

[AM] Broadcasting Act Adopted and Challenged

IRIS 2001-2:1/9

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On 9 September 2000, the President of the Republic of Armenia signed the Act on Television and Radio adopted by the National Assembly (Parliament) of Armenia. The Act regulates the procedures for licensing and establishment, as well as the activities of television and radio broadcasting companies. It determines the structure of the national broadcasting system, providing for the co-existence of commercial and public broadcasting companies. The State must ensure that at least one radio and one television programme of the Public Broadcasting Company is received in all the territory of Armenia (Art.4). Broadcasters acquire equal legal status regardless of their ownership profile.

The act guarantees the freedom of "selection, production and dissemination of television and radio programmes" and specifically stipulates the professional right of journalists to seek and obtain information necessary to prepare television and radio programmes. Art. 19 protects broadcasting companies from interference by state officials except for the cases stipulated by law (in states of emergency and war).

The Act defines a television or radio broadcasting company as a legal entity operating under a license issued by the governmental regulatory body. Both physical persons and legal entities are entitled to be founders of broadcasting companies. Among those not parties, religious organisations, and members of government and local municipal bodies. The act limits the possible share of foreign investment in a broadcasting company to the amount of the controlling interest, but it does not prevent a foreign citizen from being a founder. The antimonopoly provision of Art. 20 prevents an individual or legal entity from holding more than one license for television or radio.

Art. 24 contains several restrictions on programme content, violations of which involve the most serious sanctions. According to this provision, dissemination of pornography, programmes advocating "violence and atrocity, denigration of human rights, and damaging the psychological development of children" are prohibited, as are programmes that advocate any activity forbidden by the existing law. These restrictions apply both to encoded programmes and conventional broadcasting. The same article establishes a time frame for showing erotic programmes and horror movies (from midnight to 6 a.m.), which does not apply to encoded channels.

The Act contains a number of provisions to protect national heritage in broadcasting. Broadcasting companies must devote at least 65 percent of overall airtime to national programmes with the exception of live broadcasts of news, sports, educational and cultural programmes. Encoded programmes are exempt from this rule. The Act provides a transitional schedule to reach the quota by 2005, while the Public Broadcasting Company shall apply this quota immediately.

Programmes of foreign broadcasting companies shall be disseminated only under international agreements, provided that they occupy not more than a third of the spectrum space in each band. Russian RTR channel is currently one of the five existing VHF frequencies in the Republic of Armenia and is broadcast under such an agreement. This provision has created obstacles to the transmission of the Russian ORT channel, which earlier was broadcast in the same band. As a result ORT was moved to a UHF frequency in January 2001.

Commercial broadcasting shall be regulated by the National Commission, whose members are appointed by the President of Armenia. The Commission grants licenses, monitors the implementation of laws and imposes sanctions (issues warnings, imposes fines, suspends particular programmes or licenses, revokes licenses) upon broadcasters. A license can be revoked by a decision of the Commission according to Article 55 of the Act (for example for repeated violations of license conditions for which the licensee received at least three written warnings from the Commission in one year).

The Commission issues three types of licenses: for the production of radio and television programmes, for the broadcasting of programmes, or for both types of activities. The Commission shall grant programme production licenses to all eligible applicants. Other types of licenses shall be granted only through competition. The act specifies selection criteria for such competitions, which include a higher priority for local and national programmes, and for technical and professional qualifications of the staff. The license shall not be transferred or sold to another person (Art. 47).

The act stipulates license fees for granting broadcasting rights, the amount depends on the territory served and transmission characteristics. The licensee must also pay an annual fee for using the frequency aimed at recovering the State's expenses for its maintenance.

The Public Broadcasting Company shall have a special status as a state enterprise designated to guarantee the constitutional right of citizens to obtain information. Specific obligations of the public broadcaster are enumerated in Art. 28. The public broadcaster shall schedule programmes concerning issues of public importance at the most appropriate broadcasting time and present various viewpoints on those issues, avoid political bias and excessive political advertising, and provide programmes that meet the interests of social and ethnic minorities.

Public television and radio are allowed to broadcast advertising provided it does not exceed 5 percent of air time (Art. 28).

The President appoints the executive body of public television - the Council (as was done by a president's decree on 19 January 2001). The activity of the public broadcaster is supervised by the National Assembly, which approves the Rules of the Public Broadcasting Company and approves its annual budget and expenses. These prerogatives of the National Assembly were challenged in January 2001 by the President before the Constitutional Court, which found the articles of the Act that deal with the Council's accountability unconstitutional and suspended them.

