



**REPUBLIC OF SERBIA
REGULATORY AUTHORITY
OF ELECTRONIC MEDIA**

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**GUIDELINES
for the identification of on-demand media services**

I. IDENTIFICATION

On August 13, 2014, the Law on Electronic Media¹ (hereinafter: Law) came into force. One of the goals of adopting a new law was to adapt the regulatory framework to the new circumstances in the electronic media market that arose due to the emergence and application of new technological achievements in the field of digital transmission and access to information and media (programming) content. Accordingly, Law for the first time regulated audiovisual service on demand and media service of radio on request (hereinafter: on demand service).

Service providers are required to recognize if their service is subject to the regulatory regime prescribed for on-demand services. Regarding relatively new services in our media environment, and aware of the importance of clear rules of conduct for the operation of participants in any market, the Council of the Regulatory Body for Electronic Media (hereinafter: the Regulatory Council) concluded that it is necessary to publish criteria by which the Regulator will be guided when assessing whether a specific service may be considered as a service on demand in a specific case.

In addition, the aim of these guidelines is to contribute to ensuring equal business conditions for all market participants. Namely, it would not be fair for certain services, the main purpose of which is to provide audio and audiovisual media content, not to apply the rules applicable to all media service providers, especially those that compete with traditional television, both in the audience and in advertisers.

The Regulator is aware of the fact that, in spite of the criteria established by these guidelines, there will always be borderline cases, in which it will be disputed whether the conditions for a particular service to be considered as a service on demand are fulfilled. The Regulator will

¹ „The Official Gazette of the Republic of Serbia“, No. 83/14, 6/16

endeavor to make decisions which will contribute to a unique interpretation of such cases, and any further practice in this context will be developed taking into account specific cases in our practice and practice in other European countries.

It is undeniable that the content and the way of providing any service on the market, and so on-demand services, can change over time. Defining a particular service as a service on demand is therefore associated with a certain moment in time. A service initially not considered as a service on request may be subject to reassessment from time to time. In accordance with the above, the Regulator reserves the right to determine at any time that a particular service constitutes a service on demand, even if it has previously made a contrary decision, if the circumstances changes are relevant for the identification of the said service.

II. REGULATORY FRAMEWORK FOR THE ESTABLISHMENT OF GUIDELINES

Relevant provisions of the Law on public information and media²:

The notion of media

Article 29

Medium is a means of public information that transmits editorially designed information, ideas and opinions and other content intended for public distribution and an unspecified number of users by words, pictures or sound.

For the purpose of this Law, in the context of this Law, daily and periodical newspapers, news agency services, radio programs and television programs and electronic editions of these media, as well as independent electronic editions (editorial designated websites or internet portals) are included in the media, which are registered in Media Registry, in accordance with this Law.

The media has no legal personality.

Article 30

Media, for the purposes of this law, is not: a book, a film, an audio and audio visual content carrier, a scientific and professional journal intended primarily for informing or educating a particular professional group, other printed publications, a catalog containing exclusively announcements, ads, advertisements and information intended for the market or bulletin and similar publications for internal information, electronic publication of state bodies and organizations, institutions, public companies and legal entities, entrepreneurs and their associations, official bulletin, printed matter such as leaflets, posters and similar means of public information, another publication in the sense of the regulation governing the publishing, as well as Internet browsers and aggregators.

Media, for the purposes of this law, are not: platforms, such as the Internet forums, social networks and other platforms that allow the free exchange of information, ideas and opinions of its members, or any other independent electronic publication, such as blogs, web presentations and similar electronic presentations unless they are registered in the Media Registry, in accordance with this Law.

² „The Official Gazette of the Republic of Serbia“, No. 83/14, 58/2015, 12/2016 (*authentic interpretation*)

Media publisher

Article 32

The publisher can be any natural or legal person.

Legal and natural persons, media publishers, must be registered with the competent authority of the Republic of Serbia for performing activities.

