[LV] The Legality of Broadcasting License Fees Unclear

IRIS 2009-7:1/27

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In May 2009 Latvian commercial broadcasters pointed out that the legality of the annual broadcasting license fees may be challenged. The broadcasters claim that there is no valid legal basis for the specific amount of the fees, as the relevant legal acts have lost their force for several years already.

The Radio and TV Law provides that commercial broadcasters must pay an annual broadcasting license fee in the amount specified by the regulations of the Cabinet of Ministers (CoM). Thus, the Law obliges the broadcasters to make the payment for the license, but delegates to the CoM the duty to decide on the amount of this payment.

However, currently there are no valid regulations of the CoM defining the amount of the fee. Previously, the amount of the fee was established by the Regulations of the CoM No. 48 of 16 February 1999 “Regulations on the State Fee for the Granting of the Special Permit (License) to Specific Types of Commercial Activities”. According to these Regulations, the amount of the annual broadcasting license fee was established in the range of LVL 100 (ca. EUR 143) for small local radio broadcasters up to LVL 20.000 (ca. EUR 28.760) for national and crossborder TV broadcasters. These regulations have lost their legal force since 19 May 2006 as a consequence of the revocation of the “Law on Business Activities” on the basis of which they were issued. From then on the amounts of the specific license fees, if applicable, were regulated by specific regulations of the CoM. However, the CoM did not adopt any specific regulations on the broadcasting license fees after 19 May 2006. The National Broadcasting Council (NBC), the Latvian regulatory authority in the broadcasting field, continued to collect the broadcasting license fees in accordance with the amounts specified in the no longer valid regulations.

Now, the commercial broadcasters have pointed to this legally unclear situation and claim that any license fees collected after 19 May 2006 have been illegal, and the NBC should repay them. The broadcasters have announced that they are considering approaching the court with a claim for the repayment. The NBC, in turn, is of the opinion that it was not its legal duty to adopt or initiate the decision on the amount of the license fees, as this is the prerogative of the CoM. Currently the NBC has prepared a draft regulation on the amount of license fees and plans to submit it to the CoM for discussion.

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24.08.1995. likums "Radio un televīzijas likums" ("LV", 137 (420), 08.09.1995.)

http://www.likumi.lv/doc.php?id=36673

Radio and TV Law

16.02.1999. MK noteikumi Nr.48 "Noteikumi par valsts nodevu par speciālas atļaujas (licences) izsniegšanu atsevišķiem uzņēmējdarbības veidiem" ("LV", 48/49 (1508/1509), 19.02.1999.)

http://www.likumi.lv/doc.php?id=21901&from=off

Regulations of CoM No. 48 of 16 February 1999

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