WikiLeaks

1966

1974

1977

1985

1997

2000

2003

2006

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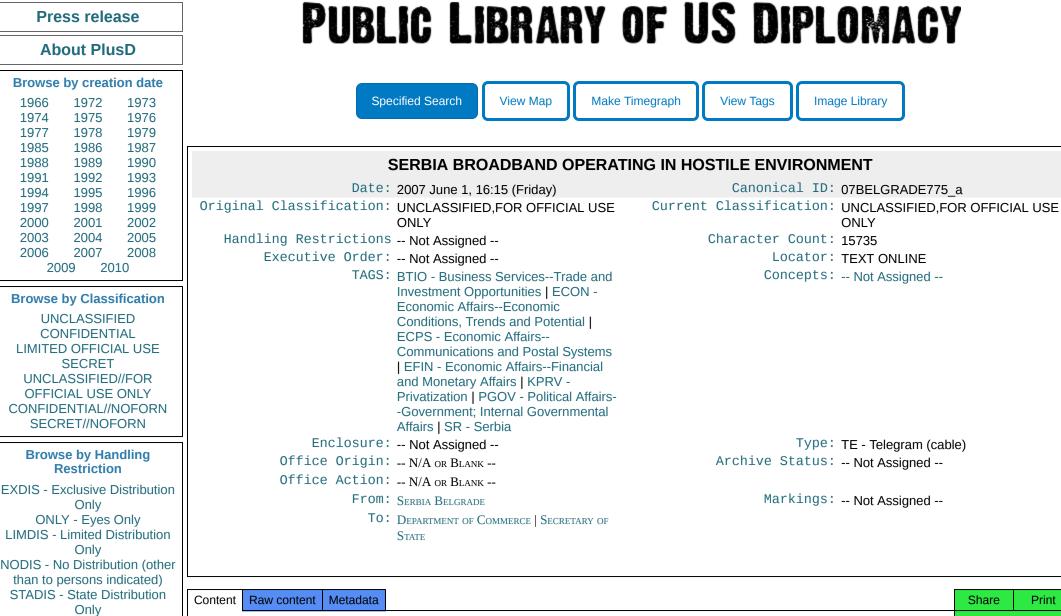
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# SUMMARY

#### LOU - Limited Official Use - - - - - - -

1. (U) Only five years after the Southeastern Europe Equity Fund invested USD 10 million in this cable television and broadband start-up, Serbia Broadband (SBB) has become a significant market player in Serbia. Its successful growth places it squarely as a threat to state-owned Telekom Srbija. On the verge of expanding its fiber optic infrastructure and obtaining an international gateway for cheaper bandwidth, SBB faces an increasingly hostile environment as Telekom fights to maintain its market dominance. END SUMMARY.

### GROWING UNDER THE RADAR

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2. (U) SBB was founded in Kraqujevac in November 2000 under the name KDS (Cable Distribution System). The cable television market was highly fragmented into small local providers. In early 2002, the Southeast Europe Equity Fund (SEEF) invested USD 10 million in KDS, changing the name to Serbia Broadband. The goal of the USD 150 million SEEF was to provide capital for new business development, expansion and acquisitions. The fund was initially managed by Soros Private Funds Management (SPFM) and financed by the Overseas Private Investment Corporation (OPIC). In May 2004, the European Bank for Reconstruction and Development (EBRD) invested EUR 15 million for 1 million shares in SBB. Bedminster Capital Management now manages SEEF.

3. (U) SBB then began acquiring some 25 local cable operators to build a foundation for the business. Its goal was to become the number one cable television and data communications provider in Serbia by focusing on customer care, high-quality programming and community-based efforts. In the last five years, SBB has achieved annual growth of 60-70 percent, with annual revenues of EUR 26 million in 2006. Revenues are projected to reach an estimated EUR 46 million in 2007. Adding some 20,000 subscribers per month, SBB has grown from 2,000 cable television subscribers in 2002 to controlling almost 50 percent of the Serbian market today with some 350,000 subscribers. Realizing that half of the Serbian population could not receive cable, SBB developed its Total TV satellite network to round out its offerings. Total TV has expanded into Bosnia and Slovenia as well. SBB is also a leading internet service provider with some 50,000 subscribers.

4. (SBU) Dragan Solak, CEO of SBB, told econoffs that SBB's strategy from the beginning was to grow quietly, choosing not to confront Telekom Srbija directly in any one market. SBB, like all internet service providers in Serbia, purchases its internet bandwidth from Telekom Srbija. Telekom also owns the some 6,000 km optical cable backbone, to which other cable operators may gain access only by signing agreements with Telekom for interconnectivity. Solak said that SBB signed an agreement with Telekom in 2003 that provided use of Telekom's backbone and other infrastructure at agreed rates.

### HEAVY-HANDED TELEKOM

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5. (SBU) Confronted with SBB's rapid growth, Telekom informed SBB that it wanted to renegotiate the agreement, offering the pretext that Telekom did not understand the technologies SBB would deploy when the original contract was signed.

