

Pursuant to Article 18, paragraph 1, indent 8, and Article 20, paragraph 1, indent 11, in connection with Article 52 and Article 93, paragraph 3, of the Law on Audio and Audiovisual Media Services ("Official Gazette of the Republic of Macedonia" No. 184/13, 13/14, 44/14, 101/14 and 132/14), and Article 15, paragraph 1, indent 7, and Article 39, paragraph 1, indent 3 of the Rules of Procedure of the Agency for Audio and Audiovisual Media Services No. 01-4351/1, dated 29 August 2014, in accordance with the Conclusion of the Council of the Agency for Audio and Audiovisual Media Services No. 02-6126/4, dated 12 December 2014, the Agency Council at its 21<sup>st</sup> session held on 12 December 2014, adopted

## **RULEBOOK ON PROGRAMMES WITH AWARD PARTICIPATION AND USE OF TELEPHONE VALUE - ADDED SERVICES**

### **I. GENERAL PROVISIONS**

#### **Article 1 Scope**

This Rulebook lays down the manner of applying the provisions of:

- Article 52 of the Law on Audio and Audiovisual Media Services in connection with the providers of audio and audiovisual media services' obligation to provide unambiguous presentation of the rules for the programmes for award participation and the publicly promised award, and
- Article 93 of the Law on Audio and Audiovisual Media Services in connection with the rules for using telephone value-added services.

#### **Article 2 Definitions**

Certain terms used in this Rulebook shall have the following meaning:

1. **Programmes with award participation** are all types of programmes, or parts thereof, in which awards of any kind are offered or granted (product, monetary prize, travelling, service, advice from the programme host, etc.), irrespective of whether the award is granted to the participants (guests) in the programme (physically present in the studio) or viewers or listeners who participate in the programme by a telephone value-added service or through an ordinary telephone line.
2. **Telephone value-added services** are telephone services of the fixed and mobile telephony, including televoting, SMS and MMS services, for which a higher price than the standard charged for this type of service is paid, regardless of the number through which the service was realized.
3. **Telephone voting** is voting by viewers or listeners through a telephone, regardless whether a telephone value-added service is used, or the usual fee for realized calls is paid.

## **II. RULES REGARDING PROGRAMMES WITH AWARD PARTICIPATION**

### **Article 3**

#### **Rules for organizing programmes with award participation**

The provider of an audio or audiovisual media service for broadcasting programmes with award participation is obliged to adopt rules and to post them on their website and inform the Agency for Audio and Audiovisual Media Services accordingly.

The rules set by providers of audio or audiovisual media services should include provisions relating to the following aspects of the programme:

- Description of the group of viewers/listeners for whom the specific programme is intended;
- A detailed description of the manner of participation in the programme and the manner of winning a prize;
- The programme participation costs for;
- Any restrictions on participation in the programme to individuals (for example, employees of the service provider and their family members, etc.);
- Any general restrictions for participation in the programme: the duration of the game/contest, the maximum number of participants, the maximum number of participants during one segment of the programme, time period that needs to pass before a second participation in the programme after having won receiving an award etc.;
- The manner in which the prize is awarded to the winner;
- Average value of the prizes to be awarded in the programme;
- The manner of declaring winners in the contest or game;
- The manner of informing the viewers/listeners about the end of the contest or game;
- The manner and the period in which the award is delivered to the winner without additional costs, i.e. the procedure by which the winner may ask for the prize to be delivered;
- The manner of managing the personal information of participants in the programme and award winners.

### **Article 4**

#### **Informing the viewers and listeners about the rules**

The provider of an audio or audiovisual media service, when broadcasting programmes with award participation should clearly and unambiguously inform viewers and listeners at least of the following:

- The manner and the cost of participating in the programme;
- Any restrictions on participation in the programme;
- The type of award, the method of delivering the award and the manner and time of delivery of the award to the winner, and
- Air reminders that the complete rules for participation in the programme or a part thereof can be found on the website of the provider of audio or audiovisual media service.

