



CIMC- 2007/04

REGULATION OF CABLE DISTRIBUTION OF RADIO AND TELEVISION PROGRAMMES IN KOSOVO

Preamble

The Council of the Independent Media Commission (CIMC), acting pursuant to Article 2.5 and Article 11 of the IMC law, No. 02/L-15, and having in mind:

1. That under the IMC law, the CIMC is directed to issue licenses, including licenses for services of cable distribution of radio and television programs;
2. That it is necessary to establish an orderly regulatory framework for services of cable distribution of radio and television programs in Kosovo,
3. That the framework described in (2) above should include provisions for protection of minors and consumer protection;
4. That it is desirable to encourage the development of a vigorous market and healthy competition in television and entertainment services, and that such competition will benefit Kosovo's consumers;
5. That investment in services of cable distribution of radio and television programs will enable provision of innovative services and will stimulate economic growth in the Information and Communications Technology (ICT) sector, which is one of the fastest growing economic sectors in Europe;
6. That while promoting the development of services of cable distribution of radio and television programs, it is also desirable to encourage diverse and financially viable terrestrial broadcast services in Kosovo, (a) in local communities and (b) throughout Kosovo,

Therefore adopts the following regulations concerning cable licenses:

Article 1
Definitions

- 1.1. Cable broadcasting means distribution by a cable operator of cable program services over a cable system.
- 1.2. Cable head-end means a master facility for receiving signals for processing and distribution over a cable system.
- 1.3. Cable operator means the operator of a cable system who provides cable program services over a cable system and who has responsibility for the content of the cable program services.
- 1.4. Cable program service means radio and television programming for cable broadcast over a cable system
- 1.5. Cable subscriber means a person receiving cable program service through a cable system, having a contract with a cable operator, and paying a fee for cable service.
- 1.6. Cable system means a system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable program service for reception by cable subscribers.
- 1.7. Cable television station means the cable operator that produces its own television program.
- 1.8. Cable program service provider means a business that produces or packages television or radio programming for cable broadcast.
- 1.9. Cable license means an authorization and responsibilities of which text has been defined and which is granted by the IMC.
- 1.10. Cable licensee means natural or legal entity registered and licensed in accordance with this regulation.
- 1.11. A resident of Kosovo is any person registered in the Central Civil Registry as a permanent resident of Kosovo pursuant to UNMIK Regulation No. 2000/13 of 17 March 2000 on the central Civil Registry.
- 1.12. Active cable operators are cable operators who are serving subscribers in Kosovo as of the transition date.

Article 2
Persons Eligible for License

- 2.1. Natural persons and legal entities are eligible to apply for a license as a cable operator.
- 2.2. Natural persons must be residents of Kosovo.
- 2.3. Legal entities must be registered in the territory of Kosovo in accordance with applicable laws and regulations in Kosovo.
- 2.4. The IMC will issue license to any applicant who qualifies for a license by submitting a complete and truthful license application and by paying the license fee, *except that* a license shall not be issued or shall not continue to be granted to:
 - 2.4.1. A political party, a group or organization managed by an individual who holds an elected post or is a member of an executive body of a political party;
 - 2.4.2. An individual or entity partially or entirely owned or managed by an individual, who has been convicted with due process in accordance with international standards, for a crime involving violence or fraud, for which he or she has not been lawfully pardoned.

Article 3
Requirement for a License

- 3.1. A cable operator must have an IMC cable license in order to build and operate a cable system in Kosovo.
- 3.2. Cable license is valid for a period of 10 (ten) years, with the possibility of an extension. The licensee is obliged to submit a request for license extension no later than six months prior to the expiration date, but not before expiration of the period of nine years from the date of issuing the license..
- 3.3. No pre-selection process shall be required to obtain a cable license. Possession of a cable system is neither a precondition to obtain such a License, nor shall the IMC have any obligation to the cable operator regarding provision of any necessary facilities or resources.

Article 4
Transition to Licensing

- 4.1. The purpose of this provision is to provide a way for active cable operators to obtain a cable license through immediate registration followed by a license application, as set out in Articles 5 and 6.

- 4.1.1. Active cable operators are cable operators who are serving subscribers in Kosovo as of the transition date.
- 4.1.2. The transition date is the date this regulation is adopted in final form.
- 4.2. Active cable operators must register with the IMC in accordance with Article 5 within one month after the transition date.
- 4.3. Following registration, active cable operators must apply for a cable license, fulfilling all the requirements of Article 6, by the license due date. The license due date is three months after the transition date.
- 4.4. An active cable operator who fails to file an application by the license due date can not operate a cable system and is subject to sanctions under IMC law.
- 4.5. Any cable operator who is not an active cable operator as of the transition date must apply for a license under Article 8, and may make such application at any time.

