

DRAFTLAW ON DIGITALIZATION OF BROADCASTING TRANSMISSIONS

Art	IMC	OSCE	RTK	AMPEK	PTK	IPKO
Comments						The current title of the law differs from Albanian to English. For instance in Albanian it is ,Draft law on digitalization of terrestrial broadcasting...` in English the version is , Draft law on digitalization of transmissions...` therefore we propose to add terrestrial followed by the international abbreviation DVB-T which stands for Digital Video Broadcasting – Terrestrial in order to further define the Title of the law pursuant to its purpose and scope of work.
Proposal						DRAFTLAW ON DIGITALIZATION OF TERRESTRIAL BROADCASTING TRANSMISSIONS DVB-T
Evaluation						ACCEPT - Change the title ACCEPT the IPKO's proposal without DVB-T.
Final	DRAFTLAW ON DIGITALIZATION OF TERRASTRIAL BROADCASTING TRANSMISSIONS					
1.	Purpose					
	The purpose of this Law is to define the switchover period from analogue to digital broadcasting in the Republic of Kosovo which shall be completed until 17 June 2015, set conditions for implementing digital broadcasting, set rights and obligations of network operators, multiplex operators and media service providers, changes in radio frequency spectrum management, maintain the efficient use of the radio frequency spectrum, which pursuant to international and national legal acts is intended for television and radio programme broadcasting in compliance with available technological options.					

Comments	Me ligjin e KPM-se, percaktohet se Procesi i kalimit në transmetim digjital do të rregullohet me ligj të veçantë.			<i>The purpose of the Law should be a technical description, as all details are regulated with the Law on IMC and the Strategy on Digital Transmission.</i>		Instead of 'digital broadcasting reformulate to indicate that it deals with 'digital terrestrial broadcasting'. The purpose of this Law is to deal with digital terrestrial broadcasting transmissions DVB-T.
Proposal	The purpose of this Law is to regulate the switchover process from analogue to digital broadcasting in the Republic of Kosovo which shall be completed until 17 June 2015, set conditions for implementing digital broadcasting, set rights and obligations of network operators, multiplex operators and media service providers, changes in radio frequency spectrum management, maintain the efficient use of the radio frequency spectrum, which pursuant to international and national legal acts is intended for television and radio programme broadcasting in compliance with available technological options.			"The purpose of this law is to determine additional competencies and responsibilities for the Independent Media Commission (IMC), which will provide for the commencement of digital television broadcasting and eradication of analogue television broadcasting in the Republic of Kosovo by 17 June 2015; to determine conditions, rights and liabilities of network operators and media service providers in the switchover from analogue television broadcasting to digital television broadcasting; to preserve and extend the current offer of terrestrial television programs and to provide for efficient realization of digital dividend."		The purpose of this law is to define the switchover period from analogue to digital terrestrial broadcasting in the Republic ..., set conditions for implementing digital terrestrial broadcasting

Evaluation	ACCEPT			<p>Comment is not Accepted.</p> <p>The purpose of this law is to determine additional competencies and responsibilities for the Independent Media Commission (IMC) – NOT ACCEPTED because the competences of IMC are clearly defined in separate law (Law on IMC). If there is a need to determine additional competences for IMC there should be amended the Law on IMC.</p> <p>“to preserve and extend the current offer of terrestrial television programs and to provide for efficient realization of digital dividend.”</p> <ul style="list-style-type: none"> • The purpose of this Law is not to extend, the purpose is to regulate the process with the deadline. 		ACCEPT
Final	<p style="text-align: center;">Purpose</p> <p>The purpose of this Law is to regulate the switchover process from analogue to digital terrestrial broadcasting in the Republic of Kosovo which shall be completed until 17 June 2015, set conditions for implementing digital terrestrial broadcasting, set rights and obligations of network operators, multiplex operators and media service providers, changes in radio frequency spectrum management, maintain the efficient use of the radio frequency spectrum, which pursuant to international and national legal acts is intended for television and radio programme broadcasting in compliance with available technological options.</p>					
2.	<p style="text-align: center;">Scope</p> <p>This Law regulates the method and conditions for digital terrestrial broadcasting, the procedure of switchover from analogue to digital broadcasting and other matters of importance for digital broadcasting.</p>					
Comments				<p><i>The scope should specify clearly the legal constellation and effects of this Law.</i></p>		Specify the scope of work of the law at hand in order to indicate that it deals solely with terrestrial digital broadcasting.

Proposal				<p>“This law regulates the procedure and conditions for the switchover from analogue television broadcasting to digital television broadcasting, pursuant to and in agreement with the strategy on the switchover from analogue to digital broadcasting adopted by IMC, and with the recommendations of the International Telecommunications Union (ITU)”</p>		<p>This Law regulates the method and conditions for digital terrestrial broadcasting, the procedure of switchover from analogue to digital broadcasting and other matters of importance for digital terrestrial broadcasting.</p>
Evaluation				<p>NOT ACCEPTED</p> <p>The strategy should be adopted by the Government. Part of the strategy related to frequency spectrum is not in line with the recommendations of ITU.</p> <p>As per proposal of AMPEK: This is not the scope of the Law, the scope is very clear in the existing draft.</p> <p>All the recommendations of ITU related to frequency spectrum are already covered in the Law on Electronic Communications.</p>		<p>ACCEPT</p>
Final	<p style="text-align: center;">Scope</p> <p>This Law regulates the method and conditions for digital terrestrial broadcasting, the procedure of switchover from analogue to digital terrestrial broadcasting and other matters of importance for digital broadcasting.</p>					
3. 1.1.	<p style="text-align: center;">Definitions</p> <p>1. Terms used in this Law shall have the following meaning:</p> <p>1.1. Ministry - the ministry responsible for the field of electronic communication, (hereinafter Ministry);</p>					

Comments		<p><i>We propose the drafter define the terms of “Digitalization” and “Broadcasting” under Article 3</i></p> <p>Digitalization –a transferring process from the analogue programme broadcasting to a digital/numeric one.</p> <p>Broadcasting–the original dissemination of broadcasting programmes diffusive net connection through terrestrial transmitters, cable, digital broadcasting, satellite any other electronic broadcasting means, with code or no code designated to for public consumption and reception through radio and television or any other particular electronic equipment for dissemination, without inclusion of individual communications.</p>		<p>1. Comment: <i>Definitions should be sorted in the following order:</i></p> <p>1.1 IMC</p> <p>1.2 Ministry of Economic Development</p> <p>1.3 ARKEP</p> <p>Comment: <i>Add here the definition of ITU</i></p> <p>Comment: <i>Add here the definition of the Strategy on the switchover from analogue to digital broadcasting.</i></p>	<p>Add The definition of multiplexing because is of outmost importance as a crucial part of the law deals with this issue but without making any reference to the definition.</p>
Proposal					<p>Multiplexing shall mean the part of a digital telecommunications broadcasting system for handling multiple digital input channels and transmitting them together.</p>

Evaluation		ACCEPT		All the definitions in Albanian languages are going to be listed in Alphabetical order.		REJECT /from directive
		Digitalization – Accepted		ITU will be explained in the Article 9 as International Telecommunication Union and the rest of the text there will be ITU.		
		Broadcasting – Accepted, but take definition from Article 4 point 1.44 Law on EC		Definition of Strategy: How can we define the “strategy” from the scope, goals, and objectives. Please clarify which can be the Strategy Definition?		
Final	<p>Digitalization – a transferring process from the analogue programme broadcasting to a digital/numeric one.</p> <p>Broadcasting transmission – transmission of radio or television program services via a terrestrial antenna, electronic communications network or satellite in coded or not coded form, aimed at reception by the public;</p> <p>(ALB) Transmetim radio-difuziv – shërbimi i transmetimit të programeve të radios dhe televizionit nëpërmjet një antene tokësore, rrjetit të komunikimeve elektronike ose satelitore, në formë të koduar ose jo, për t'u marrë nga publiku;</p>					
3. 1.2.	1.2. Independent Media Commission is an independent body for regulation, management, and oversight of the broadcasting frequency spectrum which also regulate the rights and responsibilities of natural and legal persons that provide audio and audiovisual media services as defined by the Law on Independent Media Commission, (hereinafter IMC);					
C o m m						
P r o p						
E v a l						
Final	1.5. Independent Media Commission is an independent body for regulation, management, and oversight of the broadcasting frequency spectrum which also regulate the rights and responsibilities of natural and legal persons that provide audio and audiovisual media services as defined by the Law on Independent Media Commission, (hereinafter IMC);					

3. 1.3.	1.3. Regulatory Authority of Electronic and Postal Communications is the regulatory body that implements and supervises the legal framework defined by the Law on electronic communications; (hereinafter Authority);					
C o m m						
P r o p						
E v a l						
Final	1.1. Regulatory Authority of Electronic and Postal Communications is the regulatory body that implements and supervises the legal framework defined by the Law on electronic communications; (hereinafter Authority);					
3. 1.4.	1.4. Analogue broadcasting is transmission and receiving analogue television and/or radio signal through terrestrial transmitters in accordance with the relevant international standards;					
Comm ents				<i>Comment: Analogue broadcasting - According to the Constitution and Law on IMC, the only definition for radio-diffusive broadcasting (TV or Radio) is 'broadcasting' or 'broadcaster'. The definition from the Law on IMC should be used.</i>		
Prop osal						
Evalu ation				1.4. Since the purpose of this Law is to regulate the digital terrestrial broadcasting, we need to distinguish between analogue and digital terrestrial broadcasting.		
Final	1.15. Analogue broadcasting is transmission and receiving analogue television and/or radio signal through terrestrial transmitters in accordance with the relevant international standards;					
3. 1.5.	1.5. Digital terrestrial broadcasting is transmission and receiving digital television and/or radio signal through terrestrial transmitters in accordance with the relevant international standards;					
Com ments				1.5 Digital broadcaster - See Comment 1.4		
Pro pos						

Evaluation				1.5 See previous comment 1.4		
Final	1.16. Digital terrestrial broadcasting is transmission and receiving digital television and/or radio signal through terrestrial transmitters in accordance with the relevant international standards;					
3.1.6.	1.6. Digital receiver is a device for receiving, decoding and transforming digital television signal into a form suitable for reproduction of image, sound and other data, which may be a separate device, a device installed into television set or other device;					
Comments				<i>Digital receiver - Comment: Definition without any referral in the Law.</i>		
Proposal				"DTT is a separate electronic appliance or television receiver (digital television) that serves to receive, decode and reproduce digital television signal into video, audio and other information, in accordance with ITU standards."		
Evaluation				1.6. There is no need to be changed, our definition is clear enough. It is referring in article 12 of this Law. Propose of MED: Change the title of the definition to: "Digital Television Receiver"		
Final	1.12. Digital Television Receiver is a device for receiving, decoding and transforming digital television signal into a form suitable for reproduction of image, sound and other data, which may be a separate device, a device installed into television set or other device;					
3.1.7.	1.7. Standard Definition Television (SDTV) is a service with the standard quality of image and sound, in accordance with the relevant recommendations of the International Telecommunication Union (ITU recommendations);					
Comments				Comment, should be modified to:		
Proposal				"SDTV is an audio-visual service of standard resolution, in accordance with ITU recommendations on Region 1."		

Evaluation				1.7. We are not aware about ITU recommendations with regard SDTV for particular reasons, as you are mentioning in your comment to Region 1. We consider that our definition is more suitable. It is in align with other definition used in other countries. It is same from Directive.		
Final	1.17. Standard Definition Television (SDTV) is a service with the standard quality of image and sound, in accordance with the relevant recommendations of the International Telecommunication Union (ITU recommendations);					
3. 1.8.	1.8. High Definition Television (HDTV) is a service providing image and sound with more quality compared to the standard quality, by increasing the number of analyzing lines per image, changing the method of image analysis, increasing the ratio of image pages to 16:9, as well as changing the colorimetric characteristics of image, in accordance with the relevant recommendations of the International Telecommunication Union (ITU recommendations);					
Comment				Comment, should be modified to:		
Proposal				<i>"HDTV television is a high resolution audio-video service, in accordance with ITU recommendations for Region 1, and all newer television formats (UHDTV, 2K, 4K and 8K) which are not defined as standard formats."</i>		
Evaluation				1.8. This definition (AMPEK proposal) is not correct. 2K, 4K and 8K are different technology and are not treated as a part of HDTV Standard.		
Final	1.18. High Definition Television (HDTV) is a service providing image and sound with more quality compared to the standard quality, by increasing the number of analyzing lines per image, changing the method of image analysis, increasing the ratio of image pages to 16:9, as well as changing the colorimetric characteristics of image, in accordance with the relevant recommendations of the International Telecommunication Union (ITU recommendations);					
3. 1.9.	1.9. Multiplex is a standardized set or stream of digital signals expressed in MB/s containing several television and/or radio programs and/or other data which is at the same time transmitted and broadcasted and whose streams are bundled;					

Comments		We suggest the drafter describe the meaning of "MB/s" when used for the first time in Article 3 (1.9)		Should be amended to:		
Proposa 1				" Multiplex is a physical channel within the broadcasting frequency spectrum, which contains a digital bucket of audio-visual content and other data, with technical parameters set by the IMC."	MB/s Mb/s	
Evaluation		ACCEPT Instead of "MB/s" to be described as: Megabyte-Mega-bit-për-sekundë Comment 3: Delete the terms "innovative service provider" and "mobile television service provider" in entire draftlaw		1.9. This is standard definition for multiplex. IMC cannot determine technical parameters.	ACCEPT	
Final	1.7. Multiplex is a standardized set or stream of digital signals expressed in Mb/s (Mega-bit-per-second) containing several television and/or radio programs and/or other data which is at the same time transmitted and broadcasted and whose streams are bundled; (ALB) 1.9. Multipleksi është një set i standardizuar i sinjaleve dixhitale, i shprehur në Mb/s (Mega-bit-për-sekundë), që përmban disa programe televizive dhe/ose të radios dhe/ose të dhëna të tjera, të cilat transmetohen dhe emetohen në të njëjtën kohë dhe në mënyrë të thurur;					
3. 1.10.	1.10. Network operator is an entrepreneur/ legal entity that offers or that is authorized to offer an electronic communications network or associated facilities;					
Comments				Comment: <i>The definition for the network operator is determined in the Law on IMC. For clarification purposes, only the DTT (Digital Terrestrial Television) abbreviation could be added.</i>		The definition of Network operator has to be in compatibility with Art. 2 paragraph 1.9 of the Law of IMC No. 04/L-044.

Proposal						1.10 Network operator - any legal entity, which provides any type of program broadcasting network or a broadcasting service to the public, possession and corresponding of licenses or authority issued by IMC.
Evaluation		From OSCE's Comment on Art 5		1.10. Definition in Law on IMC is not correct. Please refer to the Law on Electronic Communications, Article 4 paragraph 1.27.		
Final	1.10. Network operator –any legal person, which provides any type of programme broadcasting network or a broadcasting service to the public, possession and corresponding of licenses or authority issued by IMC;					
3. 1.11.	1.11. Multiplex operator means the natural or legal person who provides the technical infrastructure for terrestrial distribution aggregation of digital programmes and supplementary services included in the digital streaming of data and that has notified the Authority of this pursuant to legal provisions of the Law on electronic communications;					
Comments	Deri te pjesa digjitale, pastaj fshihet nuk ka nevoj te ceket kon e njofton tek definicionet			Comment: <i>The definition of multiplex operators is in violation of the Law on IMC and the Digitalization Strategy, as according to these acts, the network operator is at the same time a multiplex operator.</i>		
Proposal	1.11. Multiplex operator means the natural or legal person who provides the technical infrastructure for terrestrial distribution aggregation of digital programmes and supplementary services included in the digital streaming of data.					
Evaluation	ACCEPT			1.11. Definition in Law on IMC is not correct. This definition is not in line with EU Directives.		