If in the programme with award participation viewers or listeners can participate by phone calls, the provider of audio or audiovisual media service is obliged to clearly and unambiguously inform them of the following:

- The question that they should answer (it must be clearly defined and easily understood);
- The type and number of awards that they can receive (if the receiving of an award is burdened by additional costs for the winner, the viewers or listeners must be notified accordingly - for example, stay in a hotel where only BB is paid, or annual subscription to a service where only the first three months are paid);
- The manner of participation in the game or the contest (whether, by making a phone call, the ecall or SMS, message the viewers/listeners automatically gets the opportunity to answer the question and win a prize or they need to wait, call again, etc.; whether a single person can participate several times in the same award contest; whether the winner is the viewer/listener who will be the first to call and give the correct answer or the winner's name will be drawn from all participants who answered the question correctly, etc.);
- The duration of the game or the contest (time when the viewers/listeners may start to call and the time when they should stop because their calls (or messages) will not be taken into consideration);
- Where (on which website) they can find the complete rules for participation in the programme or in a part thereof defined by the provider of an audio or audiovisual media service.

In the case of re-broadcasting of the programme or its repeating, viewers/listeners must be clearly informed that it is a replay of the programme and that they should not make calls to the telephone numbers, since the particular game, quiz, contest or other programme had been completed.

#### Article 5

#### **Manner of presenting awards in the programmes**

Whenever an award is being offering in a programme or any of its segments, regardless of the kind of the programme or what kind of participation in the same is concerned, the award may be presented by verbal mentioning or visual displaying of the name or the brand of the product or the legal entity that provides the award.

The mention or display must not be made in an unnatural, excessive, or aggressive way, thus clearly pointing out or promoting the product, brand, service or legal entity providing the award.

It is not allowed to use comments of praise for the quality of the award, its price or availability, as well as any other promoting expressions. The viewers and listeners should not be urged or advised to buy or rent the award.

#### Article 6

#### **Protection of minors**

All types of programmes with award participation or parts thereof must comply with the provisions on the protection of minors stipulated by the Law on Audio and Audiovisual Media Services and the Rulebook on the Protection of Minors ("Official Gazette of the Republic of Macedonia" No.172/14).

If a programme with award participation is mainly intended for (or the participants are) minors, the provider of audio or audiovisual media service is obliged to require the consent of the parent or guardian for the minor's to be able to participate in the programme.

The nature of the participation of minors, the programme content, and awards should be appropriate to the age of the minors.

Article 7  
**Protection of privacy and personal data**

The collection, storage and use of all personal data gathered during programmes with award participation must be carried out in accordance with the Law on the Protection of Personal Data ("Official Gazette of the Republic of Macedonia" No. 7/05, 103/08, 124/10, 135/11 and 43/14) and bylaws adopted by the Directorate for Personal Data Protection.

**III. TELEPHONE VALUE-ADDED SERVICES AND TELEPHONE VOTING**

Article 8  
**General terms**

The audio or audiovisual media service providers can use telephone value-added services and telephone voting in all types of programmes except news, informative and educational programme, religious services and sermons, and children's programmes.

When a provider of audio or audiovisual media service organizes a programme that employs telephone value-added services, it is obliged to include provisions in the contract concluded with the provider of the telephone service that with added value that will obligate them to abide by all relevant legal provisions and secondary legislation adopted by the Agency for Audio and Audiovisual Media Services and the Agency for Electronic Communications.

Article 9  
**Rules for organizing  
programmes that use telephone value-added services and telephone voting**

The provider of audio or audiovisual media service for broadcasting of programmes that use telephone value-added services and telephone voting is obliged to adopt rules that shall be posted on its website and to inform the Agency for Audio and Audiovisual Media Services accordingly.