Article 5
Registration of Active Cable Operators

- 5.1. Active cable operators applying for registration must register no later than one month after this regulation is adopted in final form by the IMC Council.
- 5.2. The active cable operator must provide the following registration information:
 - 5.2.1 Name of the applicant with address, telephone, fax, and e-mail of principal business office.
 - 5.2.2 If the applicant is a legal person, form of ownership (partnership, commercial society, Limited Liability Company, etc.) and company registration certificate.
 - 5.2.3 Name of the individual (natural person) responsible for filing the registration information, including ID number, phone number and e-mail address.
 - 5.2.4 Map showing location of present cable system (principal head-end, other head-ends, and cable plant) (map must be sufficiently large scale to show streets and ways where cable plant is located)
 - 5.2.5 Address of head-end or head-ends.
 - 5.2.6. Number of subscribers.
 - 5.2.7 Services offered and rate charged to subscribers for each broadband service or combination of services.
 - 5.2.8 Program list (list of all cable program services offered over the cable system, with channel number), including terrestrial television broadcast stations.

- 5.2.9. Cable service provider has the obligation to purchase relevant and all copyrights from the owner of distributed programs before the program is distributed, and this includes author and performer rights, for all distributed program contents, and in accordance with all relevant legislation and provisions in this field.
- 5.2.10 Active cable operators must provide copies of agreements for each program service that is cable broadcast on the cable system on the date of the license application.
- 5.3. For active cable operators, the negotiation period for terrestrial broadcast must carry described in Article 12 begins from the date of registration.

Article 6

Licensing of Active Cable Operators

- 6.1. Active cable operators must apply for a license no later than three months after this regulation is adopted in final form by the IMC Council.
- 6.2. In order to obtain a license, active cable operators must:
- 6.2.1 Complete a license application for each cable system operated by the applicant.
 - 6.2.2 Pay a one year license fee as set out in Article 10.
- 6.3. The license application must contain the following information:
- 6.3.1. Information about the applicant:
 - a) Name of the applicant with address, telephone, fax, and e-mail of principal business office.
 - b) If the applicant is a legal person, form of ownership (partnership, commercial society, limited liability company, etc.), evidence of business registration in Kosovo.
 - c) Name of the individual (natural person) responsible for filing the license application, including ID number, phone number and e-mail address.
 - 6.3.2. Information about the cable system - location
 - a) Map showing location of the cable system operated by the applicant (principal head-end, other head-ends, and cable plant). The map must be sufficiently large scale to show streets and ways where cable plant is located.
 - b) Address of head-end or head-ends.
 - c) Date when applicant first offered cable service to subscribers.
 - d) A brief description of the technology used by the cable system.
 - 6.3.3. Information about the cable system – subscribers

- a) List of services offered and rate charged to subscribers for each broadband service or combination of services.
 - b) Number of subscribers
 - c) A sample of the subscriber contract.
- 6.3.4. Information about cable program services
- a) A program list (list of all cable program services offered over the cable system with channel number, including terrestrial television broadcast stations).
- 6.3.5. As part of the application, applicant must provide copies of agreements for each program service that is cable broadcast on the cable system on the date of the license application.

Article 7

License Application

- 7.1. The purpose of this Article is to establish the procedure for an applicant to apply for a license to build and operate a cable system.
- 7.2. In order to obtain a license, the applicant must:
- 7.2.1 Complete a license application;
 - 7.2.2 Pay the first year's license fee as set out in Article 10
 - 7.2.3 Agree to begin providing service to subscribers within 12 months after the license has been issued.
- 7.3. The license application must contain the following information:
- 7.3.1 Information about the applicant:
- a) Name of the applicant with address, telephone, fax, and e-mail of principal business office.
 - b) If the applicant is a legal person, form of ownership (partnership, commercial society, limited liability company, etc.), and evidence of business registration in Kosovo.
 - c) Name of the individual (natural person) responsible for filing the license application, including ID number, phone number and e-mail address.
- 7.3.2 Information about the cable system - location and number of subscribers
- a) Map showing intended location of the cable system. The map must be sufficiently large scale to show streets and ways where cable plant will be located, and the location of the head-end.
 - b) Address of head-end.
 - c) Number of subscribers
- 7.3.3. Information about the cable system – technical information

- a) Provide a brief description of the technology that will be used by the cable system, including how many channels the applicant intends to provide.

Article 8
Change of ownership

- 8.1. Changes in ownership of a cable system must have prior written approval of the IMC.
- 8.2. If at the time of transfer the cable system is not in compliance with IMC Law, the new owner must submit along with the request for transfer a plan and a timetable for bringing the system into compliance.

