

# **MINISTRY OF THE SEA, TRANSPORT AND INFRASTRUCTURE**

Pursuant to Article 96, paragraph 4 and Article 125, paragraph 3 of the Electronic Communications Act (Official Gazette 73/08) the Minister of the Sea, Transport and Infrastructure, upon proposal from the Croatian Post and Electronic Communications Agency Council and subject to prior opinion of the Agency for Electronic Media hereby passes the following

## **ORDINANCE**

### **ON THE SWITCHOVER FROM ANALOGUE TO DIGITAL BROADCASTING OF RADIO AND TELEVISION PROGRAMMES AND ACCESS TO MULTIPLEX POSITIONS IN DIGITAL TERRESTRIAL BROADCASTING**

#### *Contents of the Ordinance*

#### Article 1

This Ordinance shall prescribe:

- the manner and conditions of transition from analogue to digital terrestrial broadcasting of radio and television programmes in VHF radio frequency band III and UHF radiofrequency bands IV and V,
- the manner and conditions of access to multiplex positions and capacities in digital terrestrial broadcasting,
- Complete switch off of analogue broadcasting of television programmes and accompanying services, with the purpose of vacating the radio frequency spectrum in the VHF radio frequency band III and UHF radio frequency bands IV and V for broadcasting networks and services using digital broadcasting technology, as well as for other electronic communications networks and services, in accordance with the provisions of the Ordinance on the allocation of the radio frequency spectrum and international contracts, agreements or conventions binding to the Republic of Croatia,
- Commencement of operation of broadcasting networks and accompanying services in the VHF radio frequency band III and UHF radio frequency bands IV and V in digital broadcasting technology, in accordance with the provisions of the Ordinance on the allocation of the radio frequency spectrum.

## *Terms and meanings*

### Article 2

Within the meaning of this Ordinance, individual terms shall have the following meanings:

1. *analogue television* means electronic communications encompassing analogue transmission, broadcasting and/or reception of images and sounds and other data for direct reception in the public,
2. *digital dividend* means a part of the radio frequency spectrum allocated to terrestrial broadcasting of television signal in the VHF band III and UHF bands IV and V, vacated in the digital system for new broadcasting services and contents and other electronic communications services,
3. *digital broadcasting* means radio communications encompassing transmission, broadcasting and/or reception of digital radio and/or television signal using terrestrial transmitters or satellites,
4. *digital television* means electronic communications encompassing digital transmission, broadcasting and/or reception of images and sounds and other data for direct reception in the public,
5. *digital receiver* means a device for reception, decoding and conversion of digital television signal into a form suitable for the reproduction of images, sounds and other data; can be an external device or integrated into the television set or other device,
6. *digital radio*: electronic communications encompassing digital transmission, broadcasting and/or reception of sounds, voices, speech or other signals for direct reception in the public,
7. *DVB-H (Digital Video Broadcasting – Handheld)* means digital television broadcasting received on mobile phones and other light “handheld” devices, in accordance with relevant ETSI standards and other international standards,
8. *HDTV (High Definition Television)* means television signal providing higher quality of images and sound than standard definition television (SDTV), achieved by an increased number of lines per image, change in image analysing, increase of aspect ratio to 16:9 and change in the image colorimetric characteristics, in accordance with ITU-R recommendations and SMPTE standards,
9. *multiplex* means a series of digital signals containing more radio or television programmes and/or other data simultaneously transferred via one radio frequency channel,
10. *radio broadcaster* means legal or natural entity providing radio services on the basis of a granted concession and concluded concession agreement, pursuant to the provisions regulating electronic media services,

