

Official Gazette of the RS, number 46/2016

Pursuant to the provisions of Article 46, paragraph 6 of the Law on Public Broadcasters (Official Gazette of the RS, nos. 83/14 and 6/16 – other law),

at its session held on 28 April 2016, the Council of the Regulatory Authority for Electronic Media adopted a

RULEBOOK

on the Transfer of Unused Rights of Public Broadcasters to Broadcast Radio, Television and Other Media Content of Exceptional Importance

Article 1

This Rulebook sets out the rules on the transfer of unused rights of public broadcasters to broadcast radio, television and other media content of exceptional importance, including coverage of sports events.

Article 2

The coverage of events that are on the list of the most important events of particular importance for all citizens, within the meaning of Article 64, paragraphs 1, 2 and 3 of the Law on Electronic Media, shall be considered radio, television or other media content of exceptional importance, including coverage of sports events (hereinafter: programme content of exceptional importance).

The purchase of exclusive right to broadcast programme content of exceptional importance shall be considered to be in place when the public broadcaster has acquired this right so that it is the only one authorised to broadcast that content in the Republic of Serbia by means of a certain electronic communications network.

A right that the public broadcaster knows or may know that it will not exercise, given its planned programme concept, the number and duration of programme contents that are the subject of the acquired right and the time available for their broadcasting, shall be considered an unused right to broadcast programme content of exceptional importance.

Article 3

Unused rights to broadcast programme content of exceptional importance shall be transferred based on public competitions.

Decisions on launching public competitions and their content shall be adopted by the Director General of the public broadcaster (hereinafter: Director General), in accordance with the Statute. When adopting decisions on launching public competitions, the Director General shall appoint a special committee comprising at least three members (hereinafter: Committee).

Article 4

The public broadcaster shall publish the public competition in the Official Gazette of the Republic of Serbia and on its website.

The public broadcaster shall, without delay, submit to the Regulatory Authority for Electronic Media (hereinafter: Regulator) the public competition and contract based on which the unused right was acquired, and the Regulator shall publish the public competition on its website.

Article 5

The public competition shall be published in a timely manner before the event to which the content is related or before the expiry of the deadline in which the right can be exercised, so that there is a possibility of conducting a public competition, concluding a contract on the transfer of rights and exercising the transferred rights.

Article 6

The public competition shall contain the following data:

- 1) content of the unused broadcasting right, and in particular what powers are acquired through its transfer;
- 2) name and description of the programme content of exceptional importance that is the subject of the unused broadcasting right, including the time of broadcasting of that content, if it pertains to an event the time of which is predetermined;
- 3) the initial price for the transfer of the unused right;
- 4) manner of submission of bids and the deadline for their submission;
- 5) documentation submitted along with the bid;
- 6) time and place of public opening of bids;
- 7) criteria for selecting the most advantageous bid;
- 8) deadline for deciding on the selection of the most advantageous bid;
- 9) deadline for concluding a contract on the transfer of rights;
- 10) other data that the public broadcaster deems important for participation in the public competition.

The public broadcaster may envisage, as a condition for participation in the public competition, the submission of evidence of the bidder's financial capacities or evidence of the seriousness of the bid, and it may envision the submission of security instrument for the payment of the fee for the transferred right as a condition for concluding the contract on the transfer of the right.

The initial price referred to in paragraph 1, item 3) of this article may not be higher than the price at which the public broadcaster acquired the unused broadcasting right.

Article 7

The person submitting the bid (hereinafter: bidder) may only be a holder of the licence for the provision of free-to-air television broadcasting service whose coverage area encompasses the entire territory of the Republic of Serbia.

Persons who meet the requirements referred to in paragraph 1 of this article may submit a joint bid, but in that case, they may not also submit a separate bid.

The bidder may submit only one bid.

If the bidder does not meet the requirement referred to in paragraph 1 of this article, its bid shall not be considered when deciding on the selection of the most advantageous bid.

Article 8

The bid shall be submitted, in person or by mail, in one copy, in a sealed envelope, with the bidder's full name and address, and a note that reads "For public competition no. ____".

The public broadcaster shall enter the received bid into special records and indicate on the envelope the ordinal number and date and time of receipt.

Article 9

The Committee shall open bids, ascertain their formal validity and content, and make a record thereof.

Untimely bids shall be returned unopened to the bidder.

A record of the opening of bids shall contain in particular data about how many bids were submitted, who submitted them, their time of receipt, whether the representatives of the bidders attended the public opening of the bid, data about the formal validity and content of the bids.

The record shall be signed by the members of the Committee and representatives of the bidders who attended the public opening of the bids.

The Committee shall draw up a List of Bidders ranking submitted bids according to their advantageousness, taking into account the criteria for selecting the most advantageous bid, as set out in this Rulebook.

The record of the opening of bids and the List of Bidders shall be submitted to the Director General.

Article 10

The criterion for selecting the most advantageous bid shall be the offered price.

If two or more bidders have offered the same price, the bid of the bidder that would make the programme content of exceptional importance (the subject of the unused right) available to a larger number of media service users shall be considered more advantageous.

If based on the criteria referred to in paragraphs 1 and 2 of this article, one cannot determine which bid is more advantageous, the bid that was received by the public broadcaster sooner shall be considered more advantageous.

Article 11

The Director General shall issue the decision selecting the most advantageous bid.

Bids that are formally invalid and bids that do not meet the requirements of the competition shall not be considered when deciding on the selection of the most advantageous bid.

The decision selecting the most advantageous bid shall be submitted to all bidders and to the Regulator.

Based on the decision selecting the most advantageous bid, the public broadcaster shall conclude a contract with the bidder who submitted the most advantageous bid.

The decision selecting the most advantageous bid based on which the contract has been concluded shall be published in the manner in which the public competition is published.

Article 12

If the bidder whose bid was selected as the most advantageous withdraws the bid or refuses to conclude the contract or does not submit the payment security instrument, the Director General shall cancel the decision referred to in Article 11, paragraph 1 of this Rulebook and adopt a decision selecting the next most advantageous bid, or cancel the public competition if there are no more bids.

Article 13

The Director General shall cancel the public competition if no bids have been submitted, no bids are formally valid or no bids meet the requirements of the public competition.

The decision cancelling the public competition shall be submitted to the Regulator and published in the manner in which the public competition is published.

Article 14

This Rulebook shall enter into force on the eighth day from the day of its publication in the Official Gazette of the Republic of Serbia.

Number 05-2697/15/16-5
In Belgrade, 28 April 2016
Vice-President of the Council,
Goran Petrović, signed