Article 9
License Renewal

- 9.1. Cable operator has the right to request a renewal of its cable license. The cable operator is obliged to submit a request for license extension no later than six months prior to its expiration date, but not before expiration of the period of nine years from the date of issuing the license.
- 9.2. In the decision for the renewal of the license, IMC will consider the compliance or non-compliance of the cable operators with the IMC rules and regulations.
- 9.3. The cable operator's application for renewal must contain the information required by Article 6.3.

Article 10
License Fees

- 10.1 Each cable operator must pay an annual license fee. The level of the license fee is determined in a separate decision.

Article 11
Content of Cable Service: Rights and Responsibilities of Cable Operators

- 11.1. Each cable operator has a right to determine what program services shall be distributed over his licensed cable system, except as that right may be limited by this regulation.
- 11.2. Each cable operator has a responsibility to assure that the content of every program service distributed over the cable system complies with IMC law and regulations, as well as with all other legal requirements.

- 11.3. If a cable operator finds, even though he has taken every reasonable precaution, that a program service includes content that is not in compliance with IMC rules and regulations and applicable law, the cable operator must terminate further distribution of the illegal content immediately and take measures to assure that such event does not occur again.
- 11.4. Cable operator shall provide service to all subscribers on a non-discriminatory basis. Cable operator shall not make a selection of subscribers on the basis of ethnicity, religion, sex, wealth or any other basis. Cable service must be offered to all citizens in the zone of technical coverage connected with that service, and it shall be considered that any person that accepts unique and non-discriminatory conditions of the offer has the right to conclude a subscription contract.
- 11.5. Cable operator is not authorized to distribute encoded satellite or terrestrial programs. Distribution of encoded satellite programs is authorized only if the cable operator has concluded an exclusive contract with the owner of such programs in which decoding is authorized for further distribution. It shall be considered that the cable operator has not purchased the right to distribute such programs if the cable operator has purchased a decoding card designated for individual subscriber.

Article 12

Broadcast Must-Carry Requirements

- 12.1. In order to promote diverse and financially viable terrestrial broadcast services in Kosovo, (a) in local communities and (b) throughout Kosovo, Kosovo cable licensees are subject to the following must-carry requirements with exception of radio broadcasters:
- 12.2. All cable systems must carry the public broadcast station, RTK. RTK must be carried free of charge. RTK must provide the same programming for cable broadcast that it provides for terrestrial broadcasting.
- 12.3. Other licensed terrestrial broadcast stations in Kosovo have the following options:
- 12.3.1 A negotiation period of three months begins when a cable system begins to serve subscribers in the terrestrial broadcasters licensed coverage zone.
 - 12.3.2 During the negotiation period, the cable operator and the terrestrial broadcaster may negotiate regarding the commercial terms on which the terrestrial broadcaster's programming may cable broadcast.
 - 12.3.3 If the cable operator and the terrestrial broadcaster cannot reach an agreement before the end of the negotiation period:

- a) The terrestrial broadcaster may choose either to have must carry status or to refuse carriage.
- b) If the terrestrial broadcaster chooses must carry status, the cable operator must carry the terrestrial broadcaster's programming, without any change or modification, and without compensation.
- c) If the terrestrial broadcaster chooses to refuse carriage, the cable operator must not carry the terrestrial broadcaster's programming.

Article 13

Operational requirements for cable licensees

- 13.1. Cable operator is obliged to maintain its operations in such a way that it shall not cause technical and/or harmful interference to the subscribers or prevent the subscribers from using services from other licensed cable operator.
- 13.2. Cable operator is obliged to publish a permanent offer for distribution of programs for a group of licensed broadcasters in Kosovo of which the zone of coverage is within the zone of system for reception of radio and television signal of a system through which the distribution is being conducted. Any licensed terrestrial broadcaster that accepts the offer for distribution of its program has the right to be treated under the same conditions in terms of distribution in relation to all other station from the same group.
- 13.3. In case that the cable operator charges its distribution of radio and television programs, the cable operator is obliged to publish a pricelist of distribution that must include elements of price definition to clearly calculate the same, and the right on such distribution can be obtained by any licensed broadcaster. Cable operator shall keep accounting books of services allocated with this license separately from other services it provide.
- 13.4. Cable operators that are in possession of the license, and which it also broadcast their own programs in its system, shall be obliged to apply the same principles of definition and charging of prices, as well as the same general business conditions for other subjects in the system that conduct the service of distribution of radio and television programs, in the same manner as it applies on its own business, increased fro a reasonable profit.

Article 14

Cable operator Program council

- 14.1. Cable operator has a Program council which in accordance to this regulation and technical capabilities of the cable operator decides which radio or television programs will be provided in the system operated by the cable operator. The decision of the council should be based in respect of the Article 12 and 13 in this regulation. Mandate and the composition of the council and other responsibilities of the council shall be defined in internal document adopted by the cable operator.