11. *television broadcaster* means legal or natural entity providing television services on the basis of a granted concession and concluded concession agreement, pursuant to the provisions regulating electronic media services,
12. *network operator* means public electronic communications network operator which, pursuant to the Electronic Communications Act, had been granted the licence for the use of radio frequency spectrum allocated to digital broadcasting,
13. *multiplex operator* means legal or natural entity providing multiplex operating services based on general authorisation pursuant to the Electronic Communications Act,
14. *existing television broadcaster* means TV broadcaster who, at the moment of analogue to digital switch over, in the region where analogue to digital switch over is undergoing, is broadcasting television programmes in analogue technology,
15. *transitional period* means a period of simultaneous broadcasting of television programmes in analogue technology and of radio and television programmes in digital technology, during which all conditions for complete analogue switch off are to be met and the commencement of using radio frequency spectrum for other electronic communications networks and services,
16. *radio programme* means programme contents encompassing information of all kinds (news, opinions, notifications, messages and other pieces of information) and copyright works broadcast over the radio with the purpose of providing information and meeting cultural, educational and other needs, as well as public communication,
17. *SDTV (Standard Definition Television)* means digital television signal enabling standard image and sound quality with 625 or 525 horizontal lines per image and interlaced scanning, broadcast in 4:3 aspect ratio, in accordance with ITU-R recommendations and SMPTE standards,
18. *television programme* means programme contents encompassing information of all kinds (news, opinions, notifications, messages and other pieces of information) and copyright works broadcast on television with the purpose of providing information and meeting cultural, educational and other needs, as well as public communication,
19. *retailer* means all entities offering or concluding legal business, or acting on the market within their profession or line of business,
20. *total multiplex transmission capacity* means the highest speed of digital signal transmission.

### *Transitional period*

#### Article 3

- (1) In accordance with the provisions of the Decision of the Government of the Republic of Croatia on the commencement of digital broadcasting and the switch off of

analogue broadcasting of television programmes in the Republic of Croatia (Official Gazette 91/08), the transitional period shall last until 31 December 2010.

- (2) During the transitional period, television programmes in analogue technology may be simultaneously broadcasted with radio and television programmes in digital technology, if technically feasible.
- (3) During the transitional period, analogue television signal coverage by the existing television broadcasters shall be replaced by digital television signal coverage, analogue television broadcasting gradually switched off and conditions for the use of digital dividend created.
- (4) Upon the expiration of the transitional period, radio and television programmes in terrestrial broadcasting shall be broadcasted in the digital technology only, pursuant to the provisions of the Electronic Communications Act (hereinafter: the Act) and regulations passed pursuant to the Act.

#### *Digital broadcasting of radio and television programmes*

#### Article 4

- (1) The services of broadcasting radio and television programmes in the digital technology shall be provided by the network operator.
- (2) Detailed conditions and the procedure for granting licenses for the use of the radio frequency spectrum, and conditions of the assignment and use of the radio frequency spectrum allocated to digital broadcasting of radio and television programmes shall be provided for in the Ordinance as referred to in Article 82, paragraph 4 of the Act.
- (3) Network operator may broadcast only the radio and television programmes by the electronic media broadcaster that has been granted the right of access to multiplex positions, in accordance with provisions regulating electronic media service.
- (4) During the transitional period, until licences for the use of radio frequency spectrum are issued in accordance with the provisions of the Electronic Communications Act, network operator is regarded as a legal entity with licences for trial digital terrestrial broadcasting of television programmes valid at the moment of this Ordinance coming into force, for electronic communications networks and services to which the licence refers to (SDTV, HDTV, DVB-H etc).

*Access to capacities within the multiplex in digital terrestrial broadcasting*

Article 5.