Final	1.9. Multiplex operator means the natural or -legal person who provides the technical infrastructure for terrestrial distribution aggregation of digital programmes and supplementary services included in the digital streaming of data.					
3. 1.12.	1.12. Multiplex access means a service provided by a multiplex operator through any electronic communication network, from the access point to the network;					
Com ment				Multiplex access - ‘Services offered by the multiplex operator’ should be replaced with ‘Service offered by the network operator.’		
Prop osal						
Evalu ation				1.12. ACCEPT		
Final	1.13. Multiplex access means a service provided by a multiplex network operator through any electronic communication network, from the access point to the network;					
3. 1.13.	1.13. Total multiplex transmission capacity means the largest quantity of data per time unit through which digital signals can be transmitted;					
Com ment				don't require any amendments		
Prop osal						
Evalu ation						
Final	1.4. Total multiplex transmission capacity means the largest quantity of data per time unit through which digital signals can be transmitted;					

3. 1.14.	1.14. National Radio-Frequencies Plan means the document stipulating frequencies bands for different services and sets the basic conditions for the frequency allocation and assignment, aiming at effective use of the radio-frequencies spectrum and avoidance of interferences;					
Com ments				don't require any amendments		
Prop osal						
Evalu ation						
Final	1.11. National Radio-Frequencies Plan means the document stipulating frequencies bands for different services and sets the basic conditions for the frequency allocation and assignment, aiming at effective use of the radio-frequencies spectrum and avoidance of interferences;					
3. 1.15.	1.15. Media service provider means a natural or legal person who has editorial responsibility for the selection of t audio and/or audiovisual content of the audiovisual media service and who determines the manner in which it is organized;					
Com ments				don't require any amendments		

Proposal		<p>We propose the drafter define the terms “innovative service provider” and “mobile television service provider” under Article 3 of the draft Law</p>		<p>The following definitions should be added:</p> <p>1.16 <i>“Digital dividend is a complex of benefits resulting from the switchover to digital broadcasting, including enhancement of quality of receiving audio-visual contents and their number, rationalization of use of broadcasting spectrum frequencies, utilization of newer technologies for broadcasting and receiving audio-visual contents, release of a portion of the broadcasting frequency spectrum for ARKEP needs, in accordance with ITU recommendations.”</i></p> <p>1.17 <i>“Historic channels are all entities licensed by the IMC for analogue broadcasting in the Republic of Kosovo.”</i></p> <p>1.18 <i>“Simulcast period is the period in which historic channels will commence digital broadcasting along with analogue broadcasting. “</i></p> <p>1.19 <i>SFN definition missing.</i></p> <p>1.20 <i>MFN definition missing.</i></p> <p>1.21 <i>Freeview or FreeTV definition missing.</i></p> <p>1.22 <i>PAYTV definition missing.</i></p>		
Evaluation				<p>1.16. This definition is not needed because it is not used in the draft.</p> <p>1.17. ACCEPT with the small change: “Historical Television Channels”.</p> <p>1.18. There is no reference in the law for “Simulcast period”.</p> <p>1.19. There is no reference in the law.</p> <p>1.20 There is no reference in the law.</p> <p>1.21. There is no reference in the law.</p> <p>1.22. There is no reference in the law.</p>		
Final	<p>1.8. Media service provider means a natural or legal person who has editorial responsibility for the selection of t audio and/or audiovisual content of the audiovisual media service and who determines the manner in which it is organized;</p> <p>1.17 ACCEPT with the small change: “Historical Television Channels”.</p>					

3. 2.	2. Other terms used in this Law shall have the same meaning as in the Law on Electronic Communications and the Law on Independent Media Commission.					
Com ments						
Prop osal				2. <i>Other definitions used in this Law shall have the meaning given in the Law on IMC and Law on Electronic Communication.</i>		
Evalu ation				2. NOT ACCEPT because the term "terms" is brader then definitions, and we are referring to terms and not in definitions.		
Final	2. Other terms used in this Law shall have the same meaning as in the Law on Electronic Communications and the Law on Independent Media Commission.					
4.	<p style="text-align: center;">Network planning</p> <p>1. Network planning for digital terrestrial broadcasting shall be carried out in accordance with the National Radio- Frequencies Plan.</p> <p>2. The National Radio-Frequencies Plan shall contain technical requirements and the methods of using individual radio-frequencies and geographic areas.</p> <p>3. The National Radio-Frequencies Plan shall be prepared by the Authority in cooperation with Ministry in accordance with the Law on electronic communications.</p> <p>4. The Plan for Usage of Radio Frequencies (Channels) shall be prepared by IMC and the Authority in accordance with the Law on Independent Media Commission and the Law on electronic Communications.</p> <p>5. The network operator shall plan and set up a network for digital broadcasting in compliance with the public tender requirements for allocation of radio frequencies for broadcasting according to the Plan for Usage of Radio Frequencies (Channels).</p>					

Comments	Amandamentimi i nenit 4, eshrte bere qe ti shmangemi nderhyrjes ne kompetence te KPM-se		Bearing in mind Article 141 of the Constitution and the Law on IMC, the latter is the sole authority that regulates, manages and oversees the spectrum of radio-diffusive broadcasting (radio and television), hence, in line with these competencies, this institution is the only entity that deals with radio-television broadcasting networks, including the use of spectrum frequencies, technical characteristics, and broadcasting locations. Also this Article should take into consideration public interest and the interest of the current industry of terrestrial television broadcasting in Kosovo, including many local and minority television stations, to continue to operate even after the elapse of the Simulcast phase.	Reformulating Article 4 paragraph 1 as per the proposed comment.
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Proposal

1. Network planning for digital terrestrial broadcasting shall be carried out in accordance with the National Radio- Frequencies Plan and with the plan of allocation and usage of radio frequencies for terrestrial digital broadcasting in the Republic of Kosovo.

2. With the allocation plan of the radio frequencies for digital terrestrial broadcasting are defined: a) Technical conditions and manner of radio frequencies usage, which according to the national plan of the Republic of Kosovo assigned for radio diffusive services in conformity with existing regulation and standards as well as with international recommendations.

b) Geographic areas (allotment areas for coverage with terrestrial digital signal)

3. The National Radio-Frequencies Plan shall be prepared by the Authority and IMC, in cooperation with Ministry, in accordance with the Law on electronic communications.

4. The Plan of allocation and usage of Radio Frequencies for terrestrial digital broadcasting shall be prepared by IMC in accordance with the National Plan of Radio Frequencies in the Republic of Kosovo and Digitalization Strategy, in which are determined radio diffusive services in accordance with the existing regulation and standards as well as international recommendations and decision.

5. The network operator shall plan and set up a network for digital broadcasting in compliance with the public tender requirements for Plan of allocation and usage of radio frequencies for digital terrestrial broadcasting.

1. Network planning for terrestrial digital broadcasting shall be conducted in compliance with the Strategy adopted by the Independent Media Commission. The strategy for the switchover to digital broadcasting contains technical conditions and methods for the use of radio-frequencies and geographic zones, in line with ITU conventions, taking into account the specifics of television broadcasting in Kosovo.

2. Spectrum regulation, management and supervision shall be performed by IMC.

3. IMC shall update the broadcasting frequency spectrum, in compliance with ITU recommendations.

4. The Multiplex utilization plan shall be prepared by IMC, in accordance with the Law on Independent Media Commission and the adopted Strategy. IMC shall determine conditions and criteria for the commencement of Simulcast period, and shall determine minimum conditions for automatic licensing of historic channels, as DTT network operators at national or regional level. Also, within three months from the entry into force of this Law, and pursuant to the Strategy, IMC shall make all necessary modifications to the current analogue broadcasting frequency plan, in order to provide for adequate space for the commencement of the Simulcast period, while ensuring a low cost for this modification and attending to the right of the public to be timely informed on such modifications.

5. Automatically licensed DTT operators shall plan, modify and create new digital broadcasting networks, in accordance with the conditions and obligations set in the license.

6. IMC shall determine the timeframes of the public tender for the remaining multiplex licenses, in conformity with the availability and release of the spectrum from analogue broadcasting.

7. IMC shall set frequencies, location and area covered by the license for the development of digital networks, in accordance with the Strategy and Plan of ITU's Regional Conference on Digital Broadcasting (RRC-06)."

1.The network shall be planned by the multiplex operator in compliance with the public tender requirements for allocation of radio frequencies for broadcasting according to the National Plan for Radio-frequencies.

PARTIALLY ACCEPTED

As per paragraph 2: There's no plan of allocation and usage of radio frequencies for terrestrial digital broadcasting but only plan of allocation and usage of radio frequencies (channels).

Paragraph 2- REJECT; There's no such a plan.

Paragraph: 3.

4. We cannot exclude the competences regulated in Law on EC and law on IMC. If we delete the second part of the paragraph, we would breach the Law on EC.

IMC proposal in the meeting: add the word "and notifies the Authority"

Paragraph: Not accepted: it is very clear in Electronic Communications Law.

5. We don't know what is the purpose of this paragraph, because the paragraph 5 on the Draft law is much more clear.

6. There is no such a plan for radio-frequency terrestrial digital broadcasting.

Comment to comments:

Your proposal is not based on the legal provision of existing legislation (especially Law on Electronic Communications).

We have to avoid the colision in existing legislation.

IMC should publish on its web site Broadcasting Frequency Plan according to Law on IMC, article 2, para 1.10.

OVERALL REMARK:

- Part of the strategy related to frequency spectrum is not in line with the recommendations of ITU.
The strategy is not adopted by IMC. The strategy will be adopted by the Government.
- IMC is not the Sole Authority for Spectrum regulation, management and supervision. This is regulated in separate Law.
- It is not on mandate of IMC to update the broadcasting frequency spectrum. The partner to negotiate with ITU is only Government of Kosovo. Please see the Article 10 of Law on Electronic Communications.
- There is no such a plan. It is just one plan as it is stated in Law on Electronic Communications Article 10 paragraph 1 and paragraph 11.

OVERALL COMMENT:

- Digitalization model proposed from your side is opposite of the model that is proposed in this draftlaw.
Based on the Medium Term Expenditure Framework 2013-2015
<http://mf.rks.gov.net/Portals/0/Raporte%20dhe%20publikime/KASH/KASH%2013-2015%20aprovuar%20ne%20Qeveri%20ANGL.pdf>, there are no funds available in the budget for the proces of Digitalization.
- As a part of the draftlaw, during the Government procedure, for Government approval for the draftlaws, it should be prepared a document for Financial Impact and budget Implication for implementation of this Law.
- Ministry of Finance has the authority from the Government, to stop every law if budgetary implication is foreseen in the budget or in the Medium Term Expenditure Framework 2013-2015, if the law will be implemented after one year.
- Model of the Process of Switchover proposed on the current draftlaw, taking into consideration limitations in frequencies recources, timing and financial restrictions, is the only model which is possible model under these circumstances.
- International bidding process which will grant the right for building the network for DTT shall be enough attractive to attract companies to build and operate and have reasonable return and investments.

ACCEPT

Network planning

1. The network shall be planned by the multiplex operator in compliance with the public tender requirements for allocation of radio frequencies for broadcasting according to the National Plan for Radio-frequencies.

~~Network planning for digital terrestrial broadcasting shall be carried out in accordance with the National Radio-Frequencies Plan.~~

2. The National Radio-Frequencies Plan shall contain technical requirements and the methods of using individual radio-frequencies and geographic areas.

3. The National Radio-Frequencies Plan shall be prepared by the Authority in cooperation with Ministry in accordance with the Law on electronic communications.

4. The Plan for Usage of Radio Frequencies (Channels) shall be prepared by IMC and the Authority in accordance with the Law on Independent Media Commission and the Law on electronic Communications.

5. The network operator shall plan and set up a network for digital broadcasting in compliance with the public tender requirements for allocation of radio frequencies for broadcasting according to the Plan for Usage of Radio Frequencies (Channels).

Network operator

Any legal or natural person that has obtained approval for broadcasting programs through digital terrestrial broadcasting network and approval to use frequencies, in accordance with the Law on Independent Media Commission and the Law on electronic communications, shall have the status of a network operator.

Final

5.

Comments	Brezi te cilin e shfrytezojne eshte ne kompetence te KPM-se dhe nuk ka nevoj ti referohemi ligjit per komunikime elektronike	<p><i>We recommend the drafter reconsider Article 5 and exclude natural persons from having the status of a network operator</i></p> <p>Article 5 states that “Any legal or natural person that has obtained approval for broadcasting programs through digital terrestrial broadcasting network and approval to use frequencies, in accordance with the Law on the IMC and the Law on Electronic Communications, shall have the status of a network operator.” We consider that natural persons cannot be licensed by Independent Media Commission (IMC) as a network operator. Moreover, the definition of the network operator is regulated by Article 2(1.9) of the Law on the IMC and does not provide for natural persons to be network operator. Therefore, for legal clarity we recommend the drafter reconsider Article 5 and exclude natural persons from having the status of a network operator.</p>	Due to the sensitivity of radio-diffusive network management, and with the aim of protecting Kosovo’s national interest and the safety interest of the country and the region, owners of the legal entities licensed to operate DTT networks shall be citizens of RKS and legal entities.	The definition of Network operator has to be in compatibility with Art. 2 paragraph 1.9 of the Law of IMC Law No. 04/L-044.
Proposal	Any legal or natural person that has obtained approval for broadcasting programs through digital terrestrial broadcasting network and approval to use frequencies, in accordance with the Law on Independent Media Commission, shall have the status of a network operator.		All legal entities that are registered in the Republic of Kosovo, or the majority of whose shareholders are citizens of the Republic of Kosovo, may apply for Network Operator licenses. Upon obtainment of such licenses, the said entities will enjoy the status of a Network Operator.	Network operator is any legal entity, which provides any type of program broadcasting network or a broadcasting service to the public, possession and corresponding of licenses or authority issued by IMC.