Relevant provisions of the Law on Electronic Media:

The meaning of specific terms

Article 4

The terms used in this law have the following meaning:

*1) **electronic media** is a program, that is, program content of radio and television, as well as program contents available on request through electronic communications networks and content of electronic edition;*

*2) **media service** is an audio-visual media service and media service of radio;*

*3) **audiovisual media service** is the provision of audio-visual program content to an unlimited number of users, via electronic communications networks, with the editorial responsibility of the service provider, in the form of television broadcasting, audiovisual media on demand, and audiovisual commercial communication ;*

*4) **program contents** are information, ideas and opinions as well as author's works in sound form (hereinafter: audio content), that is in the form of moving images with or without sound (hereinafter: audio-visual content) that represent an individual item in program and are available to the public via electronic media for information, entertainment, education, etc .;*

*5) **Editorial responsibility** is the responsibility for conducting control over the selection of program contents and their organization, whether it is the order of delivery according to the chronological scheme or the provision of contents on request from the catalog, unless otherwise stipulated by the law;*

*1) **media service provider** is a natural or legal person who has editorial responsibility for the selection of audiovisual content of audiovisual media services, that is, the audio content of the radio media service and which determines the way the content is organized;*

*2) **an electronic communications network** for the distribution of media content is an electronic communications network in the sense of the regulations governing the field of electronic communications used for the distribution of media content;*

(...)

*10) **television broadcasting** (linear audio-visual media service) is a service provided by an audiovisual media service provider for the purpose of simultaneous monitoring of programs based on a program scheme;*

11) **On-demand audio-visual media service** (non-linear audio-visual media service) is a service provided by an audiovisual media service provider to monitor the program in a period selected by the user, upon request, based on a catalog of programs selected and organized by the provider ;

(...)

18) **the media service of the radio** is the provision of audio content to an unlimited number of users via electronic communications networks with the editorial responsibility of the service provider, for the purpose of simultaneous monitoring based on the schedule of the program (linear media service of the radio), that is, for monitoring at the time chosen by the user at his request based on a catalog of programs selected and organized by the provider (media service upon request);

19) **electronic edition** is a edited web page or internet portal;

Article 45

The media service provider within the jurisdiction of the Republic of Serbia shall comply with the rules applicable to audiovisual media services in the Republic of Serbia.

Media service provider is in the jurisdiction of the Republic of Serbia if:

1) *is established on its territory;*

2) *is not established on its territory but:*

(1) uses a terrestrial satellite transmitting station located in the Republic of Serbia,

(2) uses satellite capacities belonging to the Republic of Serbia.

It shall be deemed that the media service provider is established in the Republic of Serbia if:

1) *it has its headquarters in the Republic of Serbia and makes editorial decisions on media services;*

2) *it has its head office in the Republic of Serbia and issues editorial decisions on media services in another EU Member State, provided that a significant number of persons are engaged in employment contracts or otherwise engaged in the activities related to the work in the Republic of Serbia with media services;*

3) *it has its seat in the Republic of Serbia, and a significant number of persons are engaged on the basis of employment contracts or otherwise involved in the performance of activities related to media services, works in the Republic of Serbia and another EU Member State;*

4) *originally started its activity, in accordance with the law, in the Republic of Serbia, provided that it maintains a stable and effective connection with the Serbian economy, and that a significant number of persons engaged on the basis of a labor contract or otherwise involved in the performance of activities in links to media services, does not work in one of the Member States of the European Union;*

5) has its headquarters in the Republic of Serbia, and decisions on media services are made in a non-EU country, or vice versa, provided that a significant number of persons engaged on the basis of a labor contract or otherwise involved in the performance of activities in connection with media services, works in the Republic of Serbia.

If according to paragraphs 2 and 3 of this Article it can not be determined whether the media service provider is within the jurisdiction of the Republic of Serbia or another Member State of the European Union, the media service provider is within the jurisdiction of the Member State in which it is established in the sense of Article. 56-58. of the Stabilization and Association Agreement between the Republic of Serbia and the European Communities and their Member States.

Relevant international documents:

1. *Directive on Audio-Visual Media services (Directive AVMS), 2010/13/EU*
2. *The judgment of the European Court of Justice in case no. C-347/14 as of 21.10.2015*

III.CRITERIA

On-demand service is a media service, and program content that is published through it is an electronic medium, which means that it has features of both media services and (electronic) media. Accordingly, such content must be edited and designed for public distribution to an unspecified number of users through a network of electronic communications.³ On-demand service is provided to monitor the program in the period selected by the user, upon request, based on the catalog of the program⁴. In addition, publishing program content must be the main purpose of this service, and not a side-by-side and random product of some other broader service. Finally, only services at the request of a commercial nature are subject to the interest of the legislation.