- (1) Total transmission capacity of the multiplex may be divided into several individual radio or television programmes as well as other digital data.
- (2) Number of radio and television programmes, as well as the number and type of other services to be transmitted within a single multiplex shall be determined by the Croatian Post and Electronic Communications Agency (hereinafter: the Agency) by its decision and/or radio frequency assignment plan, published on Agency's web site.
- (3) In its decision or assignment plan referred to in paragraph 2 of this Article, the Agency may determine objective parameters of service quality to be met in providing services referred to in paragraph 2 of this Article.
- (4) The free transmission capacity of an individual radio or television programme within the multiplex shall be used in accordance with the provisions regulating electronic media service.
- (5) The multiplex operator must enable radio broadcasters and television broadcasters as well as operators of other services referred to in paragraph 2 of this Article access to capacities within the multiplex in accordance with the principles of objectivity, transparency, proportionality and non-discrimination.
- (6) Obtaining right of access to transmission capacities within the multiplex shall be determined in the agreement concluded between radio and television broadcasters and operators of other services referred to in paragraph 2 of this Article and the multiplex operator.
- (7) The multiplex operator shall code the radio and television programmes referred to in Article 4, paragraph 3 of this Ordinance in such a manner that they are suitable for digital broadcasting with the use of allocated multiplex capacity, while retaining objective service quality parameters, in accordance with applicable ITU recommendations and appropriate international and Croatian standards.
- (8) Multiplex operator and network operator may be the same entity.
- (9) The Agency may, either ex-officio or upon request by a radio or television broadcaster, or operator of other services referred to in paragraph 2 of this Article, analyse the economic justification of prices for access to capacities within the multiplex, designated by the multiplex operator.

*Access to capacities within the multiplex for the existing TV broadcasters*

Article 6

- (1) In the process of analogue to digital radio and television broadcasting switch over, the Agency shall ensure the necessary capacity within the multiplex for broadcasting television programmes broadcast in the analogue technology up to the moment of switch over for the existing broadcasters.
- (2) With the purpose of ensuring the necessary capacity as referred to in paragraph 1 of this Article, the Agency shall adopt a decision binding network operators to ensure capacity within the multiplex for the existing broadcasters sufficient for the transmission of the total number of television programmes broadcast in the analogue technology in accordance with the provisions regulating electronic media service.

*Manner of analogue to digital radio and TV broadcasting switch over*

Article 7

- (1) The process of switch over from analogue to digital broadcasting shall be carried out in accordance with the plan of switch over in digital regions, which is an integral part of the Analogue to Digital Television Broadcasting Switchover Strategy for the Republic of Croatia, adopted by the Government of the Republic of Croatia (hereinafter: regional switchover plan).
- (2) Regions referred to in paragraph 1 of this Article, into which the Republic of Croatia is divided, consist of one or more neighbouring counties or parts of counties and the City of Zagreb in such a way that they create a meaningful entity to be covered by digital terrestrial signal within single frequency networks.
- (3) The process of analogue to digital broadcasting of radio programmes shall be determined after the adoption of plan for switch over from analogue to digital broadcasting of radio programmes in the Republic of Croatia.

*Conditions of analogue to digital radio and TV broadcasting switchover*

Article 8

- (1) The conditions of analogue to digital broadcasting of television programmes shall be ensured for every region individually, in accordance with the regional switchover plan referred to in Article 7, paragraph 1 of this Ordinance.

- (2) The switch over conditions referred to in paragraph 1 of this Article shall be ensured, if the following has been achieved:
- If an appropriate digital television signal coverage has been achieved,
  - If the television programme broadcast in the analogue technology in accordance with the provisions of the concluded concession agreement is being broadcast in the digital technology,
  - If the customer basis for the reception of digital television signal has been established.
- (3) The conditions of switch over from analogue to digital broadcasting of radio programmes shall be determined after the adoption of plan for switch over from analogue to digital broadcasting of radio programmes in the Republic of Croatia.

*Digital television signal coverage ensuring the prescribed switchover conditions*

Article 9

- (1) Digital television signal coverage shall be ensured by the network operator pursuant to the licence for the use of radio frequency spectrum allocated to digital broadcasting, granted to the network operator pursuant to the Electronic Communications Act and the provisions of regulations adopted in accordance with the Act.
- (2) Digital television signal coverage shall be considered satisfactory with the meaning of Article 8, paragraph 2, point 1 of this Ordinance if the following conditions have been fulfilled:
- digital television signal coverage by the Public Broadcaster must cover the minimum of 95% of the population of the Republic of Croatia, and the reception of digital television signal by the Public Broadcaster over terrestrial, satellite or cable networks possible to all persons paying radio and television subscription,
  - for the existing television broadcasters, digital television signal coverage of the population must not be lesser than analogue television signal coverage of the population in the area where the concession is valid at the moment of analogue to digital switchover of broadcasting radio and television programmes. If, for technical reasons, the area of digital television signal coverage is wider than the area defined by the concluded concession agreement, the Agency shall inform the competent body for electronic media of the necessity to make changes in the concession agreement or concluding a new concession agreement with the television broadcaster.