Evaluation	<p>NOT ACCEPTED:</p> <p>All electronic communications, Networks and/or service providers before starting operation, must notify the Authority for their intentions to provide electronic communications network and services. The responsibilities, obligations and rights are regulated on the applicable legislation (Law on EC).</p>	<p>ACCEPT</p> <p>Comment 3: Reformulate the paragraph 1.10 of Article 3 of the Draft law:</p> <p>Network operator –any legal entity, which provides any type of programme broadcasting network or a broadcasting service to the public, possession and corresponding of licenses or authority issued by IMC.</p> <p>Delete the word “natural person” from Article 5 of the Draftlaw.</p>		<p>The new formulation is NOT ACCEPTED</p> <p>Please refer to Chapter IX, Article 119 paragraph 2 of the Constitution of Republic of Kosovo which states that: “The Republic of Kosovo shall ensure equal legal rights for all domestic and foreign investors and enterprises.</p>		<p>REJECT</p> <p>Definition in Law on IMC is not correct.</p> <p>Please refer to the Law on Electronic Communications, Article 4 paragraph 1.27. and EC Framework Directive</p>
Final	<p>Network operator</p> <p>Any legal entity or natural person that has obtained approval for broadcasting programs through digital terrestrial broadcasting network and approval to use frequencies, in accordance with the Law on Independent Media Commission and the Law on electronic communications, shall have the status of a network operator.</p>					
6.	<p>Multiplex operator</p> <p>1. Any legal or natural person that provides public electronic communication services of multiplex management, based on notification in accordance with the provisions of the Law on Electronic Communications, shall have the status of a multiplex operator.</p> <p>2. For distribution of radio and/or television programs, a multiplex operator shall obtain approval for distribution from the IMC in accordance with the Law on Independent Media Commission.</p>					

Comments	Qeshtja e multiplexav rregullohet vetem me kete ligj dhe nuk ka nevoje referime te pa baza sepse vetem shkaktojne paqartesi			This article should be removed, as it is not in accordance with the Law on IMC and the Digitalization Strategy.		The multiplex operator cannot be a natural person, it must be a legal entity registered and acting as such pursuant to Kosovo Laws. Therefore remove the part : ,natural person` from the definition of the multiplex operator.
Proposal	1. Any legal or natural person that provides public electronic communication services of multiplex management shall have the status of a multiplex operator.					Any legal person that offers public electronic communication services of multiplex management, based on notification in accordance with the provisions of the Law on Electronic Communications, shall have the status of a multiplex operator.
Evaluation	<u>NOT ACCEPTED:</u> All electronic communications, Networks and/or service providers before starting operation, must notify the Authority for their intentions to provide electronic communications network and services. The responsibilities, obligations and rights are regulated on the applicable legislation (Law on EC).			<u>REJECT</u> All electronic communications, Networks and/or service providers before starting operation, must notify the Authority for their intentions to provide electronic communications network and services. The responsibilities, obligations and rights are regulated on the applicable legislation (Law on EC).		ACCEPT Delete the word “natural person” from Article 5 of the Draft law.
Final	Multiplex operator					
	<p>1. Any legal or natural person that provides public electronic communication services of multiplex management, based on notification in accordance with the provisions of the Law on Electronic Communications, shall have the status of a multiplex operator.</p> <p>2. For distribution of radio and/or television programs, a multiplex operator shall obtain approval for distribution from the IMC in accordance with the Law on Independent Media Commission.</p>					

7.	Obligations of a network operator and a multiplex operator					
Comments	Eshte kompetence e KPM-se.			For the reasons noted in the comment on Article 4, this Article should be amended in its entirety, and the following should be stated:		Article 7 does not define at all the obligations of multiplex operator it only deals with the relationship of multiplex operator toward the network operator.

Proposal	<p>1. A network operator shall deliver at least one contract concluded with a multiplex operator to the IMC within 90 days upon obtaining approval to use frequency.</p>		<p>1. DTT network operators licensed to provide national or regional coverage in the Republic of Kosovo, shall provide for the coverage of the respective territory with television signal, at the percentage and timeframes set in the terms of the license issued by IMC.</p> <p>2. DTT network operators with national coverage operate with SFN networks.</p> <p>3. DTT network operators may be licensed to manage no more than two multiplexes, at the national or regional level, or a combination of both national and regional levels.</p> <p>4. DTT network operators may also be licensed as media service providers, however, multiplexes managed by the same operator may not hold over 50% of the MB/s capacity with media services that are in any proprietary relation with the network operator.</p> <p>5. No DTT operator may own more than 30% of the overall market, comprising advertisements and prepayments in the digital television services market.</p> <p>6. DTT network operators that are also media service providers shall hold separate accounting records for activities related to network management and media service provision.</p> <p>7. Prior to the issuance of a decision on licensing as per items 3, 4 and 5 of this Article, IMC shall obtain the preliminary opinion of the Competition Commission.</p> <p>In the event that a violation of these items is noted, the Competition Commission shall inform the IMC, which shall deliberate on the suspension or revocation of the license.</p> <p>8. Decisions of the Competition Commission are binding for IMC.</p>	<p>The multiplex operator shall plan and set up a network for digital broadcasting in compliance with the public tender requirements for allocation of radio frequencies for broadcasting.</p>
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Evaluation	<p>REJECT</p> <p>Delete the first paragraph from the draft law and replace it with IPKO proposal:</p> <p>1. The multiplex operator shall plan and set up a network for digital broadcasting in compliance with the public tender requirements for allocation of radio frequencies for broadcasting.</p>			<p>Delete the first paragraph from the draftlaw and replace it with IPKO proposal:</p> <p>1. The multiplex operator shall plan and set up a network for digital broadcasting in compliance with the public tender requirements for allocation of radio frequencies for broadcasting.</p> <p>Your proposal for digitalization switch over model is almost not possible to be implemented. This model is in contradiction with the best practices in Europe.</p>		<p>ACCEPT</p> <p>Replace parafraph 1</p> <p>New paragraph: 5. The multiplex operator shall plan and set up a network for digital broadcasting in compliance with the public tender requirements for allocation of radio frequencies for broadcasting.</p>
Final	<p style="text-align: center;">Obligations of a network operator and a multiplex operator</p> <p>1. The multiplex operator shall plan and set up a network for digital broadcasting in compliance with the public tender requirements for allocation of radio frequencies for broadcasting.</p> <p>2. A network operator may also be a multiplex operator.</p> <p>3. A multiplex operator may also be a network operator.</p> <p>4. A network operator that is at the same time a multiplex operator shall keep separate accounting for the activities of multiplex management and network management.</p>					

8.	Multiplex capacity division				
	<p>1. With the aim of more rational use of multiplex capacities, it is possible to conduct division into capacity intended for provision of audiovisual media services and electronic communication services.</p> <p>2. Multiplex division referred to in paragraph 1 of this Article shall be conducted by IMC.</p> <p>3. The quality of services referred to in paragraph 1 of this Article shall meet the service quality parameters stipulated in the Law on electronic communications.</p> <p>4. The Authority shall be responsible for the quality of the service according to the Law on electronic communications.</p>				
Comments	Recomends to delete the Article 8, since this band is determined only for audiovisual media services.			Due to the legal regulation on the management and utilization of the radio and TV broadcasting, IMC is the sole authority that licenses legal entities on the use of frequencies from this band, which may only be used for radio-diffusive purposes.	Add these provisions in order to ensure the application of multiplex division and to increase the accountability of the ICM.
Proposal				<p>1. Multiplex capacities for digital television broadcasting may be only used for the transfer of media services and data related exclusively with such services, including network identification data, service provider, service content or teletext data.</p> <p>2. DTT network operators are obliged to manage 50% of the programmatic content in the multiplex free of charge for the public.</p> <p>3. IMC will oversee the quality of services, in line with ITU standards.</p>	<p>If a multiplex operator is deprived of access to viable alternatives due to environmental protection or issues of public health, public security or spatial planning, including requirements for the economical use of space, and is unable to reach an agreement with the operators or owners of infrastructure on the shared use, the Authority, shall decide on the matter via procedures pursuant to the provisions of the law regulating electronic communications.</p> <p>(3) The Authority shall assess such deprived access to viable alternatives on the grounds stated in the preceding paragraph on the basis of a claim from an interested party within 30 days of receiving such claim.</p>

Evaluation	<p>NOT ACCEPTED</p> <p>Law on Electronic Communications states very clearly that Authority is responsible for quality of services in electronic communications. Which BAND are you referring to? To leave as it is in the draft law.</p>			<p>Please see the “Overall Comment” in Article 4 of this Draftlaw.</p>		<p>Need further explanation from IPKO.</p> <p>The current explanation doesn't correspond with the Proposal. This is regulated in the Law on electronic communication as a responsibility of the Authority.</p>
Final	<p style="text-align: center;">Multiplex capacity division</p> <p>1. With the aim of more rational use of multiplex capacities, it is possible to conduct division into capacity intended for provision of audiovisual media services and electronic communication services.</p> <p>2. Multiplex division referred to in paragraph 1 of this Article shall be conducted by IMC.</p> <p>3. The quality of services referred to in paragraph 1 of this Article shall meet the service quality parameters stipulated in the Law on electronic communications.</p> <p>4. The Authority shall be responsible for the quality of the service according to the Law on electronic communications.</p>					
9.	<p style="text-align: center;">Multiplex access</p> <p>Prior to accessing to allocated multiplex capacity, radio and television programs must be encoded in accordance with the encoding standard ITU - T H.264/AVC (MPEG-4 Version10).</p>					
Comments				<p>Technical parameter is set in the IMC strategy.</p>		<p>The application of Standard ITU - T H.264/AVC (MPEG-4 Version10) means that every network operator in Kosovo has to completely get rid of all the equipment that has been in use up to now for their daily operations and in meantime up to June 17, 2015 every operator has to buy new expensive equipment that will fit to Standard ITU - T H.264/AVC (MPEG-4 Version10). This will be a heavy burden to all operators in Kosovo, many operators will not be capable of doing that therefore they will have to shut down.</p>
Proposal						

Evaluation				<p style="text-align: center;">NOT ACCEPTED</p> <p>Strategy is not yet approved. Anyway, this standard is in accordance with the Draft-Strategy.</p> <p>If in the mean time we will have growth of technology standards, it is logic that we should accept higher standard, but it must be a Minimum level of standard or newer ITU standard.</p> <p>Reformulate: Add “newer” before the wording “encoding ITU standard”.</p>		<p>We do not understand explanation in accordance with the content of the draft law.</p> <p>Encoded standard was proposed by the IMC draft Strategy and supported by the Technical WG.</p>
Final	<p>Prior to accessing to allocated multiplex capacity, radio and television programs must be encoded in accordance with the newer encoding standard ITU - T H.264/ AVC (MPEG-4 Version10).</p>					
10.	<p style="text-align: center;">Multiplex operator as manager</p> <ol style="list-style-type: none"> 1. A multiplex shall be managed by a multiplex operator that has obtained a frequency intended for digital broadcasting. 2. A multiplex operator shall not be a media service provider. 3. The multiplex operator in a particular geographical area shall be obliged to ensure all media service providers equal and non-discriminatory conditions for accessing the multiplex managed by the multiplex operator in respect of the right to disseminate programmes using digital broadcasting technology in the relevant geographical area. 					

Comments	<p>1. Duhet te percaktohet se nga kush e merr kete frekuence</p> <p>2. A vlen ky percaktim edhe pe nenin 13 ku percaktohet nje mux per RTK.</p> <p>2. The exception to this definition has obligations arising under Article 13 of this Law</p>					<p>Contrary to the Definition on Article 10 para.2 IPKO proposes this new formulation to ensure the rights of multiplex operators pursuant to International standards.</p>
Proposal	<p>1. A multiplex shall be managed by a multiplex operator that has obtained from the IMC a frequency intended for digital broadcasting.</p> <p>2. A multiplex operator shall not be a media service provider.</p>		<p>2. Operatori i multipleksit nuk do të jetë ofrues i shërbimeve mediale, përveç në rastin e Transmetuesit publik - RTK-së</p>	<p>1. The multiplex will be managed by DTT network operator licensed by IMC for digital television broadcasting.</p> <p>2. Comment: Item in violation of the Law on IMC and the Strategy, since Article 7, item 3, regulates that network operators may not also be media service providers.</p> <p>3. It should state: DTT network operators of special geographic zones are obliged to provide all media service providers equal and non-discriminatory access conditions to the multiplex managed by the network operator, in respect of the right to transmit programs using digital broadcasting technologies in the relevant geographic zone.</p>		<p>2. A multiplex operator can also be a content provider, but is thus obliged to perform the activities of a multiplex system operator through a legally independent company or keep separate financial accounts for activities associated with multiplex system management.</p>

Evaluation	<p>PARAGRAPH 1: ACCEPT</p> <p>PARAGRAPH 2: ACCEPTED but needs further discussion inside the Working Group. - refer to Article 19.</p>		<p>ACCEPT</p> <p>Accepted by the WG</p>	<p>Please see the “Overall Comment” in Article 4 of this Draftlaw.</p>		<p>Please clarify the explanation why IPKO is proposing that multiplex operator could be also a content provider. This issue was discussed in the WG. Most of the stakeholders accept that proposal.</p> <p>Please clarify which are these International Standards???</p>
Final	<p style="text-align: center;">Multiplex operator as manager</p> <p>1. A multiplex shall be managed by a multiplex operator – network operator that has obtained from the IMC a frequency intended for digital broadcasting.</p> <p>2. The multiplex operator in a particular geographical area shall be obliged to ensure all media service providers equal and non-discriminatory conditions for accessing the multiplex managed by the multiplex operator in respect of the right to disseminate programmes using digital broadcasting technology in the relevant geographical area.</p> <p>3. If a Media Service Provider is at the same time a Multiplex Operator it shall keep separate accounting for those activities.</p>					

11.	<p>1. A switchover from analogue to digital television broadcasting shall be completed until 17 June 2015.</p> <p>2. Legal and physical persons that possess approval for using frequency on the effective date of this Act shall terminate broadcasting of their television programs in analogue technique not later than 17 June 2015.</p> <p>3. The method for informing the public and instruction on practice for end users before and after the switchover shall be stipulated by the IMC and Authority.</p> <p>4. The rights, conditions and procedures relating to the use of radio frequencies (channels) may only be amended in objectively justified cases and in a propriate manner taking into account conditions related to the transfer or lease of the right of use the radio frequencies on the basis of criteria set out under a licence issued by IMC in accordance with the procedure set up in the Law on electronic communications. Such ammendments shall be coordinated between the Authority and IMC.</p>				
Comments	<p>3. Autoriteti duhet te fshihet, pasi qe nuk ka kompetence ligjore</p> <p>4. (This point should be deleted since leases of frequency is not allowed, for regulating audiovisual media services)</p>	<p><i>We recommend the drafter exclude physical persons from paragraph 2 of Article 11</i></p> <p>Paragraph 2 of Article 11 foresees that “Legal and physical persons that possess approval for using frequency on the effective date of this Act shall terminate broadcasting of their television programs in analogue technique not later than 17 June 2015.” However, for the same reasons offered above with respect to Article 5, we recommend the drafter exclude physical persons from paragraph 2 of Article 11, because physical persons cannot have approval for the use of frequencies.</p>		<p>Due to the short period envisaged for the switchover to digital broadcasting, the current standard of living and regional practices, it is good to allow for change of the analogue broadcasting stop-date even after 17 June 2015.</p>	