Bearing in mind the above-mentioned, when assessing whether a particular service is a service on demand, it is necessary to answer the following questions:

1. Is it related to program contents?
2. Is there editorial control over program content?
3. Are program contents intended for an unspecified number of users (public) and are they distributed via electronic communications networks?
4. Are program contents followed at request in the period that the user chooses and are they catalogically organized?
5. Is the primary purpose of the service being viewed publishing program contents?
6. Is the service of a commercial nature?

³ article. 29. paragraph. 1. Of the Law on Public Information and Media and article. 4. point. 1) of the Law on Electronic Media

⁴ art. 4. point. 11) and 18) of the Law on Electronic Media

1. Is it related to program contents?

The purpose of the on-demand service is to enable users to monitor the program, which turns out that the service on demand will exist if the content that is published through it can be subsumed under the definition of program contents⁵. Therefore, this criterion will be fulfilled if information, ideas and opinions, as well as author's works in sound form, are published through the observed service, or in the form of moving images with or without sound. In addition, it is important that such content are published in order to inform about current events, personalities and phenomena, in order to raise the cultural and educational level of citizens, as well as for their entertainment.

In practice, it may be disputed whether short videos (clips), which often form part of the offer of services on demand, can be considered program contents. Namely, although short video formats are present in the traditional television programs, especially in the form of music videos, half-hour and one-hour broadcasts are still the dominant program form. However, the definition of program content does not contain requirements regarding the duration of the content, but defines them only in the context of their function - to inform, entertain, educate, etc., so that any audio and audio-visual content that meets that function will be regarded as a program content independent of its duration. The same attitude was taken by the European Court of Justice when considering whether the definition of the program includes short videos consisting of local news, sports content and entertainment clips.⁶

2. Is there editorial control over program contents?

Editorial responsibility is an essential feature of the media, and therefore services on demand. It is the responsibility to carry out control over the selection of program contents and their organization and its existence ensures that the media service is provided in accordance with the prescribed rules, because it establishes a liability system for published content. Namely, it starts from the fact that the program content can not be published through the media without editorial control of a person who has editorial responsibility. For on-demand services, this control refers to the selection of content provided on request and the way they are organized in the catalog.

Accordingly, services which by their nature are such that they do not require the existence of a person who performs editorial control shall not be considered services on demand. Examples of such services are platforms that exchange user-generated content. Namely, operators of such platforms (eg Youtube, Vimeo) are not obliged to perform editorial control of the content, but only treat applications for inappropriate content and are obligated to remove content that violates the provisions of criminal or copyright law, but the existence of this obligation does not mean that have editorial responsibility in terms of media laws. Such platforms are not media in terms of Article 30 paragraph 2 of the La on Public Information and Media.

As far as the contents available on such platforms are related, they will constitute a service on demand if they possess its characteristics as determined by these guidelines. Since in practice this issue will mostly be reduced to determining the existence of a commercial character of the service, there will be more of this in the text.

There are also so-called content aggregators, which on a particular website combine complete offer of program content from different sources and offer them as a unique offer. They primarily offer only links that lead to program content published by different entities, so when these content is removed from the original source, they become unavailable on the site of the aggregator.

⁵ art. 4. point. 4) of the Law on Electronic Media

⁶ The judgement of the European Court of Justice in the case No. C-347/14 as of 21.10.2015

Consequently, content aggregators do not have editorial control over the content they merge, so their services can not be considered a service on demand. However, if the aggregator corrected the program content originating from another source (for example, by inserting his identifier, inserting announcements, etc.), there would be a question of the existence of his editorial responsibility and, hence, the nature of his service. Accordingly, the aggregator should clearly indicate that the contents offered are the offer of another service, as well as to indicate the service they are using.

After a positive answer to the question of whether there is editorial control it is necessary to determine who is doing it, or who is the provider of the observed service, because such person will be responsible for the published content. Also, this person will be obliged to obtain an authorization or to register the specified service (depending on the manner of distribution of the content).

As noted above, editorial responsibility is the responsibility for conducting control over the selection of program contents and their organization, so the person who effectively controls both the choice and the organization of program contents will be responsible for publishing them by nature. However, if a person selects a program content and the other one cares about the way they are organized and presented (for example, the content distribution network operator), the person who makes the selection of content will be considered editorial responsibility. Namely, the influence on the selection of program content is more important than the way they are organized in the catalog, since the person who makes the selection of program content that will be offered will also determine the content of the media service itself.