According to Solak, more and more banks were migrating to SBB for data transmission services during this time, hurting Telekom. He said that Telekom began to search for some loophole in the contract to give it grounds for cancellation or renegotiation. SBB refused to renegotiate simply because Telekom was dissatisfied.

6. (SBU) In the summer of 2006, Telekom attempted to purchase SBB. Solak said that Drasko Petrovic, director general of Telekom Srbija, was determined to either buy SBB or destroy it by making life difficult for the company. Ron Drake, chairman of Bedminster Capital traveled to Belgrade several times to confront Telekom, telling Petrovic that if and when SBB is sold, it will be through a public tender. He refused Telekom's overtures.

7. (SBU) In September 2006, SBB received a notice from Telekom that several kilometers of SBB cable should be removed from Telekom conduits, due to capacity issues and non-compliant cables. Telekom said that if the cables were not pulled out, it would pull them out itself. In response, SBB provided evidence that capacity was not a problem - only 30 percent was in use - and sent pictures of the cables to show they were in complete compliance.

8. (SBU) Both the Embassy and the European Bank for Regional Development encouraged Telekom to pursue its case through the courts if necessary. Telekom then again sought contract negotiations with SBB. SBB again refused to renegotiate. In late 2006, a group of Serbian businessmen approached Solak about purchasing SBB. It was clear that these men were backed by Telekom; however, SBB rebuffed this approach, too. Solak said that Telekom has backed off during the recent parliamentary election season, but he expects renewed pressure now that a new government has been established. (NOTE: Aleksandra Smiljanic, a nominee of the Democratic Party and a U.S.-educated professor of electrical engineering at the University of Belgrade, was just appointed Minister of Telecommunications.)

## DELAYS IN INTERNATIONAL GATEWAY APPROVAL

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9. (U) In the current market situation, only Telekom Srbija has authorized access to the international gateway exchange. Therefore, all internet service providers (ISP) must purchase broadband internet wholesale from Telekom. There are claims that Telekom even sells high-speed internet to its retail customers at rates lower than the wholesale rates it offers to other ISPs.

10. (SBU) On March 17, 2007, SBB applied for international gateway access from the Regulatory Agency for Telecommunications of the Republic of Serbia (RATEL). Solak said that once SBB and other providers are granted such access, Telekom's business model will collapse. For example, Telekom sells high-speed internet to ISP providers at a rate of approximately EUR 800,000 for 2.5 Gbit/s transmission speed per month. SBB received quotes from a Romanian company that would sell this same 2.5 Gbit/s for approximately EUR 10,000. SBB has the demand to justify leasing of 1.5 Gbit/s but can only afford 1.0 Gbit/s at Telekom prices. It is paying some 80 times more than the average regional cost for high-speed internet. Solak said that once SBB is granted independent access, Telekom would not only lose SBB's volume business, but also other ISPs who would start purchasing wholesale from SBB. He estimates that it would mean a EUR 20 to 30 million revenue loss to Telekom if SBB is granted access.

11. (SBU) In order to grant approval, RATEL first must receive permission for the project from the military, police and secret police to ensure that the project would be not adversely affect national interests. Inside sources within RATEL told Solak that approval was granted by the military, but responses from the others were still pending. Solak is concerned that Telekom will continue using its influence to block this approval through its political connections.

12. (SBU) On May 8, Milan Jankovic, Executive Director of the telecommunications department at RATEL, told econoff that telecommunications operators are not satisfied with Telekom's rates and are seeking international gateway access. However, Jankovic said that Telekom is inclined to offer more capacity to these operators at much better rates. He contended that operators, given a new proposal expected from Telekom, would most likely not want international gateway access.

13. (SBU) Another hurdle for SBB and other ISPs is useage of,

or interconnectivity to, Telekom's backbone infrastructure. Various state-owned entities like Elektroprivreda Srbija (EPS), Serbian Railways and the military have their own networks through public right of ways. The GOS has effectively blocked access to these networks. Telekom has an exclusive agreement with the Serbian Railways and EPS refuses to allow private companies use the unused cable already laid. In an effort to expand its network towards the Romanian and Hungarian borders, SBB has quietly entered into an agreement with Vojvodina Water to use its extensive irrigation system for laying optical fiber. It recently received the necessary building permits to move forward with this project but is waiting for RATEL approval for international gateway access.

### COMPETITION COMMISSION FINES SBB -----

14. (U) Most recently, SBB has come under fire by the Commission for the Protection of Competition. On March 27, 2007, the Commission ruled that SBB had conducted a promotional campaign which resulted in "the prevention, limitation and violation of competition" on the relevant market.

15. (U) In March 2006, AVcom, a cable television operator with some 10,000 subscribers, conducted a promotional campaign in the municipalities of Stari Grad and Palilula in the City of Belgrade. The promotion offered three months of free cable and internet with free installation. Wanting to expand its market share in these areas, SBB offered a year of free cable, internet and installation with the stipulation that the user would sign onto SBB for three years. As a result of the promotion, between 500 and 600 subscribers switched to SBB.