Proposal	<p>3. The method for informing the public and instruction on practice for end users before and after the switchover shall be stipulated by the IMC.</p> <p>4. The rights, conditions and procedures relating to the use of radio frequencies (channels) may only be amended in objectively justified cases and in a appropriate manner taking into account conditions related to the transfer or lease of the right of use the radio frequencies on the basis of criteria set out under a licence issued by IMC in accordance with the procedure set up in the Law on electronic communications. Such ammendments shall be coordinated between the Authority and IMC.</p>		<p>4. Të drejtat, kushtet dhe procedurat lidhur me shfrytëzimin e radio-frekuencave (kanaleve) mund të ndryshohen vetëm në raste objektivist të arsyetueshme dhe në mënyrë të duhur, duke marrë parasysh kushtet që ndërlidhen me bartjen apo dhënien me qira të së drejtës për të shfrytëzuar radio-frekuencat në bazë të kritereve të përcaktuara në licencën e dhënë nga KMP, në pajtim me procedurën e përcaktuar në Ligjin për Komunikimet Elektronike. Ndryshimet e tilla do të bashkërendohen mes Autoritetit dhe KPM-së.</p>	<p>“Switchover from analogue to digital broadcasting shall conclude by 17 June 2015. This deadline may be postponed by the IMC if less than 90% of RKS residents are equipped with DTT receivers, however, any such postponement may not exceed 24 months from the date determined in this law.”</p> <p>2. Analogue television broadcasting in Kosovo shall conclude on 17 June 2015.</p> <p>3. In accordance with the Strategy, IMC shall organize a public information campaign and provide practical instructions for citizens.</p> <p>4. Comment: for the reasons noted above in Comment 4, this should state: “Rights, conditions and procedures related to the utilization of radio-frequencies (channels) may only be amended in cases that are objectively and adequately reasonable, taking into considerations conditions related to the transfer or lease of the right to use radio-frequencies, pursuant to the criteria set in the license provided by the IMC.”</p>		
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Evaluation	<p>Paragraph 3: ACCEPT</p> <p>However Authority can be needed.</p> <p>Paragraph 4: NOT ACCEPTED</p> <p>It is in accordance with Law on Electronic Communications and with other practices in other countries.</p> <p>It is also in accordance with the Framework Directive for Electronic Communications.</p>	<p>ACCEPT</p> <p>Same as in Art. 5</p>	ACCEPT	<p>1. Based on ITU recommendations for Region 1 and Region 3 the deadline for switchover from analogue to digital is 17 June 2015.</p> <p>“The agreement sets 17 June 2015 as the date after which countries will no longer be required to protect the analogue services of neighbouring countries against interference and be able to freely use frequencies assigned for digital services. This date is generally viewed as an internationally mandated analogue switch-off date, at least along national borders.”</p> <p>2. Kosovo Government through the process of dialogue SAPD is committed that digitalization process is going to be completed by 17 June 2015. Moreover, this commitment is still in force.</p> <p>4. The whole procedure is clearly defined in the Law on Electronic Communications which among other issues, requires close cooperation between two regulators: ARKEP and IMC (article 14 paragraph 6.1 and 6.2).</p>	
Final	<p>1. A switchover from analogue to digital television broadcasting shall be completed until 17 June 2015.</p> <p>2. Legal entity and physical persons that possess approval for using frequency on the effective date of this Act shall terminate broadcasting of their television programs in analogue technique not later than 17 June 2015.</p> <p>3. The method for informing the public and instruction on practice for end users before and after the switchover shall be stipulated by the IMC.</p> <p>4. The rights, conditions and procedures relating to the use of radio frequencies (channels) may only be amended in objectively justified cases and in a appropriate manner taking into account conditions related to the transfer or lease of the right of use the radio frequencies on the basis of criteria set out under a licence issued by IMC in accordance with the procedure set up in the Law on electronic communications. Such amendments shall be coordinated between the Authority and IMC.</p>				

12.	Consumer incentives					
Comments		<i>We suggest the drafter add a new paragraph under Article 12 as follows:</i>				
	<p>1. The Government shall, with the funds available, encourage the dissemination of digital broadcasting in the form of consumer incentives by co-financing the purchase of digital television receivers by socially disadvantaged consumers.</p> <p>2. The receivers co-financed by the Government shall be technology-neutral and use open standards of interactivity.</p> <p>3. In accordance with this article, recipients of incentives shall solely be persons obliged to pay contributions in compliance with the Law on Radio Television of Kosova but who are exempt from the payment of such contributions.</p> <p>4. The Ministry shall issue a public invitation for entitled persons to apply for co-financing of the purchase of a voucher for digital TV receiver and determine the receivers to be co-financed.</p>					

Proposal		<p><i>“The ministry will regulate by sub-legal act who will be responsible for selling, distributing and determining the price of receivers and other needed equipment”</i></p>		<p>Stimulating measures for consumers and historic television stations</p> <ol style="list-style-type: none"> 1. The Government shall encourage, based on its available funds, the switchover to digital broadcasting, through stimulating measures for consumers or co-financing of the purchase of digital television signal receivers for consumers that are in an unfavorable social state. 2. No remarks 3. No remarks 4. The Ministry shall make a public call to all persons eligible to apply for co-financing and shall determine the beneficiaries of such co-financing, who will be equipped with a voucher for digital television receivers. <p>Comment: the following should be added:</p> <p>“5. The Government and IMC, based on their available funds and utilizing interim tax relief policies, shall stimulate all Kosovo’s historic television channels during the Simulcast phase, in order to ensure a successful realization of the purposes of this Law.”</p>		
Evaluation		<p>REJECT</p> <p>OSCE proposal it’s not dealing with the substance of the Article.</p> <p>We cannot decide who will be responsible for selling and distributing receivers.</p> <p>Government’s role is only for basic technical standards and the cost of the voucher.</p>		<p>NOT ACCEPT</p> <p>The content of this Article is Consumer Incentives and it does not cover any state subsidies regarding producing of TV programs.</p> <p>NOT ACCEPT P.5. See the <u>“Overall Comment”</u> in Article 4 of this Draftlaw.</p>		

Final	<p style="text-align: center;">Consumer incentives</p> <p>1. The Government shall, with the funds available, support the dissemination of digital broadcasting in the form of consumer incentives by co-financing the purchase of digital television receivers by socially disadvantaged consumers.</p> <p>2. The receivers co-financed by the Government shall be technology-neutral and use open standards of interactivity.</p> <p>3. In accordance with this article, recipients of incentives shall solely be persons obliged to pay contributions in compliance with the Law on Radio Television of Kosovo but who are exempt from the payment of such contributions.</p> <p>4. The Ministry of Labour and Social Welfare shall issue a public invitation for entitled persons to apply for co-financing of the purchase of a voucher for digital TV receiver and determine the receivers to be co-financed.</p>				
13.	<p style="text-align: center;">Special arrangement for the public broadcasting</p> <p>For the purpose of digital broadcasting of signals of the public broadcasting services, Radio Television of Kosovo (RTK) is awarded the right for a multiplex with coverage of the entire territory of Kosovo, without conducting public call procedure, for transmission of own television programs after the switchover period.</p>				
Comments	Duhet te percaktohet qe mos ti lihet mundesi qe RTK ta shfrytezoj mux per perfitime komerciale por vetem per zhvillim te televizionit.			During this process, the modus for own-funding of RTK and removal of advertisements in the public broadcaster should be found.	

Proposal	<p>For the purpose of digital broadcasting of signals of the public broadcasting services, Radio Television of Kosovo (RTK) is awarded the right for a multiplex with coverage of the entire territory of Kosovo, without conducting public call procedure, for transmission of own television programs after the switchover period.</p> <p>This multiplex RTK should use only for its programs, and cannot issue it for usage to another subject.</p>	<p>1. Me qëllim të transmetimit dixhital të sinjaleve të shërbimeve të transmetuesit publik, Radio Televizionit të Kosovës (RTK) do t'i jepet e drejta për dy multipleksa, me mbulueshmëri në tërë territorin e Kosovës, pa kryer procedurën e thirrjes publike, për të transmetuar programet e veta televizive, njëri gjatë fazës tranzitore, respektivisht kanalin frekuencor 46 dhe tjetri pas skadimit të periudhës tranzitore.</p> <p>2. Në bazë Nenit 7 paragrafi 2 dhe paragrafi 3 të këtij Ligji, Radio Televizioni i Kosovës autorizohet të jetë edhe Operator i rrjetit për shërbimet e rrjetit të komunikimit elektronik apo stabilimenteve përcjellëse të tij.</p> <p>3. Shërbimit të transmetimit publik -RTK-së, Qeveria e Republikës së Kosovës do ti ndajë mjetet e nevojshme nga buxheti i Republikës së Kosovës, për ngritjen e rrjetit për transmetimin dixhital me mbulueshmëri mbi 95%.</p>	<p>1. With the aim of providing digital broadcasting of the signals of the public broadcaster, Radio Television of Kosovo (RTK) will be granted the right to a multiplex (Multiplex A), with coverage throughout Kosovo territory, in conformity with article 4, item 4, of this Law, in order to broadcast its television programs after the elapse of the switchover period.</p> <p>2. IMC shall issue a sublegal act that regulates the manner of management and maintenance of the RTK multiplex, which provides for RTK's self-financing, without commercial market or advertisement interferences.</p>	
Evaluation	ACCEPTED	<p>P.1. NOT ACCEPT</p> <p>P.2. After switch over period (take the paragraph From RTK LAW) RTK will be awarded it's own mux for publice service broadcasting.</p> <p>P.3. There's no available budget from the Government. No additional sources. IMC should apply for the IPA funds.</p>	<p>RTK is menaged by law on RTK.</p> <p>These rules apply just for RTK1 and RTK2 TV programs. (article 8 of Law on RTK).</p>	

Final	Special arrangement for the public broadcasting					
14.	<p style="text-align: center;">Public tender</p> <p>1. The decision on the initiation of a public tender on the assignment of radio frequencies for a multiplex shall, in addition to the required elements provided by the Law on Electronic Communications, contain all essential specifications of the multiplex for which a radio frequency is tendered, such as frequency, area of coverage, channel capacity, extent of reserve capacity and other elements in compliance with this Law.</p> <p>2. The decision on the intitation of a public tender shall be done by IMC.</p> <p>3. The decision on the inititation of a public tender referred to under paragraph 1 of this Article shall clearly state the conditions for using capacities for media service providers during the switchover period, in order to create conditions for introduction of high definition television (HDTV).</p> <p>4. In addition to the other required elements that comprise the application for assignment of radio frequencies stipulated by the Law on electronic communications or that result from contract documents, IMC shall also enclose in the tender for obtaining radio frequencies for a multiplex system a time frame and spatial plan for the setting up of a network.</p>					
Comments	<p>1. Përveç elementeve të përcaktuara me Ligjin për Komunikimet Elektronike, kjo fjali duhet të fshihet pasi që kjo qeshtje është duke u rregulluar me kete ligj;</p> <p>4. Pjesa ku i referohet ligjit për komunikime elektronike duhet të fshihet dhe të gjitha qeshtjet të percaktohen me kete ligj, pasi që kjo shkakton konfuzion dhe KPM është kompetente për të bere ndarjen</p>			<p>Comment, for similar reasons to the comment on Article 4, the following should be included:</p>		

Proposal	<p>1. The decision on the initiation of a public tender on the assignment of radio frequencies for a multiplex shall, in addition to the required elements provided by the Law on Electronic Communications (highlighted sentence should be deleted since it is being regulated by this law), contain all essential specifications of the multiplex for which a radio frequency is tendered, such as frequency, area of coverage, channel capacity, extent of reserve capacity and other elements in compliance with this Law.</p> <p>4. In addition to the other required elements that comprise the application for assignment of radio frequencies, IMC shall also enclose in the tender for obtaining radio frequencies for a multiplex system a time frame and spatial plan for the setting up of a network.</p>		<p>“1. Decision on the initiation of a public tender for the allocation of radio-frequencies for additional multiplexes shall contain all substantial specifications of the multiplex for which radio-frequencies are tendered, including frequency, coverage, channel capacity, reserve measure capacities, and other elements in accordance with this Law.</p> <p>2. The decision for the initiation of a public tender shall be issued by IMC.</p> <p>3. The decision for the initiation of a public tender as per paragraph 1 of this Article shall clearly determine the conditions for the use of related capacities by media service providers.</p> <p>4. In addition to other required elements that comprise the application for the allocation of radio-frequencies, which derive from the contract documents, the IMC shall also include automatic licensing conditions in the tender for the obtainment of new radio-frequencies, along with the timeframe and spatial plan within which the network shall be established.”</p>		
Evaluation	<p>PARAGRAPH 1: NOT ACCEPTED</p> <p>We are just referring that The decision on the initiation of a public tender on the assignment of radio frequencies for a multiplex shall, in addition to the required elements provided by the Law on Electronic Communications PLUS enything else.</p> <p>PARAGRAPH 4: Rephrased by MED</p>		<p>REJECT</p> <p>See : Article 54 of the Law on Electronic Communications clearly states “all required elements for usage for electronic communications recources”</p>		

Final	<p style="text-align: center;">Public tender</p> <p>1. The decision on the initiation of a public tender on the assignment of radio frequencies for a multiplex shall, in addition to the required elements provided by the Law on Electronic Communications, contain all essential specifications of the multiplex for which a radio frequency is tendered, such as frequency, area of coverage, channel capacity, extent of reserve capacity and other elements in compliance with this Law.</p> <p>2. The decision on the intitation of a public tender shall be done by IMC.</p> <p>3. The decision on the intitation of a public tender referred to under paragraph 1 of this Article shall clearly state the conditions for using capacities for media service providers during the switchover period, in order to create conditions for introduction of high definition television (HDTV).</p> <p>4. In addition to the other required elements that comprise the application for assignment of radio frequencies, IMC shall also enclose in the tender for obtaining radio frequencies for a multiplex system a time frame and spatial plan for the setting up of a network.</p>				
15.	<p style="text-align: center;">Duration of validity, amendment, extension, revocation and termination of a decision on the assignment of radio frequencies for multiplex and the transfer of rights to use radio frequencies</p> <p>As regards duration of validity, amendment, extension, revocation and termination of a decision on the assignment of radio frequencies for a multiplex system and the transfer of rights to use radio frequencies for multiplexing, the provisions on validity, amendment, extension, transfer, revocation and termination of a decision on the assignment of radio frequencies stipulated by the Law on electronic communications shall apply, unless otherwise specified by this Law.</p>				
Comments	Kjo qeshtje rregullohet me dhenjen e licences bazuar ne ligjin e KPM-se, dhe at te digjitalizimit			Comment, for the same reasons as in Article 4, the following should be stated:	
Proposal	As regards duration of validity, amendment, extension, revocation and termination of a decision on the assignment of radio frequencies for a multiplex system and the transfer of rights to use radio frequencies for multiplexing, the provisions on validity, amendment, extension, transfer, revocation and termination of a decision on the assignment of radio frequencies stipulated by the licence terms based on the IMC Law, unless otherwise specified by this Law.			"In relation to the validity, amendment, extension, revocation or termination of the decision for the allocation of radio frequencies for multiplex systems, and for the transfer of rights to use radio-frequencies for multiplex purposes, IMC will issue sublegal acts on the validity, amendment, extension, transfer, revocation or termination of the decision on the allocation of radio frequencies."	