In addition, in order for one person to have editorial responsibility, it is not necessary to control the distribution of program content itself. Editorial responsibility refers only to the selection of program contents and possibly their organization in the catalog. The mere distribution of these contents does not presuppose with the subject who is carrying on the existence of editorial responsibility. An example is network distribution operators for media content whose activity consists only of the transmission of content produced by other persons. Also, the ability of an operator to remove certain content created by others from its platform does not establish his editorial responsibility in terms of the law.

3. Are program contents intended for an unspecified number of users (public) and are they distributed via electronic communications networks?

Content of on-demand services must be for public distribution to an unspecified number of users⁷. In addition, the actual number of users of the service is not really important, that is, the intention of the provider is to offer its services to the public. The existence of such an intention shall be determined on the basis of the content of the service and the manner of its distribution.

Therefore, the publication of content intended for internal message exchange (chat, e-mail) or content intended for a narrow circle of certain end-users (content recorded for the training of employees in a particular company) does not represent the provision of media services, and therefore services on demand.

Also, the distribution of this content must be done via electronic communications networks (terrestrial transmission, cable, satellite, and internet). Distribution of content by other means, for example, sending a compact disc with audio or audio-visual content to the Internet or displaying

⁷ Art. 29. Paragraph 1. of the Law on Public Information and Media

content in the cinema, does not meet this criterion. The fact that the service is provided under conditional access, that is, it is password protected or in some other way, does not deny the media character of that service.

4. Are program contents followed by a request in the period that the user chooses and are they cataloged?

With a traditional television or radio broadcast service (linear media service), the viewer or listener monitors the program simultaneously on the basis of a predefined program scheme previously established by the media service provider, without the ability to independently select which of the program content (broadcast) he/she shall watch or listen at a particular moment.

On the other hand, in the case of services on demand, the viewer or the listener selects from a certain electronic catalog which of the more offered program contents (emission) will watch or listen at a particular moment. So, here the viewer, that is, the listener has the freedom to choose from the offered catalog content which program will follow at a certain point, with the provider of media services pre-determining the content of that catalog.

Accordingly, the main feature of the on-demand service is the ability of the user to select individual program content from the entire program offering, which will follow the time of his choice. Therefore, services that allow simultaneous monitoring of programs (television broadcasting, web streaming) by nature of things do not fall into the definition of on-demand services.

The existence of a number of program content and the need to make them accessible to the demand requires the existence of a catalog. Fulfilling this requirement assumes that the provider of such a service is concerned that the program content that is offered is clearly marked and categorized, but the concept of the catalog itself will not be interpreted strictly.

Namely, it will be considered that the catalog exists if there is an option to search for content offered on demand or if these content is organized by different categories (eg by azbuka, by genre, chronologically, by popularity). Therefore, if the catalog is not fully visible to users, but it is possible to get to the list of offered content by entering certain parameters in the search option, such service will be considered as a cataloged service.

5. Is the primary purpose⁸ of the observed services publishing program contents?

The main purpose of the service under consideration must be to publish program content. Accordingly, we will not consider that on demand services are any services whose published program contents are more a "by -way" product, and not the main purpose of the service. An example of this may be services that contain audio-visual content only as an add-on, such as animated graphic elements, short advertising spots, or information relating to the products and services presented therein.

In practice, it often happens that a provider of a particular service that does not have the character of the service on request decides to offer certain program content within its service. This is the case, for example, with online editions of daily newspapers and magazines (electronic editions⁹)

⁸ Although the Law on Electronic Media when defining an audio-visual media service and media services of the radio does not use the term "basic purpose", it is considered to be an essential element of the definition of media service, especially if the AVMS Directive in Article 1 defines audiovisual media services among other things, as a service whose main purpose is to publish program content.

⁹ Article 4. Paragraph 1. Item 19) Law on Electronic Media

that begin publishing program content to attract a wider audience and thus increase the effects of advertising. Publishing program contents within such a service will not be considered on-demand service, as long as the program content is an integral and auxiliary element of the basic service, or serves to supplement and upgrade the newspaper article, as they have a clear and direct connection with the published text. Therefore, it is important to determine whether the video is related to the facts already presented in the newspaper article or contain some new facts that users could only access through these videos.

On the other hand, such a bid will constitute a service on request if:

- a) the program contents are not directly and clearly related to the basic service;
- b) program contents are grouped in a separate section and catalogually organized and presented;
- c) the nature of such a service allows it to separate itself from the basic service and to exist independently.