These rules should include provisions relating to the following aspects of the programme:

- Description of the programme and the group of viewers/listeners for whom it is intended;
- Description of the manner of achieving the participation of viewers/listeners in the programme, as well as the costs;
- Any restrictions on participation in the programme;
- The manner in which the audience votes and/or the votes of the jury in the programme (if there is a jury) shall be valued, and the manner in which the review of the vote shall be performed, if telephone voting is concerned.

## Article 10

### Participation costs

The provider of audio or audiovisual media service, in broadcasting programmes that use telephone services with added value, must clearly and unambiguously inform the viewers and listeners of the costs to which they will be exposed, due to their participation in the programme, as follows:

- Clearly state (verbally and/or visually) the cost for each minute of conversation over the telephone service with added value, thereby stating the total amount including the value added tax;
- If an interactive game that takes a longer period of time is concerned, several times during the programme, viewers/listeners should be clearly warned of the amount that they may have to pay after using the whole service;
- On the television, the costs should be made clearly visible/presented on the screen and be verbally communicated clearly, having a neutral tone of the voice. The total cost of the service and telephone number should be written in the same font and size;
- On the radio, the costs should be verbally communicated, several times during the programme, in a comprehensive manner and using a neutral tone.

The provider of audio or audiovisual media service may charge for the costs incurred by the viewers/listeners to participate in the programme by using a telephone service with added value, only through their telephone bill, and not by a credit card or in cash.

## Article 11

### Telephone voting

In programmes where the audience has an opportunity to participate and influence the outcome of the programme (to vote for one of the contestants in a music show or a favorite character in another show, etc.), by and at using value-added telephone service, the provider of audio or audiovisual media service must clearly and unambiguously inform viewers or listeners of the following:

- How they will contribute to the programme with their telephone voting and how their votes/valued influence the final decision (is there a jury, as well and value how the votes of the jury and those of the audience are valued, and the like);
- The method of telephone voting (whether a single person can participate/vote multiple times, whether a person should vote several times to give a voice and the like);
- Costs for the telephone voting (the total amount including the value added tax);
- The duration of the telephone voting (the time when the viewers/listeners can start calling and the time when they should stop, since their calls (or messages) will not be considered);
- The mechanism for checking the vote (in what manner may the validity of the vote be verified, who performs that check, etc.);
- Where (on which website) they may find the complete rules for the programme developed by the provider of audio or audiovisual media services;
- In case of re-broadcasting of the programme or its repeating, the viewers/listeners must be clearly informed whether telephone voting is still possible or it had been completed.

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Article 12

**Programmes with value- added telephone service  
versus teleshopping**

If the provider of audio or audiovisual media service gives emphasized importance to the using of telephone value-added services in programmes involving viewers and listeners, these programmes, in accordance with the European Court of Justice in the case CJUE, 18 octobre 2007, C-195/06, Kommunikationsbehörde Austria (KommAustria) c/ Österreichischer Rundfunk (ORF) will be considered as teleshopping.

In order not to be considered as teleshopping, the programme that utilizes telephone service with added value must satisfy the following conditions:

- Consist primarily of editorially shaped content;
- The primary objective of the programme has been editorially designed;
- The commercial activity related to the use of telephone service with added value is of secondary importance and negligible for the content and purpose of the programme;
- The production of the programme is not fully or nearly completely funded by the profit received from the participation of viewers or listeners using telephone services with added value.

**IV. FINAL PROVISIONS**

Article 13

By the entry into force of this Rulebook, the Rulebook on the usage of telephone services with special charges in programmes on radio and television programme services ("Official Gazette of the Republic of Macedonia" No. 72/07) shall cease to be valid.

Article 14

This Rulebook shall enter into force on the day following its publication in the "Official Gazette of the Republic of Macedonia".

**Agency for Audio and  
Audiovisual Media Services  
President of the Council,**

**Lazo PETRUSHEVSKI , handwritten signature**