Evaluation	NOT ACCEPTED			REJECT See : article 54 of the Law on Electronic Communications clearly states "all required elements for usage for electronic communications resources"		
Final	<p align="center">Duration of validity, amendment, extension, revocation and termination of a decision on the assignment of radio frequencies for multiplex and the transfer of rights to use radio frequencies</p> <p>As regards duration of validity, amendment, extension, revocation and termination of a decision on the assignment of radio frequencies for a multiplex system and the transfer of rights to use radio frequencies for multiplexing, the provisions on validity, amendment, extension, transfer, revocation and termination of a decision on the assignment of radio frequencies stipulated by the Law on electronic communications shall apply, unless otherwise specified by this Law.</p>					
16.	<p align="center">Amendment of a decision on the assignment of radio frequencies for a multiplex</p> <p>In addition to the instances stipulated by the Law on Electronic Communications, the Authority may <i>ex officio</i> in cooperation with IMC amend a decision on the assignment of radio frequencies for a multiplex system in the case of new complementary services or new or amended innovative services or for widening the scope of capacities reserved for high-definition television or when amending technical parameters in order to improve coverage of a certain area.</p>					
Comments	<p>(nkrasniqi)Perderisa ne fillim eshte percaktuar me kete ligj qe KPM ben ndarjen e multipleksit (NENI 8.2 POR I CILI SPECIFIKON NDARJEN PER SHERBIME TE PERMBAJTJES DHE SHERBIME TE KOMNUNIKIMEVE ELEKTRONIKE), ketu kompetenca per ndryshim te vendimit me theks te vecante i caktohet autoritetit, duhet te ndryshohet sepse institucioni i cili e leshon licencen aj edhe i ben ndryshimet</p> <p>(ldalipi)Kjo fjali propozohet te mjeket: <i>sipas detyrës zyrtare dhe në bashkëpunim me KPM-në</i></p>			<p>Comment, for the same reasons as in Article 4, and in order to ensure adherence with the approved Strategy, this article should state:</p>		

Proposal	<p>In addition to the instances stipulated by the Law on Electronic Communications, the IMC may amend a decision on the assignment of radio frequencies for a multiplex system in the case of new complementary services or new or amended innovative services or for widening the scope of capacities reserved for high-definition television or when amending technical parameters in order to improve coverage of a certain area.</p>		<p>“IMC may amend the decision on allocation of radio frequencies for multiplex system purposes, and to license ancillary frequencies, for which no international coordination is required, in case that new additional services, or new and innovative changes arise and the effect of which is the extension of the scope of capacities reserved for high definition television, or in the event of a change of technical parameters with the aim of improving coverage in a respective zone.”</p>		
Evaluation	<p>It was proposed that article 8 should be deleted. Now the comment of IMC in Article 16 referred to Article 8.</p> <p>Please be consistent in your recommendations.</p> <p>Delete the terms “<i>innovative service provider</i>” and “<i>mobile television service provider</i>” in entire draft law</p>		<p>REJECT</p> <p>See : article 54 of the Law on Electronic Communications clearly states “all required elements for usage for electronic communications resources”</p>		
Final	<p style="text-align: center;">Amendment of a decision on the assignment of radio frequencies for a multiplex</p> <p>In addition to the instances stipulated by the Law on Electronic Communications, the Authority may <i>ex officio</i> in cooperation with IMC amend a decision on the assignment of radio frequencies for a multiplex system in the case of new complementary services or new or amended innovative services or for widening the scope of capacities reserved for high-definition television or when amending technical parameters in order to improve coverage of a certain area.</p>				

17.	Special provisions on the transfer of the right to use radio frequencies for a multiplex					
	If the operator of a multiplex system intends to terminate operations, the operator can submit an application for transferring the right to use radio frequencies for the multiplex system. If the operator fails to do so at least three months prior to the planned termination of operations, an application for transferring the right to use radio frequencies for the multiplex system may be submitted by any service provider, innovative service provider or mobile television service provider in this multiplex system.					
Comments	Ky nen eshte shum i paqart dhe esht munduar te trajtohen disa qeshtje qe dote caktohen me kushtet e licences. Propozim i KPM-se eshte qe ky nen te fshihet				In line with constitutional competencies, IMC is the only authority that may issue and revoke licenses for radio-television broadcasting.	
Proposal					“In the event that a DTT network operator aims to seize its activity, it will notify IMC in written at least three months in advance. In such cases, the IMC shall be obliged to provide those users with temporary solutions until the procedure is concluded for the re-tendering of the released multiplex.”	
Evaluation	Add “to IMC” after the word “submit an application” Delete the terms “ <i>innovative service provider</i> ” and “ <i>mobile television service provider</i> ” in entire draft law.				REJECT See : article 54 of the Law on Electronic Communications clearly states that “all required elements for usage for electronic communications resources”.	
Final	Special provisions on the transfer of the right to use radio frequencies for a multiplex					
	If the operator of a multiplex system intends to terminate operations, the operator can submit an application to IMC for transferring the right to use radio frequencies for the multiplex system. If the operator fails to do so at least three months prior to the planned termination of operations, an application for transferring the right to use radio frequencies for the multiplex system may be submitted by any service provider, innovative service provider or mobile television service provider in this multiplex system.					

18.	Payment for the use of radio frequencies for a multiplex				
Comments	Fjala bartes i vendimeve duhet te ndryshohet te licencuarit apo subjektet qe jan autorizuar te... sepse bartesit e vendimeve esht e pa qarte			Item 2 of this Article refers to the level of income in EU member-states, which will be impossible to apply in Kosovo in the period until 2015, and is economically unfavorable for the citizens and media industry.	

Proposal	<p>1. Licensees for a multiplex shall be obliged to pay an annual fee to the IMC for the use of the assigned radio frequencies as stipulated by the applicable legislation.</p>			<p>1. Bearers of decisions for the allocation of radio frequencies for multiplex purposes shall be obliged to pay IMC an annual fee for the use of radio frequencies, in conformity with the legislation in force.</p> <p>2. The minimum amount of payments related to item 1 of this Article shall be determined in a regulation adopted by IMC. In the determination of the level of such payments and the method for performing such payments, the offer and demand for tendered frequencies and market development in which the frequencies are tendered shall be taken into account, however, the amounts may not be at the height that hinders the development of innovative and competitive services in the market.</p> <p>3. Provisions of the Law on IMC and Article 12, item 5 of this Law, shall be applicable for all income accrued in accordance with item 1 of this Article.</p>		
Evaluation	<p>ACCEPT;</p> <p>Instead of “Holders of decisions” put “Licensees”</p>			<p>NOT ACCEPTED</p> <p>All provisions of this Article are giving to the IMC all the responsibility to decide, taking into consideration the market, and other circumstances.</p>		
Final	<p style="text-align: center;">Payment for the use of radio frequencies for a multiplex</p> <p>1. Licensees on the assignment of radio frequencies for a multiplex shall be obliged to pay an annual fee to the IMC for the use of the assigned radio frequencies as stipulated by the applicable legislation.</p> <p>2. The specified fee for the efficient use of a limited natural resource ensuring optimal use of assigned radio frequencies shall be paid for radio frequencies used for mobile television services or innovative services. The minimum amount of such fees and the manner of their payment shall be fixed by a regulation adopted by the IMC. In determining the level of fees and the method of payment thereof, account shall be taken of the supply and demand for tendered frequencies, the development of the market to which the tendered frequencies apply and the level of such payments in other European Union Member States, but the amount may in no case be so high as to hinder the development of innovative services and market competition.</p> <p>3. The revenue referred to in the paragraph 2 of this article shall be used only to encourage the transition from analogue to digital broadcasting as provided by this Law.</p>					

19.	Obligatory inclusion of certain television and radio programming in a multiplex				
	The multiplex operator in a particular geographical area must ensure inclusion in the multiplex of public service broadcasting, national and regional historical television channels that are entitled to disseminate their television programming using digital broadcasting technology for that area to the extent of the capacity of the multiplex prescribed for that purpose by the competent Authorities.				
Comments	Pasi qe eshte kompetenc e KPM-se, duhet te zevendesohet Autoriteti me KPM	<i>We suggest the drafter amend Article 19 by defining which channels are meant by the term "historical television channels"</i>		Mandatory inclusion of certain radio and television programs in the multiplex Comment, for reasons mentioned in the comment on Article 4, the following should be stated:	
Proposal	The multiplex operator in a particular geographical area must ensure inclusion in the multiplex of public service broadcasting, national and regional historical television channels that are entitled to disseminate their television programming using digital broadcasting technology for that area to the extent of the capacity of the multiplex prescribed for that purpose by the IMC.			The DTT network operator in a given geographic area shall ensure inclusion in a multiplex of public broadcasters, historic national and regional television channels, which shall have the right to broadcast their television programs, by using digital broadcasting technologies for the given area, to the extend allowed by the given multiplex set for such purposes by the IMC.	

Evaluation	<p>ACCEPT the proposal: to add: IMC.</p> <p>Discuss the "Historical Television Channels "</p> <p>Proposal: we do agree that historical channels are licensed by IMC to provide all Analog TV broadcasters.</p> <p>Article 19 defines "must carry rules" and "must carry rules" include 2 public service broadcasters programs, 2 national commercials TV programs (KTV, RTV21) and Regional TV Programs.</p> <p>The status which will be included in must carry rules, will be decided by IMC based on sub-legal acts submitted by IMC.</p> <p>Delete the word "Historical Television Channels" in article 19.</p> <p>IMC WILL PROPOSE A NEW PARAGRAPH REGARDING THIS ISSUE.</p>	<p>Proposal: we do agree that historical channels are licensed by IMC to provide all Analog TV broadcasters.</p> <p>Article 19 defines "must carry rules" and "must carry rules" include 2 public service broadcasters programs, 2 national commercials TV programs (KTV, RTV21) and Regional TV Programs.</p> <p>The status which will be included in must carry rules, will be decided by IMC based on sub-legal acts submitted by IMC.</p> <p>Delete the word "Historical Television Channels" in article 19.</p>		<p>MORE DISCUSSION WITH IMC NEEDED.</p> <p>ACCEPT the proposal: to add: IMC.</p>	
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Obligatory inclusion of certain television and radio programming in a multiplex

1. The multiplex operator shall ensure (“must carry”) inclusion in the multiplex of two programs of the public service broadcaster, ~~national and regional historical television channels~~ two national historical programs (KTV, RTV21) and two regional TV programs in each of five regions of Kosovo that are entitled to disseminate their television programming using digital broadcasting technology for that area to the extent of the capacity of the multiplex prescribed for that purpose by the IMC.

2. Criteria’s for the inclusion under the “must carry rules” shall be decided by a sublegal act issued by IMC, not later than 90 days after entry in to force of this Law.

3. The criterias referring to paragraph 2 of this Article shall be made in accordance with Market analysis and the Kosovo’s public needs.

Final

20.

Restrictions relating to the right to disseminate programming using digital broadcasting technology

1. The IMC cannot grant the right to disseminate programming using digital broadcasting technology in compliance with the Law on IMC if there is no reserve capacity for this on the operating or tendered multiplex.

2. The IMC shall initiate the procedure for revocation of the decision on granting the right to disseminate television or radio programming in a particular area *ex officio* unless within three months from the beginning of operation of the multiplex the holder of rights begins disseminating and broadcasting television or radio programming for which the holder obtained this right in a multiplex in this area, provided that all technical and legal conditions have been fulfilled.

Comments

Limitations regarding the right to license media services, while using digital terrestrial broadcasting technologies

Comment: This Article uses unclear and ambiguous terminology, hence the following should be stated:

Proposal

1. IMC may not license programmatic service providers for distribution with terrestrial digital multiplexes, in accordance with the Law on IMC, in the event that operational or tendered multiplexes have no reserve capacities for such purpose.

2. In the event that the media service provider does not distribute the content within three months upon licensing to provide audio-visual services in a given area, subject to all technical and legal requirements being met, IMC shall *ex officio* initiate the procedure to revoke the media service provider license.

Evaluation				<p>ACCEPT the reformulation.</p> <p>1. Instead of "may not" put "shall not"</p>		
Final	<p align="center">Restrictions relating to the right to disseminate programming using digital broadcasting technology</p> <p>1. In accordance with the law on IMC, IMC may shall not license media service providers, to distribute with terrestrial digital multiplexes, in the event that operational or tendered multiplexes have no reserve capacities for such purpose.</p> <p>2. In the event that the media service provider does not distribute the content within three months upon licensing to provide audio-visual services in a given area, subject to all technical and legal requirements being met, IMC shall ex officio initiate the procedure to revoke the media service provider license."</p>					

21.	Restrictions for the purposes of high-definition television				
Comments	2. KPM eshte pergjegjese per brezin broadcast prandaj nocioni ndarje eshte jo relevante ne kete pike pasi qe ato do te percaktohen ne fazat e me vonshme.			Limitations for the purposes of high resolution television Comment, for reasons mentioned in the comment on Article 4, the following should be stated:	

1. In a public tender for assignment of radio frequencies for a multiplex, the IMC may determine that all or part of the capacity of the multiplex shall be reserved for the dissemination of programmes using high-definition television technology.

2. In a public tender for assignment of radio frequencies for a multiplex, the IMC may decide that a part of the capacity of the multiplex for enabling occasional transmission using high-definition television technology shall be reserved for different providers in this multiplex. This part of the capacity of the multiplex shall be used for dissemination of the current capacities of individual television channels of this multiplex that usually broadcast programming at lower resolution for the purpose of transmitting programmes using high-definition television technology. Part of the capacities so reserved shall be available under equal and non-discriminatory conditions for the transmission and dissemination of any programming of all providers in this multiplex.

3. If the IMC acts according to the first and second paragraphs of this article, it shall be obliged to determine in the decision on initiation of a public tender that part of the capacity which shall be reserved by the operator of the multiplex. Part of the capacity of the multiplex so reserved must enable a media service provider with its own part of the capacity of the multiplex to transmit and disseminate programmes using high-definition television technology.

4. A multiplex operator can divide the use of the capacity referred to in the first and second paragraphs of this article according to daily transmission time and offer individual terms under different conditions. Such a use can also be designated by auction.

Proposal				<p>1. For automatically licensed multiplexes, and in public tenders for the allocation of radio frequencies for multiplex purposes, IMC may determine that all or part of multiplex capacities shall be reserved for the broadcasting of programs using high resolution television technology.</p> <p>2. IMC may decide that a part of the multiplex capacity that will provide for occasional broadcasting using high resolution television technologies will be reserved for various providers in the said multiplex. This part of the multiplex capacity will be used for the distribution of current capacities of television channels that usually broadcast programs in lower resolution, for the purpose of broadcasting programs using high resolution television technologies. One part of the capacities reserved for this purpose will be made available on equal and non-discriminatory terms for the broadcasting and distribution of programs of all providers within the said multiplex.</p> <p>3. In the event that IMC acts according to paragraphs one and two of this article, it shall be obliged to determine the part of capacities that should be reserved by the network operator. The part of the multiplex capacities reserved for such purposes shall provide the media service provider with its part of multiplex capacities to be used for broadcasting and distribution of programs using high resolution television technologies.</p> <p>4. The DTT network operator may allocate the utilization of capacities referred to in the first and second paragraph of this article, as per the daily broadcasting schedule, and shall provide timeslots under various conditions. Such utilization may also be determined by means of an auction.</p>		
Evaluation	Notion “divide” is relevant because it is a financial opportunity for network operator			During switch over period , there is no automatically licensed multiplexes.		