Therefore, it is necessary among other things to determine the extent to which the offer of certain program contents can be considered as an independent service. When assessing this, it will be taken into account how this part of the service is organized, whether it is presented and promoted as an independent service or presented to users as an integral part of the basic service, what is the nature of the basic service, whether the provider identifies with the program contents (publishes identifier, puts its recognizable mark on the microphones and equipment that appears on the image, etc.).

A confirmation of this view was also given by the European Court of Justice in resolving whether the content offered on the Internet's online newspaper daily newspapers is an audio-visual media service.¹⁰

In the practice of some European countries as one of the criteria for identifying services on demand, the similarity of the observed service with traditional television programs has been used, since the AVMS Directive in recital 24 states that for demanding services it is characteristic that they are "similar to television", That is, they compete for the same audience as linear media services, and that the nature and way of accessing the service tells users to expect regulatory protection. Such a standpoint stems from the circumstances that existed in the twentieth century, when the state of technology and the need to withdraw clear boundaries between service on demand and information society services justified the comparison of services on demand for form and content with television broadcasting. But, as the habits of viewers have changed in the meantime, and the offer of services on demand, thanks to the development of technology, has developed in different directions, it is also necessary to change the way in which they qualify.

In addition, we consider that the criterion of "similarity to television" is not precise enough, that is, in practice, it can lead to different interpretations, and thus to legal uncertainty. Specifically, contents available on request are often made in the form of short video clips, and as already stated - the fact that these are short-lived content does not make them any less program content in terms of legal definition. However, although the contents are program contents, they are by their form, and often by content, not comparable to traditional program contents, or as such they have not been offered so far in television programs (with the exception of music videos). Also, for some viewers, the distribution of the program may be a key element in assessing whether the content is "similar to television". Namely, viewers who are unnoticed by the monitoring of program content over the Internet will not consider such content as "similar to television", although publishing

¹⁰ Judgment of the European Court of Justice in case no. C-347/14 of 21.10.2015

them can be a service on demand¹¹. Finally, the expectation of the audience in terms of regulatory protection is a subjective criterion and as such it is imprecise and variable.

Instead, the advantage will be given to an essential approach, that is, the basic purpose of the service will be determined regardless of the framework and the form in which it is offered, while determining whether it is a service on request will not matter if the content of that service is "similar to television," but whether the main goal of the service is to provide software that pretends to inform, entertain, educate, etc. And the forthcoming amendments to the Directive will probably go in that direction, given that the European Commission has proposed that the criterion "similarity to television" be excluded from the definition of services on demand, and that short video content should be included in the definition of the program.¹²

6. Is the service of commercial nature?

The validity of the regulations regulating the field of electronic media extends only to the media services provided in the course of performing economic activities, including the activity of public media services. This also indirectly arises from Article 32, paragraph 2 of the Law on public information and media, which stipulates that persons involved in the provision of media services (media publishers) must be duly registered to perform this activity. These are the legal entities or entrepreneurs that are registered for performing media activities.

There are several sources from which the media service can be financed. The users of the service can be financed by subscription or individual payments (Pay TV). We should not neglect the benefits that service providers have from their personal data, especially in targeted advertising. Then, the media service can be financed by publishing commercial communications (advertising messages, sponsorship, product placement, TV sales). Finally, a significant part of the funds for the production of program content comes from the budget through project co-financing.

As stated above, regulation is not subject to content that, as a rule, does not have a commercial character, such as software content produced by physical persons for the purpose of sharing information, ideas and opinions through the Internet forums, social networks and other platforms for sharing content. Publishing such content will not be deemed to be on-demand, even if all the other criteria in these guidelines are met.

However, the fact that certain content is published by a natural person does not always exclude the commercial character of such a service, since such content may also be commercial in nature if they are published for a fee or contain commercial communications, or if advertisements are published or sponsored or contain placement product. If other criteria in these guidelines are fulfilled, the publication of these contents will be provided on demand, and the person providing the service is obliged to register with the competent authority for performing the activity of the media publisher.