16. (U) France Presetnik, General Manager of AVcom, filed a motion against SBB in the Commercial Court in Belgrade asking for a temporary injunction against the promotion, claiming that SBB was abusing its market position. Presetnik, also president of the Business Association of Cable Distributors, allegedly used his position to file these motions on behalf of the association. (NOTE: Solak told econoff that members of the association were unaware of these proceedings against SBB until after that fact.) The Commercial Court and the Higher Commercial Court both rejected the motion and found SBB's behavior did not violate the Competition Law.

17. (U) Presetnik then filed a complaint with the Commission. The complaint included the promotional campaign in March 2006, and also alleged that SBB had abused its dominant position in signing contracts with foreign production companies like BBC Prime and National Geographic for exclusive broadcasting rights. The Commission released its decision on March 22, 2007, finding that SBB has a dominant market position in the distribution of radio and televisions programs through the cable distribution network in the City of Belgrade, and that it had abused its dominant position in Palilula and Stari Grad by employing a promotional campaign that resulted in the "prevention, limitation and violation of competition on the etermined relevant market." The Commission ordeed SBB to modify the agreements with the users acuired during the campaign to allow them to cance without penalties. The Commission rejected theclaim that SBB abused its position by signing exlusivity agreements with foreign production companes.

18. (SBU) On April 23, SBB appealed the Commssion's decision to the Supreme Court. SBB chalenged it primarily on the basis that the Commisson erroneously defined the relevant geographicalmarket by starting with the City of Belgrade and extrapolating that to the two municipalities mentioed above. SBB contended that the Commission faild to show how this promotional campaign was an ause of market position and bad for consumers. I also asserted that the Commission's order to amnd user contracts would itself violate the competiton law. Allowing users free installation and a 2-month subscription with no obligation would itelf be a predatory act with the sole purpose of acquiring subscribers and squeezing competition out of the market. SBB also challenged the decision on procedural points.

19. (U) The Supreme Court has yet to render a decision in this matter. Meanwhile, according to the Law on Competition, SBB can be fined from one to 10 percent of its total combined annual worldwide turnover. This penalty will now be decided in lower, misdemeanor court, and SBB is challenging his in hopes that the Supreme Court will issue it decision prior to the misdemeanor court.

20. (U) At the same time that SBB is appealing the finding that it is a monopolist, Telekom Srbija has signaled its intent to use aggressive tactics in search of market share. On May 7, it launched a bundled offer to provide ADSL Internet access at a reduced monthly rate with unlimited landline calls within the same area code and calls from a fixed line to two chosen mobile numbers within Telekom's mobile network at a significantly discounted rate. Essentially, Telekom is using its fixed line monopoly to offer benefits other ISPs cannot.

CRITICISM OF THE TELELCOMMUNICATIONS STRATEGY

21. (U) ISPs have voiced their concerns about the GOS's Telecommunications Strategy adopted in September 2006. Slobodan Markovic, President of the Center for Internet Development in Serbia, criticized the strategy as one that in reality supports Telekom Srbija's monopoly. There were also complaints about the short two-week time frame for experts to provide feedback to the GOS before the strategy was adopted. Slavoljub Kacarevic, Assistant Director for Marketing, expressed concern that "RATEL did not recommend the strategy as an independent regulatory body, but in the name of preserving the Telekom monopoly at the request of the government."

22. (U) On May 24, the Foreign Investors Council (FIC) released its annual "White Book" which contains proposals for improving the Serbian investment climate in a number of sectors. The FIC urged the GOS to develop an interconnection regime in line with EU standards in the shortest possible time. It also emphasized the need to liberalize internal infrastructure and open up for use alternative infrastructure (i.e. optical cable used for utility purposes, broadcasting or other) for all kinds of electronic services. RATEL should also develop provisions and guidelines for eliminating the cross-subsidization in the telecom sector as well as bylaws allowing for competition in the fixed telephony network. The FIC contends that Telekom's monopoly of the fixed network will prevent further development in this area. (NOTE: The telecommunications industry made EUR 1.3 billion in 2006 revenues, up 40 percent from the prior year, contributing to 5.6 percent of GDP. The mobile business accounts for some 48.8 percent and fixed-line operations for 34.7 percent of the sector's overall revenues.)

### COMMENT

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23. (U) SBB's experience is illustrative of the challenges facing the Serbian telecommunications sector. Telekom Srbija, which will not be privatized before 2010, based on current plans, continues to use aggressive tactics and political influence to retain its monopolistic position and make it difficult for other players. Whether it is in mobile telephony or broadband internet, we continue to hear stories in which Telekom threatens corporate customers who are considering leaving Telekom to go to a competitor. This behavior will most likely continue as Telekom fights to preserve its market dominance. END COMMENT.

POLT

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The Courage Foundation is that supports those who risk life or liberty to make significant contributions to the historical record.

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