Restrictions for the purposes of high-definition television

1. In a public tender for assignment of radio frequencies for a multiplex, the IMC may determine that all or part of the capacity of the multiplex shall be reserved for the dissemination of programmes using high-definition television technology.
2. In a public tender for assignment of radio frequencies for a multiplex, the IMC may decide that a part of the capacity of the multiplex for enabling occasional transmission using high-definition television technology shall be reserved for different providers in this multiplex. This part of the capacity of the multiplex shall be used for dissemination of the current capacities of individual television channels of this multiplex that usually broadcast programming at lower resolution for the purpose of transmitting programmes using high-definition television technology. Part of the capacities so reserved shall be available under equal and non-discriminatory conditions for the transmission and dissemination of any programming of all providers in this multiplex.
3. If the IMC acts according to the first and second paragraphs of this article, it shall be obliged to determine in the decision on initiation of a public tender that part of the capacity which shall be reserved by the operator of the multiplex. Part of the capacity of the multiplex so reserved must enable a media service provider with its own part of the capacity of the multiplex to transmit and disseminate programmes using high-definition television technology.
4. A multiplex operator can divide the use of the capacity referred to in the first and second paragraphs of this article according to daily transmission time and offer individual terms under different conditions. Such a use can also be designated by auction.

Violations and fines

22.

1. Any legal person, sole proprietor and self-employed individual shall be fined for an offence with a penalty ranging from EUR XX,000 to EUR XXX,000 if that person:

1.1. sets up a network contrary to the present Law (Article X);

1.2. fails to comply with obligations that arise from The Authority and IMC decision (Article X);

1.3. does not enable equal and non-discriminatory conditions for access to a multiplex system (Article X);

1.4. uses radio frequencies for a multiplex without a valid decision on the allocation of radio frequencies (Article X);

1.5. fails to act in accordance with a decision on the allocation of radio frequencies for a multiplex (Article X);

2. A fine ranging from EUR X,000 to EUR X,000 shall be imposed on the responsible person of a legal person, a responsible person of a sole proprietor and a responsible person of a self-employed person for committing a violation referred to in paragraph 1 of this article.

3. A fine ranging from EUR X00 to EUR X,000 shall be imposed on an individual for committing a violation referred to in the first paragraph of this article.

Comments	<p>Kom.1. Titulli i nenit te jet sanksionet, pasi qe keshtu eshte edhe me ligjin per KPM-ne, si dhe te ceketet se veprimi ne kundershtrim me ligjin dhe aktet nenligjore, do te sankionohet sipas ligjit te KPM-se. Pjesa tjeter te fshihet.</p> <p>Kom.2. Ne baze te ligjit te KPM-se nenit 3 vetem KPM eshte kompetente per te rregulluar dhe mbikqyr te drejatat dhe detyrimet dhe pergegjsite e personave fizik dhe juridik te cilet ofrojne sherbime mediale audio vizuale</p> <p>Kom.3. Te fshihet pasi qe rregullohet me ligjin e KPM-se.</p> <p>Kom.4. Neni 30 i ligjit te KPM-se percakton sanksionet, si dhe kur KPM mund tju leshoj te licencuarve sanksione.</p>	<p><i>We recommend the drafter specify the exact amounts of fines for violation of specific provisions listed in Article 22</i></p>		<p>Violations and fines</p> <p>Comment: Sanctions for violations are an IMC competency, in accordance with the Law on IMC.</p>		
Proposal	<p>1. Action of licensees in contradiction with this Law and secondary legislation adopted by the IMC will be sanctioned under the law of IMC.</p>			<p>1. Pursuant to the constitutional and legal competencies, IMC shall determine the issuance of sanctions for violations of the conditions of the license for digital broadcasting.</p>		

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Evaluation</p>	<p>REJECT:</p> <p>IMC should propose concrete amounts according to this Law.</p> <p>Law on IMC does not cover articles of this Law.</p> <p>(read article 30 of IMC Law “in accordance with the present Law”).</p> <p>We don’t violate any competence of IMC in this Article.</p> <p>Te përfshihet pika 4 e nenit 30 e Ligjit te KPM-se as a new paragraph: P.4.</p>	<p>We accept the concern. This issue will be discussed with IMC.</p> <p>Refer to Law on EC and Law on IMC.</p>		<p>Ask IMC to propose concrete amounts according to this Law.</p> <p>Law on IMC does not cover articles of this Law.</p> <p>(read article 30 of IMC Law “in accordance with the present Law”).</p> <p>We don’t violate any competence of IMC in this Article.</p> <p>Te përfshihet pika 4 e nenit 30 e Ligjit te KPM-se as a new paragraph: P.4.</p>		
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Final	Violations and fines				
	<p>1. Any legal person, sole proprietor and self-employed individual shall be fined for an offence with a penalty ranging from EUR 50,000 to EUR 500,000 if that person:</p> <p>1.1. sets up a network contrary to the present Law;</p> <p>1.2. fails to comply with obligations that arise from The Authority and IMC decisions;</p> <p>1.3. does not enable equal and non-discriminatory conditions for access to a multiplex system;</p> <p>1.4. uses radio frequencies for a multiplex without a valid decision on the allocation of radio frequencies;</p> <p>1.5. fails to act in accordance with a decision on the allocation of radio frequencies for a multiplex;</p> <p>2. A fine ranging from EUR 5,000 to EUR 10,000 shall be imposed on the responsible person of a legal person, a responsible person of a sole proprietor and a responsible person of a self-employed person for committing a violation referred to in paragraph 1 of this article.</p> <p>3. A fine ranging from EUR 1,000 to EUR 5,000 shall be imposed on an individual for committing a violation referred to in the first paragraph of this article.</p> <p>4. Fines under this Article shall be paid to the Kosovo budget.</p> <p>5. Within 90 days after the entry in to force of this Law, IMC shall issue a sublegal act which will regulate in details penalty provisions referring to this Article.</p>				
23.	Supervision over implementation				
Supervision over implementation of this Law shall be carried out by the IMC regarding the content and the Authority regarding the quality of services.					
Comments	<p>neni 23 esht ne kundershkrim me nenin 141 paragrafi 1 te Kushtetutes dhe nenin 3 paragrafi 1 te Ligjit te KPM-se, pasi qe KPM eshte pergjegjese edhe per kontent edhe brez frekuencore te transmetimit.</p>			<p>Supervision over implementation</p> <p>Comment, for reasons mentioned in the comment on Article 4, the following should be stated:</p>	

Proposal	Supervision over implementation of this Law shall be carried out by the IMC.			Supervision of the implementation of this Law, regarding content and quality of services, shall be conducted by the IMC.		
Evaluation	NOT ACCEPTED There are separate competences for regulated in Law on IMC and for Authority in Law on Electronic Communications.			NOT ACCEPT There are separate competences for regulated in Law on IMC and for Authority in Law on Electronic Communications.		
Final	Supervision over implementation					
	Supervision over implementation of this Law shall be carried out by the IMC regarding the content and the Authority regarding the quality of services.					
24.	Subsidiary application of the Law on Electronic Communications and the Law on Independent Media Commission					
	The Law on electronic communications shall apply to issues in the area of electronic communications which are not separately regulated by this Law, whereas the Law on Independent Media Commission shall apply to issues in the area of media and audio visual media services which are not separately regulated by this Law.					
Comments				Implementation of the respective Law on the Independent Media Commission, and other laws. Comment: for reasons mentioned in the comment on Article 4, the following should be stated:		
Proposal				The Law on the Independent Media Commission shall be implemented on issues from the field of management, regulation and supervision of the broadcasting spectrum, broadcasting policies and the sphere of media and audio-visual services. Issues not regulated explicitly by the Law on IMC or this Law, shall be regulated with other applicable laws.		
Evaluation				NOT ACCEPTED		

Final	<p style="text-align: center;">Application of the Law on Electronic Communications and the Law on Independent Media Commission</p> <p>The Law on electronic communications shall apply to issues in the area of electronic communications which are not separately regulated by this Law, whereas the Law on Independent Media Commission shall apply to issues in the area of media and audio visual media services which are not separately regulated by this Law.</p>					
25.	<p style="text-align: center;">Dispute resolution</p> <p>Disputes between multiplex operators shall be resolved by the Authority in accordance with the applicable legislation. Disputes between multiplex operators and media service providers, shall be resolved by the IMC in accordance with the provisions of the Law on Independent Media Commission.</p>					
Comments				<p>Resolution of disputes</p> <p>Comment: for reasons mentioned in the comment on Article 4, the following should be stated:</p>		<p>In order to accelerate the dispute resolution process it is important to include the Alternative Dispute Resolution as an important time management tool.</p> <p>IPKO team proposes a two-folded process. Firstly to have the Alternative Dispute Resolution Process as a way to resolve the dispute but if the parties can not reach an agreement than have either RAEPC or IMC resolve the issue as the last instance.</p>
Proposal				<p>Disputes between network operators, or between network operators and media service provisions, shall be resolved by the IMC, in conformity with the provisions of the Law on Independent Media Commission.</p>		<p>25.1 ,IMC strongly encourages the usage of Alternative Dispute Resolution methods such as Mediation and Negotiations` as the first instance of dispute resolution process` for both multiplex and network operators.`</p> <p>25.2 Disputes between multiplex operators shall be resolved by the Authority as the last instance if parties could not have reached a prior agreement thorough an Alternative Dispute Resolution Process, in accordance with the applicable legislation.</p> <p>25.3. Disputes between multiplex operators and media service providers, shall be resolved by the IMC as the last instance if parties could not have reached a prior agreement thorough an Alternative Dispute Resolution Process. This process shall be in full accordance with the provisions of the Law on Independent Media Commission.</p>

Evaluation				REJECT		<p>Need a Clarification</p> <p>We do agree with Mediation and Negotiations method but can you explain us where is this aligned with the IMC LAW???? This procedure is endorsed by Law on electronic communication. Law on IMC has very strict procedure regarding sanctions and violations.</p> <p>It should be in align with Law on IMC.</p>
Final	<p align="center">Dispute resolution</p> <p>Disputes between multiplex operators shall be resolved by the IMC in accordance with the applicable legislation. Disputes between multiplex operators and media service providers, shall be resolved by the IMC in accordance with the provisions of the Law on Independent Media Commission.</p>					
26.	<p>The Authority and IMC shall pass the Plan for Usage of Radio Frequencies (Channels) within three months as of the effective date of this Law according to Article 4 of this Law, Law on Independent Media Commission and the Law on Electronic Communications.</p>					
Comments	per kete brez pergjegjese esht KPM, dhe per kete arsye nuk eshte e nevojshme qe kete plan ta miratojn sebashku, vetem e njofton autoritetin.					<p>Comment: for reasons mentioned in the comment on Article 4, the following should be stated:</p>
Proposal	The IMC shall pass the Plan for Allocation and Usage of Radio Frequencies for digital terrestrial broadcasting (Mux channels) within three months as of the effective date of this Law according to Article 4 of this Law and Law on Independent Media Commission.					<p>IMC shall adopt the Plan on use of channels from the broadcasting spectrum within three months from the date of the entry into force of this Law, in conformity with Article 4 of this Law and the Law on the Independent Media Commission.</p>

Evaluation	<p>NOT ACCEPTED</p> <p>According to the Law on Electronic Communications Article 6 states that Authority prepared and Government Approves and propose for the Assembly to approve the Plan for Usage of Radio Frequencies (Channels) and Article 10 of Law on Electronic Communications (Art.1 and 11).</p> <p>SAME PROPOSAL FROM IMC FROM ARTICLE 4 paragraph 4.</p>					<p>In contradiction with the Law on Electronic Communications.</p> <p>This plan should be adopted by ARKEP.</p>			
Final	<p>The IMC shall pass the Plan for Usage of Radio Frequencies (Channels) for broadcasting transmissions within 90 days from the entry in to force of this Law in accordance to Article 4 of this Law, Law on Independent Media Commission and the Law on Electronic Communications.</p>								
27.	<p style="text-align: center;">Implementation of the Law</p> <p>Bylaws for implementation of this Law issued by IMC in compliance with the strategic policy regarding transition from analogue to digital broadcasting in Republic of Kosova shall be adopted within 90 days after the day of entry into force of this Law.</p>								
Comm ents									
Proposal				<p>Sublegal acts for the implementation of this Law shall be issued by the IMC, in accordance with the strategic policies for the switchover from analogue to digital broadcasting in the Republic of Kosovo, within 90 days from the entry into force of this Law.</p>					
Evaluat ion				<p>ACCEPT</p>					

Final	Implementation of the Law					
	Sublegal acts for the implementation of this Law shall be issued by the IMC, in accordance with the strategic policies for the switchover from analogue to digital broadcasting in the Republic of Kosovo, within 90 days from the entry into force of this Law.					
28.	This Law shall be applied after the period of switch over (17 June 2015) if the Law is not amended by that time.					
Comments	Ky nenm eshte ne kundertshtim me qwillimin e ketij ligji, mirepo ky ligj duhet te rergulloj procesin e digjitalizimit ndersa kalimi behet bazuar ne strategjin per digjitalizim.			Implementation of the law shall be synchronized with the timelines determined in the Strategy.		
Proposal				This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo, and should be implemented as per the dynamic foreseen in the Strategy.		
Evaluation	NOT ACCEPTED			REJECT		
Final	This Law shall be applied after the period of switchover (17 June 2015) if the Law is not amended by that time.					
29.	Entry into force					
	This Law shall come into effect fifteen (15) days after its publication in the <i>Official Gazette</i> of the Republic of Kosovo.					
Comments						

Propo sal						
Evalu ation						
Final	<p style="text-align: center;">Entry into force</p> <p>This Law shall come into effect fifteen (15) days after its publication in the <i>Official Gazette</i> of the Republic of Kosovo.</p>					
	<p style="text-align: center;">ANNEX</p> <p style="text-align: center;">RULES FOR THE CONTENT AND PROCEDURE FOR THE PUBLIC TENDER FOR CHANNELS 46 AND 58</p>					
Com ments	Te fshihet mos te ceken kanalet por nese duhet te ceken le te jete ky formulim :					
Proposal	<p>ANNEX</p> <p>RULES FOR THE CONTENT AND PROCEDURE FOR THE PUBLIC TENDER FOR CHANNELS 44 AND 48</p>		<p style="text-align: center;">SHTOJCË</p> <p style="text-align: center;">RREGULLAT PËR PËRMBAJTJEN DHE PROCEDURËN PËR TENDERË PUBLIK PËR KANALIN 58</p>			

Evaluation	<p>According to the draft version of the Strategy approved by the EC Expert in 10th of September 2012, page 29, table 6. The current analogue use of possible frequencies for the allotment “Kosova i Metohija”</p> <p>The table was removed, and in the final version of the draft strategy sent to Government for approval, the new paragraph (see paragraph 2,p.31) which is in contradiction with ITU rules and recommendations.</p>		?			
Final	ANNEX RULES FOR THE CONTENT AND PROCEDURE FOR THE PUBLIC TENDER FOR CHANNELS 46 AND 58					
A1.	The IMC shall announce a public tender (hereinafter: Public Tender) for granting a multiplex in accordance with this Law.					
Comm ents						
Propo sal						
Evalu ation						
Final	Public Tender The IMC shall announce a public tender (hereinafter: Public Tender) for granting a multiplex in accordance with this Law.					

