

**Standpoint of the National Broadcasting Council
on the possibility for operators to interfere with the distributed programme,
dated 17 April 2012**

Following the controversies around the issue of distribution by operators established within the territory of Poland of the RTL programme which has a licence for the transmission of the boxing fight of W. Kliczko and T. Adamek, the National Broadcasting Council, having analysed the applicable provisions of law, has concluded as follows:

Pursuant to Art. 4 item 8 of the Act on radio and television broadcasting dated 29 December 1992 (consolidated text of 2011, No. 43, item 226 as amended), distribution means taking over of a diffused programme as a whole and without change and its concurrent secondary diffusion.

Under the Act on radio and television broadcasting, it is not possible for a distributing entity to make any changes in the programme that it has taken over.

The programme broadcaster is in charge of the show selection and show scheduling within the programme. No other entity can therefore take the liberty to decide on the show scheduling and interfere with the programme. The broadcaster should settle – with copyright and neighbouring rights holders and with other title holders such as sport federations holding transmission rights solely to specific sporting events – the purchase of rights to the contents distributed with the programme, with regard to the entire area on which the programme is made available to the public, having regard to contracts concluded by the broadcaster with telecommunication operators for programme retransmission.

Pursuant to the Copyright and Neighbouring Rights Act, programme carrying operators are obliged to enter into relevant contracts with competent collective copyright and neighbouring rights management societies.

The National Broadcasting Council, having analysed the specimen of licence agreements concluded by Polish operators with administrators of rights to the programmes, wishes to emphasise that operators should not enter into agreements containing clauses that contradict the applicable provisions of the Act on radio and television broadcasting.

When signing licence agreements, programme distributing entities should not act to evoke conflict between the agreement provisions and the Act on radio and television broadcasting. Operators should not conclude contracts which will obligate them to introduce arbitrary changes in the distributed programme – something they are not authorised to do in the light of the Act on radio and television broadcasting.

It is the duty of the parties to enter into such agreements which will guarantee that the Act on radio and television broadcasting is observed.

Chairman

National Broadcasting Council

Jan Dworak