14.2. Internal document form the paragraph 1 and act of the nomination of the members of program council including all the changes of this documents, cable operator sends to the IMC in 15 days from the day of their introduction.

Article 15

Technical Requirements (Spectrum Use and Signal Leakage)

15.1. Broadcasting and rebroadcasting of radio and TV programmes by cable operators should be done only in the frequency bands foreseen for these services, respectively S bands determined by International Radio Consultative Committee (IRCC).

15.2. The cable operator must construct and maintain the cable system according to good technical standards. The cable operator is responsible for any interference with broadcast frequencies caused by signal leakage from the cable television system. If the IMC is informed that signal leakage is occurring, IMC will notify the cable operator and allow a maximum of 30 days for cure. If the leakage continues, the IMC will impose sanctions in accordance with IMC Law and Regulations.

Article 16

Requirements for cable service providers and cable program service providers as producers

16.1. Cable service provider who produces and provides its own program has to be registered for broadcasting services.

16.2. Cable service provider which produces its own radio or television program shall have the status of a Cable Television Station when distributing its own program via the cable system.

16.3. Cable service provider who is also a broadcaster is required to put in place within 12 months separate management and accounting structures for its cable distribution activities, and also for its broadcasting activities. Such cable provider is obliged to apply the same terms and conditions to the programs of other broadcasters distributed as part of its service as it applies to its own program(s).

16.4. Cable program service provider shall be regulated as a broadcaster according to IMC Law.

Article 17

Subscriber protections

17.1. The cable operator must have a contract with subscribers. The contract must clearly state:

17.1.1 The price of initial attachment to the cable system,

- 17.1.2 The monthly fee that must be paid for cable service;
 - 17.1.3 A description of the cable service that is being provided, and
 - 17.1.4 A telephone number that cable subscribers can call in order to inform the cable operator of problems with the cable service.
- 17.2. The cable operator must also provide each new subscriber with a channel list, that is, a list of every program service available on the cable system, including television broadcast channels. The list must show the cable channel where each program service is carried.
- 17.3. Cable operators must inform subscribers at least 30 days in advance of any change in the monthly fee for cable service, and must notify the IMC at the same time.
- 17.4. Whenever possible, cable operators must inform subscribers 30 days in advance of intent to change the program services carried on the system, that is, intent to drop program services or add program services. The cable operator may notify subscribers through electronic means.
- 17.5. The cable operator shall provide cable Service to all subscribers on a non-discriminatory basis.

Article 18 **IMC Right to Reports and Inspections**

- 18.1. For the purpose of (a) monitoring compliance with terms and conditions of cable licenses, and (b) carrying out the IMC's obligations under Article 3.3 of the IMC Law, the IMC may require licensees to submit an annual report and/or occasional reports on specific aspects of their business.
- 18.2. The IMC has the right to inspect any portion of the cable system at any time, to inspect documents and records on reasonable notice, and to monitor the number, quality and content of all program services provided by the licensees.
- 18.3. The IMC may at any time require the licensees to produce all contracts on regulated copyrights.
- 18.4. Each licensee must report the program list for each of his licensed cable systems to the IMC once a year.

Article 19 **Sanctions**

- 19.1. Cable operators shall be subject to sanctions as set out for broadcasters in Article 20 and Article 21 of the IMC Law.

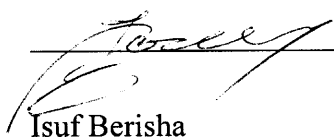
- 19.1.1. IMC may, due to violation of terms and conditions of the present license, initiate a procedure to revoke the license in compliance with the Law.
- 19.1.2. IMC may, if the cable operator carries a program service provider without copyright agreement start legal procedures against the cable licensees in accordance with the IMC Law.
- 19.1.3. In case of revocation or suspension of the license, the licensee does not have the right to a refund of the fees already paid.
- 19.1.4. The procedure of issuing a decision on revocation of the license, with the right of the licensee laid down in the paragraph 1, shall be initiated in the following cases:
- a) if the licensee does not commence providing the service within six months of the date of issue or, in case the IMC has approved in writing an extension of this deadline, within the period of the new deadline.
 - b) if the licensee does not comply with a decision issued by the IMC or does not correct relevant omissions within the period of 15 days from the date of issuing a warning or during any other limit imposed by the IMC in written form.
 - c) in case that the licensee is determined to be bankrupt, the license shall become invalid on the day of discontinuation of the licensee's existence or on the day of expiration of the last period for which the fees has been paid.

Article 20 Information

- 20.1. IMC is committed to transparency in the licensing and enforcement process.
- 20.2. If a cable operator submits confidential information to the IMC, IMC will hold the information in confidence unless otherwise provided by the law.

Article 21 Entry into force

This regulation enters into force on the day of signature.


Isuf Berisha

Chairman of the IMC Council



06.07. '07

Date