A2.	<p>1. The IMC shall publish the Decision to announce a public tender in the <i>Official Gazette</i>.</p> <p>2. The Decision shall also be published on the web-site of the IMC, and in the national and foreign press as well as by other appropriate means.</p>					
Com ments						
Prop osal						
Evalu ation						
Final	<p>Publication of Decision</p> <p>1. The IMC shall publish the Decision to announce a public tender in the <i>Official Gazette</i>.</p> <p>2. The Decision shall also be published on the web-site of the IMC, and in the national and foreign press as well as by other appropriate means.</p>					

A3.

Content of a Decision to announce a public tender

1. A Decision to Announce a Public Tender shall in particular contain the following:
 - 1.1. the object of the Public Tender which shall be an available multiplex;
 - 1.2. the general and programme conditions;
 - 1.3. proof needed of the right to submit a Bid in the Public Tender procedure;
 - 1.4. the manner of payment and the amount of fee for the concession for the multiplex, as well as the manner of payment and the amount of fees for the tender documentation and for a Bid to the Public Tender;
 - 1.5. information on the administrative fee for the use of frequencies,
 - 1.6. a deadline for the submitting a request for the tender documentation to the IMC, which may not be longer than thirty (30) days from the date of publishing of the Decision to Announce the Public Tender,
 - 1.7. a deadline for the submitting the Bid to the IMC, which may not be longer than sixty (60) days from the date of publishing of the Decision to Announce the Public Tender (hereinafter: the Tender Deadline),
 - 1.8. information that a Bid which does not fulfil all the conditions prescribed by the Decision to Announce the Public Tender and/or which is not made according to the tender documentation shall not be accepted,
 - 1.9. information that the Bid must be submitted to the IMC in six (6) copies, one of which is the original with the signature of the person responsible, in a sealed envelope marked with the full name and address of the Bidder and with the following text: "Do not open - A Bid to the Public Tender for granting a concession for multiplex",
 - 1.10. information that the submitted bids and related fees shall not be returned,
 - 1.11. information that, within 10 days from the date of the expiry of the Tender Deadline, the IMC shall inform all the parties involved in the Public Tender procedure of the time and place of the IMC session at which all the bids submitted within the Tender Deadline shall be publicly opened,
 - 1.12. a final deadline for the IMC to reach its Decision on the concession which is the object of the Public Tender, that may not be longer than thirty (30) days from the date of the public opening of the bids.
2. The tender documentation shall be composed in the English language.
3. The tender documentation must be composed in accordance with the relevant Decision to Announce a Public Tender.

Comments		<p><i>We recommend the drafter revise paragraph 2 of Article 3 by providing the right of interested parties to prepare the tender documentation in the Albanian, Serbian or English language</i></p> <p>Paragraph 2 of Article 3 foresees that the tender documentation shall be composed in the English language. In order to comply with the Law on the Use of Languages and the Law on Public Procurement in Kosovo, we recommend the drafter revise paragraph 2 of Article 3 by providing the right of interested parties to prepare the tender documentation in the Albanian, Serbian or English language.</p>				
Propo sal						
Evaluat ion		ACCEPT				

Content of a Decision to announce a public tender

Final	<p>1. A Decision to Announce a Public Tender shall in particular contain the following:</p> <ul style="list-style-type: none"> 1.1. the object of the Public Tender which shall be an available multiplex; 1.2. the general and programme conditions; 1.3. proof needed of the right to submit a Bid in the Public Tender procedure; 1.4. the manner of payment and the amount of fee for the concession for the multiplex, as well as the manner of payment and the amount of fees for the tender documentation and for a Bid to the Public Tender; 1.5. information on the administrative fee for the use of frequencies, 1.6. a deadline for the submitting a request for the tender documentation to the IMC, which may not be longer than thirty (30) days from the date of publishing of the Decision to Announce the Public Tender, 1.7. a deadline for the submitting the Bid to the IMC, which may not be longer than sixty (60) days from the date of publishing of the Decision to Announce the Public Tender (hereinafter: the Tender Deadline), 1.8. information that a Bid which does not fulfil all the conditions prescribed by the Decision to Announce the Public Tender and/or which is not made according to the tender documentation shall not be accepted, 1.9. information that the Bid must be submitted to the IMC in six (6) copies, one of which is the original with the signature of the person responsible, in a sealed envelope marked with the full name and address of the Bidder and with the following text: "Do not open - A Bid to the Public Tender for granting a concession for multiplex", 1.10. information that the submitted bids and related fees shall not be returned, 1.11. information that, within 10 days from the date of the expiry of the Tender Deadline, the IMC shall inform all the parties involved in the Public Tender procedure of the time and place of the IMC session at which all the bids submitted within the Tender Deadline shall be publicly opened, 1.12. a final deadline for the IMC to reach its Decision on the concession which is the object of the Public Tender, that may not be longer than thirty (30) days from the date of the public opening of the bids. <p>2. The tender documentation shall be composed in the Albanian, Serbian and English language.</p> <p>3. The tender documentation must be composed in accordance with the relevant Decision to Announce a Public Tender.</p>
A4.	<p>1. The tender documentation should in particular contain the following:</p> <ul style="list-style-type: none"> 1.1. A general information questionnaire about the bidder; 1.2. precise information on the deadline and place for submitting the Bid as per article 3 of this Annex; 1.3. precise information on the deadline and manner of delivery of the IMC's Decision as per article 3 of this Annex; 1.4 information on the technical parameters determined by the Authority.
Comments	<p>Paragrafi 1.5 propozohet te shtohet, nga praktika konsiderojme se kjo pjese eshte e nevojshme.</p>

Proposal	1.5 Terms and right to participate in public tenders: Deadlines for application: The main criteria; Technical standards (e.g. MPEG 4 - DVBT2) technical capacities; Categorization, national, regional and local and coverage for each category separately.					
Evaluation	ACCEPT					
Final	Tender Documentation					
A5.	<p>1. The tender documentation should in particular contain the following:</p> <ul style="list-style-type: none"> 1.1. A general information about the bidder; 1.2. precise information on the deadline and place for submitting the Bid as per article 3 of this Annex; 1.3. precise information on the deadline and manner of delivery of the IMC's Decision as per article 3 of this Annex; 1.4. information on the technical parameters determined by the Authority. 1.5. Terms and right to participate in public tenders;; The main criteria; Technical standards (e.g. MPEG 4 - DVBT2) technical capacities; Categorization - national, regional and local and coverage for each category separately. <p>1. In order to promote transparency and to ensure the close coordination between the competent authorities, the entire process will be overseen by Supervisory Commission (hereinafter: SC) consisting of:</p> <ul style="list-style-type: none"> 1.1. one representative from the Ministry of Economic Development; 1.2. two representatives from the IMC; 1.3. two representatives from the Authority. <p>2. SC is chaired by the representative from the Ministry of Ecnomic Development.</p> <p>3. SC will supervise the public tender procedure and approve the decisions made by Evaluation Commission for the hiring of the consultant company and Evaluation Commission for the public tender .</p> <p>4. The representatives from the Ministry, IMC and the Authority in the Evaluation Commissions shall not be the same persons.</p> <p>5. SC shall make a decision by a majority of votes when at least three (3) members a present. Each of the member, including the chaiperson, has the right of one vote and the votes of a majority of the voting members shall be required to dispose of any item of business. In the event of a voting deadlock, the Chairperson shall cast a second, deciding vote.</p>					

Comments		<p><i>We recommend the drafter revise Paragraph 3 of Article 5 to include the definition of the "Evaluation Commission" before reference to its competences and relationships with the other bodies</i></p> <p>Paragraph 3 of Article 5 of the Annex foresees that "Supervisory Commission will supervise the public tender procedure and approve the decisions made by Evaluation Commission for hiring of the consultant company and Evaluation Commission for the public tender". We have noticed that the Evaluation Commission is not defined until Article 6 of the Annex. Thus, we recommend the drafter revise Paragraph 3 of Article 5 by providing the definition of the "Evaluation Commission" prior to reference to its competences and relationships with other bodies.</p>				
Proposal						
Evaluation		<p>REJECT</p> <p>The duties and responsibilities of Evaluation Commissions (EC I and EC II) are defined in Article 3, Article 5, of the Annex.</p>				
Final	<p style="text-align: center;">Supervisory Commission</p> <ol style="list-style-type: none"> 1. In order to promote transparency and to ensure the close coordination between the competent authorities, the entire process will be overseen by Supervisory Commission (hereinafter: SC) consisting of: <ol style="list-style-type: none"> 1.1. one representative from the Ministry of Economic Development 1.2. two representatives from the IMC 1.3. two representatives from the Authority. 2. SC is chaired by the representative from the Ministry of Economic Development. 3. SC will supervise the public tender procedure and approve the decisions made by Evaluation Commission for the hiring of the consultant company and Evaluation Commission for the public tender. 4. The representatives from the Ministry, IMC and the Authority in the Evaluation Commissions shall not be the same persons. 5. SC shall make a decision by a majority of votes when at least three (3) members are present. Each of the members, including the chairperson, has the right of one vote and the votes of a majority of the voting members shall be required to dispose of any item of business. In the event of a voting deadlock, the Chairperson shall cast a second, deciding vote. 					

A6. 1. A specialized international consultancy will be selected to assist IMC and Authority to administer the tender process, conduct due diligence and assist SC to achieve its objectives pursuant to the Tender Instructions.

2. Specialized international consultancy will be selected on the international public call and overseen by Evaluation Commission for the hiring of the consultant company (hereinafter ECI).

3. ECI is consisting of one representative from the Ministry of Economic Development, two representatives from the IMC and two representatives from the Authority.

4. ECI is chaired by the representative from the IMC.

5. ECI shall make a decision by a majority of votes when at least three (3) members are present. Each of the member, including the chairperson, has the right of one vote and the votes of a majority of the voting members shall be required to dispose of any item of business. In the event of a voting deadlock, the Chairperson shall cast a second, deciding vote.

6. Selection of the international consultancy by the ECI shall be approved by the SC.

Comments						
Proposal						
Evaluation						

Evaluation Commission I

Final	<p>1. A specialized international consultancy will be selected to assist IMC and the Authority to administer the tender process, conduct due diligence and assist during whole tender process.</p> <p>2. Specialized international consultancy will be selected on the international public call and overseen by Evaluation Commission for the hiring of the consultant company (hereinafter EC I).</p> <p>3. ECI is consisting of one representative from the Ministry of Economic Development, two representatives from the IMC and two representatives from the Authority.</p> <p>4. ECI is chaired by the representative from the IMC.</p> <p>5. ECI shall make a decision by a majority of votes when at least three (3) members are present. Each of the members, including the chairperson, has the right of one vote and the votes of a majority of the voting members shall be required to dispose of any item of business. In the event of a voting deadlock, the Chairperson shall cast a second, deciding vote.</p> <p>6. Selection of the international consultancy by the ECI shall be approved by the SC.</p>					
A7.	<p>1. Evaluation Commission for public tender (hereinafter ECII) which will take a decision on the best bid at the public tender for the multiplex is consisting of one representative from the Ministry of Economic Development, two representatives from the IMC and two representatives from the Authority.</p> <p>2. ECII is chaired by the representative from the IMC.</p> <p>3. ECII shall make a decision by a majority of votes when at least three (3) members are present. Each of the member, including the chairperson, has the right of one vote and the votes of a majority of the voting members shall be required to dispose of any item of business. In the event of a voting deadlock, the Chairperson shall cast a second, deciding vote.</p> <p>4. Decision on the granting concession for the operator of the multiplex shall approve SC.</p>					
Comments						
Proposal						
Evaluation						

Final	<p style="text-align: center;">Evaluation Commission II</p> <p>1. Evaluation Commission for public tender (hereinafter ECII) which will take a decision on the best bid at the public tender for the multiplex is consisting of one representative from the Ministry of Economic Development, two representatives from the IMC and two representatives from the Authority.</p> <p>2. ECII is chaired by the representative from the IMC.</p> <p>3. ECII shall make a decision by a majority of votes when at least three (3) members are present. Each of the members, including the chairperson, has the right of one vote and the votes of a majority of the voting members shall be required to dispose of any item of business. In the event of a voting deadlock, the Chairperson shall cast a second, deciding vote.</p> <p>4. Decision on the granting concession for the operator of the multiplex shall approve SC.</p>				
A8.	<p>1. The IMC shall deliver the tender documentation to every person who has submitted the request for the delivery of the tender documentation within the Tender Deadline and who has enclosed the evidence of payment of the prescribed fee as per Article 3, Subparagraph 1.10 of the present Annex.</p> <p>2. A Bid to a Public Tender may submit any legal or natural person and who has received the tender documentation in accordance with the present Annex.</p> <p>3. The Bid referred to paragraph 2 of this Article shall be composed in the English language.</p>				
Comments		<p><i>We recommend the drafter amend paragraph 3 of Article 8 as follows: "The Bid referred to in paragraph 2 of this Article shall be composed in either the English, Albanian or Serbian language"</i></p> <p>Paragraph 3 of Article 8 states that the Bid referred to paragraph 2 of this Article shall be composed in the English language. According to this provision, the bidder is obliged to submit the bid only in the English language, whereas the official languages in Kosovo are the Albanian and Serbian languages. Therefore, in order to comply with the Law on the Use of Languages¹ and the Law on Public Procurement in Kosovo,² we recommend the drafter amend paragraph 3 of Article 8 as follows: "The Bid referred to paragraph 2 of this Article shall be composed in either of the English, Albanian or the Serbian language".</p>			

¹ See Articles 2.1 and 4.2 of the Law No. 02/L-037 on the Use of Languages as promulgated by UNMIK Regulation 2006/51, 20 October 2006.

² See Article 13 of the Law No. 04/L-042 on Public Procurement in Republic of Kosovo, 04 October 2011.