On the other hand, when it comes to legal persons, the lack of income, in itself, is not sufficient reason for one service to be considered non-commercial. Namely, one service shall be considered

¹¹ Regulatory services on demand: for which services consumers consider "similar to television", the OFKOM Report on the conducted qualitative research https://www.ofcom.org.uk/data/assets/pdf_file/0018/16218/pl.pdf

¹² European Commission, Proposal for a Directive of the European Parliament and the Council amending Directive 2010/13 / EU on the harmonization of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in relation to changed market reality COM (2016) 287, <https://ec.europa.eu/digital-single-market/en/news/proposal-updated-audiovisual-media-services-directive>

to have an economic character, even if it is provided free of charge, without advertising messages, sponsorship and other forms of commercial communication, if the provider is such a legal person who is in some way involved in the performance of the business, and in particular if he is already performing audiovisual activity. For example, publishing in free access to archival content (shows, films, series) by a particular media service provider will be considered on-demand service, even if such content is devoid of any commercial communications, of course, if the other criteria established by these guidelines are fulfilled.

Within the framework of the consideration of the need for the existence of editorial control, it is explained why the platforms for the exchange of content generated by the user will not be considered on-demand services. However, publishing editorial content on these platforms will be provided on demand if all the criteria set out in these guidelines are met. In practice, this issue will most often be reduced to determining the existence of a commercial character of such a service. It's primarily about professional channels that are available on these platforms, which, as a rule, are not generated by users, but by media service providers. When assessing whether it is a professional channel available on content sharing platforms, the way of presenting program contents, we will consider the level of production, whether content is published by the recognizable label of the provider, whether these contents have already been published in a linear program, etc.

IV. APPROVAL AND REGISTRATION OF ON-DEMAND SERVICES

The authorization to provide media services may be acquired directly by law or by obtaining a license or authorization to provide media services. Pursuant to the law, i.e. without previously obtained authorization or permission, media services of the public media service can be given, i.e. media services that are distributed exclusively through the global information network, as well as media services that are not within the competence of the Republic of Serbia. Linear media services are provided on the basis of a license, while on-demand services are provided on the basis of an authorization. The license, or the approval for the provision of media services, is issued by the Regulator.

Pursuant to the above mentioned rules, for the provision of services on demand, an approval issued by the Regulator must be obtained, unless it is a public media service or the service is requested on demand exclusively through the global information network (the Internet), when the authorization is not required, but also such service must be registered in the Registry of media services.

In addition, the obligation to obtain an authorization or registration exists only for on-demand services provided by media service providers that are in accordance with Article 45 of the Law in the jurisdiction of the Republic of Serbia. In particular, the media service provider will be in the jurisdiction of Serbia if it is established on its territory or if it uses an earth satellite transmitting station that is located in Serbia or uses satellite capacities belonging to Serbia. These rules provide for a number of different criteria based on whether or not the media service provider is established in Serbia, and it is common for them to have a headquarters in Serbia in any case or at least start their business in Serbia, with the fulfillment of certain additional conditions.

V. THE MOST IMPORTANT CASES OF SERVICES WHICH ARE AND ARE NOT CONSIDERED ON-DEMAND SERVICES

A wide range of content, services and business models available on the market make it almost impossible to compile a final list of services that represent on-demand services. Therefore, only an indicative list of on demand services will be provided , as well as a list of services that have certain characteristics of the service on demand, but they are not such services.

Services that, as a rule, represent services on demand are:

1. backward service (catch-up services);
2. services for the publication of specialized program contents (films, music) through electronic communications networks available at the request of the user;
3. services of publishing program contents on the websites of electronic editions of daily newspapers and magazines, if such contents do not have a clear and direct connection with the textual part of the site;
4. services of publishing editorially designed content through professional channels on the platforms for the exchange of user-generated content.

In addition, the backward service, although it is the most characteristic example of the on-demand service, is not subject to the obligation to obtain approval, due to the fact that the program content offered under this service has already been published in the linear program for which the Regulator has issued the license. But its providers are obliged to register such a service in the Registry of Media Services maintained by the Regulator.

Simultaneously, the provision of the same on-demand service through various networks for the distribution of media content (cable, satellite, internet) will be considered as providing a service on demand, so no special approval or registration for its provision will be required.

The publication of the following content will not normally constitute provision of services on demand:

1. audio-visual content on the websites of electronic editions of daily newspapers and magazines, if such contents represent a supplement and an upgrade of the newspaper article;
2. audio-visual content generated by the users of the content exchange platform, which lack the commercial character;
3. audio-visual content produced by professional bodies, trade unions, political parties or religious organizations, the main purpose of which is to inform its members, and not the general public;

nor will the following services represent a service on demand:

1. services of an electronic communications network operator;
2. the services of the platform's operator for the exchange of content generated by users;
3. services of an aggregator of Internet content.

DEPUTY TO COUNCIL PRESIDENT

Mr. Goran Petrović