the licenses granted is 15 years.