Propo sal									
Evalu ation		ACCEPT							
Final	<p style="text-align: center;">The Bid</p> <p>1. The IMC shall deliver the tender documentation to every person who has submitted the request for the delivery of the tender documentation within the Tender Deadline and who has enclosed the evidence of payment of the prescribed fee as per Article 3 of the present Annex.</p> <p>2. A Bid to a Public Tender may submit any legal person and who has received the tender documentation in accordance with the present Annex.</p> <p>3. The Bid referred to paragraph 2 of this Article shall be composed in either of the Albanian, Serbian or English, language.</p>								
A9.	The name, seat and other information of a bidder on a Public Tender shall be classified until the moment of the public opening of the relevant bids.								
Com ments									
Propo sal									
Evalu ation									
Final	<p style="text-align: center;">Publication of details of the bidders</p> <p>The name, seat and other information of a bidder on a Public Tender shall be classified until the moment of the public opening of the relevant bids.</p>								

A10.	To all such written requests fro additional explanation of the tender documentation as the participants in the Public Tender procedure submit to the IMC ten (10) days before the expiry of the tender deadline at the latest, the IMC shall answer within seven days from the date of the written request. The IMC shall be obliged to deliver its response to all participants in the Public Tender oricedure at the same time, without disclosing any information on the submitter of the original request for additional explanation.						
Comm ents	<table border="1" style="width:100%; height:100%; border-collapse: collapse;"> <tr> <td style="width:25%; background-color: #cccccc;"></td> <td style="width:25%; background-color: #f2cccc;"></td> <td style="width:25%; background-color: #c6e2ff;"></td> <td style="width:25%; background-color: #ffe4c4;"></td> <td style="width:25%; background-color: #e0e0e0;"></td> <td style="width:25%; background-color: #6699cc;"></td> </tr> </table>						
Propo sal	<table border="1" style="width:100%; height:100%; border-collapse: collapse;"> <tr> <td style="width:25%; background-color: #cccccc;"></td> <td style="width:25%; background-color: #f2cccc;"></td> <td style="width:25%; background-color: #c6e2ff;"></td> <td style="width:25%; background-color: #ffe4c4;"></td> <td style="width:25%; background-color: #e0e0e0;"></td> <td style="width:25%; background-color: #6699cc;"></td> </tr> </table>						
Evalu ation	<table border="1" style="width:100%; height:100%; border-collapse: collapse;"> <tr> <td style="width:25%; background-color: #cccccc;"></td> <td style="width:25%; background-color: #f2cccc;"></td> <td style="width:25%; background-color: #c6e2ff;"></td> <td style="width:25%; background-color: #ffe4c4;"></td> <td style="width:25%; background-color: #e0e0e0;"></td> <td style="width:25%; background-color: #6699cc;"></td> </tr> </table>						
Final	<p style="text-align: center;">Deadlines</p> <p>To all such written requests fro additional explanation of the tender documentation as the participants in the Public Tender procedure submit to the IMC ten (10) days before the expiry of the tender deadline at the latest, the IMC shall answer within seven days from the date of the written request. The IMC shall be obliged to deliver its response to all participants in the Public Tender oricedure at the same time, without disclosing any information on the submitter of the original request for additional explanation.</p>						
A11.	<ol style="list-style-type: none"> 1. In the case where the IMC should change or supplement the conditions of the Public Tender or the Decision to announce the Public Tender before the expiry of the Tender Deadline, such change or supplement shall be published in the same mode in which the original Decision to Announce the Public Tender shall have been published. 2. The change or supplement as per Paragraph 1 of this Article shall be delivered to all the participants in the Public Tender procedure who shall have received the tender documentation. 3. In the case where the changed or supplemented conditions of the Public Tender should have considerable influence on the composing of the bids, or that they should be published when more than a half of the Tender Deadline shall have expired, the Tender Deadline shall be extended. 						
Comm ents	<table border="1" style="width:100%; height:100%; border-collapse: collapse;"> <tr> <td style="width:25%; background-color: #cccccc;"></td> <td style="width:25%; background-color: #f2cccc;"></td> <td style="width:25%; background-color: #c6e2ff;"></td> <td style="width:25%; background-color: #ffe4c4;"></td> <td style="width:25%; background-color: #e0e0e0;"></td> <td style="width:25%; background-color: #6699cc;"></td> </tr> </table>						

Propo sal						
Evalu ation						
Final	Changes and supplements of the bid documentations					
	<p>1. In the case where the IMC should change or supplement the conditions of the Public Tender or the Decision to announce the Public Tender before the expiry of the Tender Deadline, such change or supplement shall be published in the same mode in which the original Decision to Announce the Public Tender shall have been published.</p> <p>2. The change or supplement as per Paragraph 1 of this Article shall be delivered to all the participants in the Public Tender procedure who shall have received the tender documentation.</p> <p>3. In the case where the changed or supplemented conditions of the Public Tender should have considerable influence on the composing of the bids, or that they should be published when more than a half of the Tender Deadline shall have expired, the Tender Deadline shall be extended.</p>					
A12.	<p>1. According to its own estimation or based on a written request for additional explanation as per article 11 of this Annex, the IMC may change or supplement the tender documentation in the form of an annex before the expiry of the Tender Deadline.</p> <p>2. Such annex with changes or supplements of the tender documentation shall be delivered free of charge, by the IMC, to all participants in the Public Tender procedure who shall have received the tender documentation ten days before the expiry of the Tender Deadline at the latest.</p> <p>3. The IMC may extend the Tender Deadline for the purpose of changing or supplementing the tender documentation. The notification of the extension of the Tender Deadline shall be delivered to all the participants in the Public Tender procedure by the IMC, and it shall be published in the same mode in which the original Decision to Announce the Public Tender shall have been published.</p> <p>4. The tender documentation shall not be changed or supplemented after the expiry of the Tender Deadline.</p>					
Com ments						
Propo sal						

Evaluation						
Final	<ol style="list-style-type: none"> 1. According to its own estimation or based on a written request for additional explanation as per article 11 of this Annex, the IMC may change or supplement the tender documentation in the form of an annex before the expiry of the Tender Deadline. 2. Such annex with changes or supplements of the tender documentation shall be delivered free of charge, by the IMC, to all participants in the Public Tender procedure who shall have received the tender documentation ten days before the expiry of the Tender Deadline at the latest. 3. The IMC may extend the Tender Deadline for the purpose of changing or supplementing the tender documentation. The notification of the extension of the Tender Deadline shall be delivered to all the participants in the Public Tender procedure by the IMC, and it shall be published in the same mode in which the original Decision to Announce the Public Tender shall have been published. 4. The tender documentation shall not be changed or supplemented after the expiry of the Tender Deadline. 					

A13.	<p>1. A Bid to a Public Tender shall contain:</p> <p>1.1. The evidence on the fulfillment of conditions stipulated by the Public Tender;</p> <p>1.2. a programme basis which must contain a programme scheme determining:</p> <p>1.2.1. in the case of a general television or radio programme channel:</p> <p>1.2.1.1. the type of audiovisual or radio programmes, i.e. their classification into specific programme groups,</p> <p>1.2.1.2. the foreseen quantitative proportion between specific groups of contents,</p> <p>1.2.1.3. the foreseen maximal volume of advertising contents,</p> <p>1.2.1.4. the foreseen volume of own production and the share of Kosovo audio and audiovisual works,</p> <p>1.2.1.5. the share of European audiovisual works and of European audiovisual works by independent producers,</p> <p>1.2.1.6. the time of broadcast;</p> <p>1.2.2. in the case of a specialized television or radio programme channel:</p> <p>1.2.2.1. the type of audiovisual or radio programmes whereby more than 70% thereof must be of the same type,</p> <p>1.2.2.2. the foreseen quantitative proportion between specific groups of contents,</p> <p>1.2.2.3. the foreseen maximal volume of advertising contents,</p> <p>1.2.2.4. the foreseen volume of own production and the share of Kosovo audio and audiovisual works,</p> <p>1.2.2.5. the share of European audiovisual works and of European audiovisual works by independent producers,</p> <p>1.2.2.6. the time of broadcast.</p> <p>1.3. data on the ownership structure of a legal person submitting the Bid.</p> <p>1.4. personal data on the company and its seat, i.e. name and family name and permanent residence of persons who directly or indirectly, through other legal persons, have stocks or shares in that legal person, as well as data on the percentage of those stocks or shares.</p> <p>1.5. data on the Bidder's financial standing.</p>					
Com ments						
Propo sal						

Evaluation						
Final	Content of the Bid of the Public Tender					
	<p>1. A Bid to a Public Tender shall contain:</p> <p>1.1. The evidence on the fulfillment of conditions stipulated by the Public Tender;</p> <p>1.2. A programme basis which must contain a programme scheme determining:</p> <p>1.2.1. in the case of a general television or radio programme channel:</p> <p>1.2.1.1. the type of audiovisual or radio programmes, i.e. their classification into specific programme groups,</p> <p>1.2.1.2. the foreseen quantitative proportion between specific groups of contents,</p> <p>1.2.1.3. the foreseen maximal volume of advertising contents,</p> <p>1.2.1.4. the foreseen volume of own production and the share of Kosovo audio and audiovisual works,</p> <p>1.2.1.5. the share of European audiovisual works and of European audiovisual works by independent producers,</p> <p>1.2.1.6. the time of broadcast;</p> <p>1.2.2. in the case of a specialized television or radio programme channel:</p> <p>1.2.2.1. the type of audiovisual or radio programmes whereby more than 70% thereof must be of the same type,</p> <p>1.2.2.2. the foreseen quantitative proportion between specific groups of contents,</p> <p>1.2.2.3. the foreseen maximal volume of advertising contents,</p> <p>1.2.2.4. the foreseen volume of own production and the share of Kosovo audio and audiovisual works,</p> <p>1.2.2.5. the share of European audiovisual works and of European audiovisual works by independent producers,</p> <p>1.2.2.6. the time of broadcast.</p> <p>1.3. data on the ownership structure of a legal person submitting the Bid.</p> <p>1.4. personal data on the company and its seat, i.e. name and family name and permanent residence of persons who directly or indirectly, through other legal persons, have stocks or shares in that legal person, as well as data on the percentage of those stocks or shares.</p> <p>1.5. data on the Bidder's financial standing.</p>					
A14.	The IMC shall accept and file all bids submitted within the Tender Deadline. Each bid's envelope shall be marked with the date and time of its receipt.					

Comm ents						
Propo sal						
Evalu ation						
Final	The IMC shall accept and file all bids submitted within the Tender Deadline. Each bid's envelope shall be marked with the date and time of its receipt.					
A15.	1. The IMC shall conduct a procedure of the public opening of bids submitted within the relevant Tender Deadline on a session open to the public. 2. Bids delivered after the expiry of the Tender deadline shall not be considered.					
Com ments						
Propo sal						
Evalu ation						
Final	<p style="text-align: center;">Public Opening Procedures</p> 1. The IMC shall conduct a procedure of the public opening of bids submitted within the relevant Tender Deadline on a session open to the public. 2. Bids delivered after the expiry of the Tender deadline shall not be considered.					

A16.	The IMC shall keep minutes on a procedure of the public opening of bids which shall be an integral part of the minutes of the relevant IMC's session.					
Comments						
Proposal						
Evaluation						
Final	The IMC shall keep minutes on a procedure of the public opening of bids which shall be an integral part of the minutes of the relevant IMC's session.					
A17.	<ol style="list-style-type: none"> 1. After the procedure of a Public Tender has been conducted, the ECII shall pass the relevant Decision on the choice of the most optimal bid and on granting the concession that was the object of the Public Tender to the SC for approval. 2. The procedure of determining the most optimal bid shall be conducted by the ECII through examination, comparison and evaluation of all opened bids. 3. In the case of the renouncement of a granted concession, the IMC shall annul the relevant Public Tender. 					

Comments		<p><i>We recommend the drafter add a new paragraph under Article 17 to specify the criteria applied in the bidding process for deciding which bid is the “most optimal”</i></p> <p>Paragraph 1of Article 17 states that the Evaluation Commission will award a public tender after identifying the “most optimal bid”. For the sake of transparency, and being in compliance with the provisions of the Law on Public Procurement in Kosovo³ we recommend that the drafter add a new paragraph under Article 17 to specify the criteria applied in the bidding process for deciding which bid is the “most optimal”.</p>				
Propo sal						
Evalu ation		<p>We agree that there should be defined more specific criteria in the bid procedure on this Annex.</p>				
Final	<ol style="list-style-type: none"> 1. After the procedure of a Public Tender has been conducted, the ECII shall pass the relevant Decision on the choice of the most optimal bid and on granting the concession that was the object of the Public Tender to the SC for approval. 2. The procedure of determining the most optimal bid shall be conducted by the ECII through examination, comparison and evaluation of all opened bids. 3. In the case of the renouncement of a granted concession, the IMC shall annul the relevant Public Tender. 					

³ See Articles 52 and 60 of the Law No. 04/L-042 on Public Procurement in Republic of Kosovo, 04 October 2011.

A18. 1. A Decision on granting a concession for the multiplex operator shall contain:

- 1.1. The name of the concession granting authority (IMC) with the number and the date on which the Decision shall have been adopted;
- 1.2. the name of the bidder,
- 1.3. the object of the concession,
- 1.4. a description of activities which are to be performed,
- 1.5. the level and area of the concession,
- 1.6. the expiry date of the concession period,
- 1.7. the amount of the concession fee,
- 1.8. a deadline for the most optimal bidder to sign the relevant contract on concession,
- 1.9. the consequences for non-compliance with the deadline for conclusion of the contract on concession,
- 1.10. an explanation of the reasons for selecting the particular bidder,
- 1.11. instruction on legal remedy,
- 1.12. the signature of the responsible person and the seal of the concession granting authority.

Comments						
Proposal						
Evaluation						

Final	<p style="text-align: center;">Decision on Granting a Concession for the Multiplex Operator</p> <p>1. A Decision on granting a concession for the multiplex operator shall contain:</p> <ol style="list-style-type: none"> 1.1. The name of the concession granting authority (IMC) with the number and the date on which the Decision shall have been adopted; 1.2. the name of the bidder, 1.3. the object of the concession, 1.4. a description of activities which are to be performed, 1.5. the level and area of the concession, 1.6. the expiry date of the concession period, 1.7. the amount of the concession fee, 1.8. a deadline for the most optimal bidder to sign the relevant contract on concession, 1.9. the consequences for non-compliance with the deadline for conclusion of the contract on concession, 1.10. an explanation of the reasons for selecting the particular bidder, 1.11. instruction on legal remedy, 1.12. the signature of the responsible person and the seal of the concession granting authority. 					
A19.	<p>1. The IMC shall adopt a decision to annul a Public Tender or a part of a Public Tender in the following cases:</p> <ol style="list-style-type: none"> 1.1. if there shall be not even one submitted bid which would be acceptable according to the conditions of the Public Tender; 1.2. if it should be established, before the expiry of the Tender Deadline, that the tender documentation must be considerably changed. 					
Comments						
Proposal						
Evaluation						

Final	1. The IMC shall adopt a decision to annul a Public Tender or a part of a Public Tender in the following cases: 1.1. if there shall be not even one submitted bid which would be acceptable according to the conditions of the Public Tender; 1.2. if it should be established, before the expiry of the Tender Deadline, that the tender documentation must be considerably changed.					
A20.	A decision on granting a concession shall be published in the Official Gazette and it may also be published in another appropriate mode.					
Comments						
Proposal						
Evaluation						
Final	Publication of the Decision					
	A decision on granting a concession shall be published in the Official Gazette and it may also be published in another appropriate mode.					
A21.	A decision on granting a concession shall be delivered with a return receipt to all bidders.					
Comments						
Proposal						
Evaluation						
Final	Receipt					
	A decision on granting a concession shall be delivered with a return receipt to all bidders.					

A22.	IMC's decision on granting a concession is not subject to appellate review, however administrative proceedings may be initiated against it.				
Comments		<p><i>We recommend the drafter amend Article 22 as follows: "IMC's decision on granting a concession can be subject of appellate review by the IMC Appeals Board in accordance with the Law on the IMC"</i></p> <p>Article 22 states that the "IMC's decision on granting a concession is not subject to appellate review, however administrative proceedings may be initiated against it". We consider that this Article is ambiguous and in contradiction with Article 39 of the Law on the IMC which provides the right to appeal against the decisions issued by IMC. Therefore, in order to comply with the Law on the IMC and the right to legal remedies, we recommend that the drafter amend Article 22 as follows: "IMC's decision on granting a concession can be subject of appellate review by the IMC Appeals Board in accordance with the Law on the IMC".</p>			
Propo sal					
Evalu ation		IMC Appeals Board does not responsible for this purpose. It is responsible just for IMC decisions. See article 43 of Law on IMC.			
Final	<p style="text-align: center;">Appeal</p> <p>Evaluation Commission's II decision approved by SC, can be appealed to the Competent Court.</p>				