

MEMORANDUM OF COOPERATION

**IN THE FIELD OF PROTECTION OF COMPETITION
IN THE BROADCASTING ACTIVITY**

Skopje, October 2007

The Commission for Protection of Competition (Dame Gruev 1, 1000 Skopje, represented by Cedomir Kraljevski, President)

and

The Broadcasting Council (Marks and Engels 3, 1000 Skopje, represented by Mirče Adamčevski, President)

having in regard

that close cooperation between the Commission for Protection of Competition (hereinafter: CPC) and the Broadcasting Council (hereinafter: BC) will increase the efficiency of the fulfilment of the tasks assigned to both authorities and thereby contribute to the promotion of competition in the broadcasting activity in the Republic of Macedonia

that Article 26, paragraph 7 of the Law on Protection of Competition, as well as Article 39 paragraph 2, of the Law on Broadcasting activity set the general legislative framework for cooperation in which both, the CPC and the BC, will mutually help one another to ensure efficient fulfilment of their tasks in the promotion of competition

have signed the following

MEMORANDUM OF COOPERATION

IN THE FIELD OF PROTECTION OF COMPETITION IN THE BROADCASTING ACTIVITY

Article 1

Introductory provisions

1. This Memorandum attains close cooperation between CPC and BC (hereinafter: parties of the Memorandum) in the protection of competition in the broadcasting activity in the Republic of Macedonia, with the purpose of more efficient fulfilment of the competition rules.
2. With the signing of this Memorandum, the parties of the Memorandum express their readiness for cooperation in the field of protection of competition, by virtue of mutual trust and understanding, and have agreed to base their cooperation on the principles and procedures provided for in this Memorandum.

Article 2
Scope of cooperation

1. The parties of the Memorandum have agreed to cooperate in the field of protection of competition, with the purpose of promoting and helping the development of the competition in the broadcasting activity in the Republic of Macedonia, having in regard the significance of this market for the economy in the country with an emphasis on the benefits that result from the competition for the end users.
2. The parties of the Memorandum have also agreed to cooperate in other fields, which are directly or indirectly related to the protection of competition.

Article 3
Forms of cooperation

1. The cooperation of the parties of the Memorandum shall be realized especially through:
 - 1.1. constant exchange of data and information
 - 1.2. mutual informing of initiating procedures
 - 1.3. preparation of expert opinion upon request and for the needs of the other party of the Memorandum
 - 1.4. constant direct contacts between the parties of the Memorandum
 - 1.5. constant expert training of the parties of the Memorandum in the field of protection of competition and related fields through exchange of notifications for seminars, conferences etc., by mutual invitation to seminars and other forms of educational programs organized by one of the parties of the Memorandum, as well as participating in educational programs that are organized by a third party or organization (EU, OECD) for the benefit of one of the parties.
 - 1.6. coordination of activities related to the amendments of the existing legal provisions of mutual interest.

Article 4
Board of cooperation

1. For the realization of this Memorandum the parties shall form mutual board of cooperation.
2. The task of the board of cooperation shall be coordination of all forms of cooperation between the parties of the Memorandum, as set out in Article 3 of this Memorandum, aimed at achieving and maintaining direct contacts between the parties of the Memorandum, with the purpose of promoting competition and assistance in decision making in certain cases within the competence of the CPC and BC respectively.
3. The board of cooperation shall consist of four members and two co-chairmen, whereas each of the parties of the Memorandum shall appoint two members and one co-chairman.
4. The co-chairmen shall be in charge of contacting the parties of the Memorandum, i.e. for assembling and organizing sessions for the board of cooperation.

5. The board of cooperation shall meet when necessary but at least every six months. One regular meeting a year shall be also held.
6. The meetings from item 5) of this Article shall take place alternatively at the premises of the CPC and BC respectively.
7. The meetings of the board of cooperation that shall be held on initiative of one of the parties of the Memorandum shall take place at the premises of that party of the Memorandum, unless the co-chairmen in the concrete case do not agree differently.
8. The co-chairman from item 3) of this Article, who is appointed by the party of the Memorandum in whose premises the meeting shall be taking place, shall preside over the meetings of the board of cooperation from items 5) and 7) of this Article.
9. At the meetings of the board of cooperation from items 5) and 7) of this Article, besides the co-chairmen and the members of the Board, other experts from the CPC and BC respectively can participate, as well as other external experts in specific areas, if the parties of the Memorandum consider their presence in the specific case necessary and useful.
10. The invitation for the meetings from item 5) of this Article i.e. the initiative for holding a meeting from item 7) of this Article must contain draft agenda of the meeting.
11. The party of the Memorandum in whose premises the meeting shall be taking place is obliged to make short minutes on the course of the meeting and its conclusions and to provide a copy of those minutes to the other party of the Memorandum within 15 days from the day of the meeting. The other party of the Memorandum should provide the remarks about the minutes, within eight days from receiving the copy of the minutes and those remarks shall be part of the minutes.
12. The parties of the Memorandum are obliged to appoint the members of the Board of cooperation within fifteen days from the day of signing this Memorandum.

Article 5

Exchange of data and information

1. The parties of the Memorandum, in line with their legal obligations, shall exchange data and information necessary in exercising their competences.
2. The scope of exchange of data and information shall be limited to data and information that is relevant and proportionate to the purpose for which they are exchanged.

Article 6
CPC's proceedings in the field of broadcasting activity

1. In case CPC initiates proceedings in the field of broadcasting activity, in particular when appraising the compliance of a media concentration with the provisions of the Law on protection of competition, the BC shall be informed in writing and shall have the opportunity to state its views on the pending proceedings within 15 days upon the receipt of the information.
2. If the CPC, in the course of the proceedings from item 1), requests clarification on certain points, the BC shall provide a written opinion within 10 days from the day the request has been received.
3. The CPC shall submit its final draft decision to the BC. The BC can comment on the draft decision within 15 days from the day of receipt.
4. The BC's opinion shall be attached to the files.
5. CPC shall be obliged to take into consideration the BC's opinion from item 3) in adopting its final decision.

Article 7
Issues before the BC related to competition

1. The BC shall cooperate with the CPC on all issues related to competition in the field of broadcasting activity, especially in determining the existence of illegal media concentration, as stipulated in Article 15 paragraph (1) of the Law on broadcasting activity.
2. Before the BC determines the existence of illegal media concentration from item 1) of this Article, it shall request an opinion on the pending media concentration from the CPC.
3. The CPC shall deliver its opinion within the time limit suggested by the BC.
4. The CPC's opinion shall be attached to files.
5. The BC shall be obliged to take in consideration the CPC's opinion from item 3) in adopting its final decision.
6. When applying Article 17 paragraph (6) and (7) of the Law on Broadcasting activity, the BC may consult the CPC.

Article 8
Confidentiality of data and information

1. The party of the Memorandum receiving confidential data and information from the other party of the Memorandum shall provide the same level of confidentiality of the disclosed data and information as the originating party of the Memorandum.
2. The party of the Memorandum, when disclosing confidential data and information to the other party of the Memorandum, at the same time shall inform the data and information supplier/suppliers on the transfer.

Article 9
Disputes regarding competence

1. Each party of the Memorandum is obliged to transfer all cases which clearly fall within the competence of the other party of the Memorandum, to the originating party of the Memorandum, provided for in Article 27 of the Law on General Administrative Procedure.
2. The Law on General Administrative Procedure shall be applicable whenever disputes regarding the competences of the parties of the Memorandum occur.

Skopje, 15 October 2007

Commission for Protection of Competition
Cedomir Kraljevski, President

Broadcasting Council
Mirče Adamčevski, President