*Establishing customer basis to ensure prescribed switchover conditions*

Article 10

The customer basis for the reception of digital television signal with the meaning of Article 8, paragraph 2, point 3 of this Ordinance is considered to be established in the region where the switchover from analogue to digital broadcasting of television programmes is undergoing, if the following has been fulfilled:

- if public information campaign on activities necessary to be carried out for the reception of digital television signal has been carried out,
- if public information campaign on deadlines essential for the commencement of digital terrestrial broadcasting of television programmes and the termination of analogue terrestrial broadcasting of television programmes has been carried out.

### *Termination of analogue television programmes broadcasting*

#### Article 11

Upon fulfilling conditions for the switchover from analogue to digital broadcasting of television programmes referred to in Article 8 of this Ordinance, the existing television broadcasters must terminate analogue broadcasting of television programmes in accordance with the deadlines determined in the regional switchover plan referred to in Article 7, paragraph 1 of this Ordinance. Licences for broadcasting radio or television programmes, granted to them in accordance with the provisions of regulations valid until the date of the Act coming into force, shall be submitted to the Agency for termination without delay.

### *Marking digital and analogue receivers*

#### Article 12

- (1) Manufacturers, dealers or retailers of digital receivers placing the receivers on the market in the Republic of Croatia must clearly state on the receiver or package (if existent) or in the user manual the receiver's technical data in accordance with the instruction on digital receiver's technical data, determined by the Agency and published on the Agency's web site.
- (2) The instruction on technical data referred to in paragraph 1 of this Article shall contain information on the type of service received, radio frequency band, manner of signal reception and coding and signal compression standard.
- (3) On the day of this Ordinance's coming into force, the retailer selling television sets receiving only analogue television signal must clearly place written alert, noticeable to the customer before purchase, stating that after 31 December 2010 the reception of television signals without a digital receiver will no longer be possible.
- (4) The written alert referred to in paragraph 3 of this Article must be placed by the retailer on all devices with integrated only analogue receivers (VHS recorders, DVD recorders, mobile phones etc.).



- (5) Manufacturers, dealers or retailers must, on the devices referred to in paragraphs 3 and 4 of this Article, clearly place notification on the receiver or package (if existent) or in the user manual that the device is intended for the reception of analogue television signal only.

*Transitional provisions*

Article 13

- (1) Until issuing the licence for the use of radio frequency spectrum allocated to digital broadcasting to the network operator pursuant to the provisions of the Act, broadcasting of radio and television programmes in the digital technology, approved by a competent body for electronic media, may be carried out on the basis of a temporary licence for the use of radio frequency spectrum, granted for the purpose of market or technical inspection, research or design, in accordance with the provisions of Article 91 of the Act, and granted to a period of time not exceeding one year.
- (2) The Agency shall adopt a decision rejecting the application for granting temporary license referred to in paragraph 1 of this Article if it is not in compliance with the principles prescribed in the Act or if it establishes that it was submitted exclusively in order to avoid the application of one of the procedures for granting the license referred to in Article 89 of the Act.
- (3) The holder of the temporary licence referred to in paragraph 1 of this Article must, upon Agency's request, terminate radio or television programme broadcasting within 48 hours in the case of determining disturbances to radio stations working on the basis of licences for the use of radio frequency spectrum referred to in Articles 88, 89 and 90 of the Act.

*Entry into force of this Ordinance*

Article 14

This Ordinance shall enter into force on the day of its publication in the "Official Gazette".

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Zagreb, 11 December 2008

Minister Božidar Kalmeta, B.Sc.EE