[TR] Regulation on Radio, Television, and Optional Broadcasting Services provided on the Internet entered into force

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As previously reported in the IRIS Newsletter (IRIS 2018-10/25), the Regulation on Radio, Television, and Optional Broadcasting Services Provided on the Internet (Radyo, Televizyon ve İsteğe Bağlı Yayınların İnternet Ortamından Sunumu Hakkında Yönetmelik) entered into forced on 1 August 2019. The regulation is applicable to national and foreign broadcasters offering radio, television, and on-demand broadcasting services via the Internet. Such broadcasters could be either media service providers or platform operators, and the regulation leaves out of scope the individual communication services (excluding the news, films, and TV series) and platforms that are not specifically designed for providing Internet-based media services.

The regulation establishes several financial duties for broadcasters; media service providers must obtain a licence in order to broadcast on the Internet, while platform operators should obtain broadcasting transmission authorisation. Besides licence fees and broadcasting transmission authorisations (see IRIS 2018-10/25), th media service providers and platforms offering on-demand services have to pay a fee of 5 ‰ of their annual net sales to the Radio and Television Supreme Council (*Radyo Televizyon Üst Kurulu'nun* - RTUK). Media service providers who already have a licene for non-Internet based broadcasting services (for example, cable, satellite, terrestrial, etc.) could launch an Internet broadcasting service without obtaining a separate licence if they transfer the URL information and/or the necessary platform operator’s information to RTUK. Foreign companies providing broadcasting services in Turkey must establish a headquarters office in Turkey in order to obtain a licence.

From 1 September 2019, media service providers and platform operators offering broadcasting services without a licence will be notified by RTUK on the necessity of obtaining one. If broadcasting still continues without the application procedure having been initiated, and the licence fee is not paid, RTUK could request the magistrate's criminal judge to order the provider concerned to remove or block the content. RTUK has recently published several guidelines and application forms specific to each type of licence.

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Besides financial obligations, the regulation assigns several other obligations to media service providers and platform operators, some of which are mutually identified for both categories of broadcasters. These are related to keeping the documents used to apply for a licence, and the information contained in them, updated, and complying with the relevant law and international treaties that Turkey is a party to.

Media service providers are given editorial responsibility which is, as defined in the regulation, the power to regulate and have control over the choice of programmes and their content and provide a streaming service (in the case of radio and television programmes) and a catalogue (in the case of on-demand services). Media service providers are responsible for removing or excluding from their services those programmes which violate the related legislation (for instance, Law No. 6112 on the Establishment of Radio and Television Enterprises and Their Media Services). They are also entitled to encrypt the sound of the programme together with the image, in cases where the programme is encrypted. Moreover, they shall provide several pieces of information, such as the number of subscriptions and users they have, as well as their corporate structure, programmes, programme catalogues, platform operators and commercial income.

Platform operators' duties mostly consist in providing notifications to RTUK on media service providers, such as their name, contact information, web address and the language in which they broadcast. In addition, they must not transmit broadcasts by media providers who do not have a licence, or whose licence is either invalid or has been terminated. Upon request of RTUK, they shall provide remote access to the audio and visual files that are being used for broadcasting as well as the possibility of monitoring them.

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