



EUROPEAN PLATFORM OF REGULATORY AUTHORITIES

Nuremberg, Germany
October 28-30, 2015

**EXPERIENCE OF GEORGIAN NATIONAL COMMUNICATIONS COMMISSION
IN DISCLOSURE OF FINAL BENEFICIARIES OF MEDIA**

REVIEW OF LEGAL REGULATIONS AND PRACTICAL ASPECTS OF THE ISSUE

**Georgian National
Communications
Commission**

Speaker: Ivane Makharadze



- ❑ Georgian National Communications Commission (GNCC) – permanent, collegial, independent regulatory authority that does not subordinate to any state authority;
- ❑ 5 members which are elected for 6 years term. Commissioners elect chairman for 3 years term;
- ❑ There are up to 112 TV Broadcasters and 46 Radio Broadcasters which are under regulation of GNCC;
- ❑ The source of financing of GNCC is regulation fee collected from telecom and broadcasting undertakings;



Licensed /Authorized Broadcaster

Georgian Law on broadcasting determines who may hold the license/authorization in the broadcasting sector:

- Citizen of Georgia;
- Resident natural person or legal entity of Georgia;

Prohibition applies to:

- Public (administrative) authority;
- Officials or other employees of public (administrative) authority;
- Legal entity interdependent with public (administrative) authority;
- Political party or its officials;
- Legal entity registered in offshore zone;
- Legal entity with a share or stocks directly or indirectly owned by a legal entity registered in offshore zone;



Declaration of Compliance

A seeker of license/authorization shall enclose an application with the declaration of compliance which must include:

- Identification data of a seeker of license/authorization;
- Data on superior officers and bodies of a seeker of license/authorization;
- Confirmation that a seeker of license/authorization or its beneficial owner are not the persons specified in Paragraph 2, Article 37 of the Law on Broadcasting;
- Identification data of beneficial owners of a seeker of license/authorization and information about the shares owned by them;



Transparency Obligation - 1

Obligation to provide the regulator with the declaration of compliance in case of a change in:

- Owners of a broadcaster;
- Shareholders of a broadcaster;
- Members of governing bodies and officials of a broadcaster;

Obligation to:

- Inform the regulator within 10 days;
- Publish the declaration on the webpage;



Transparency Obligation – 2

Annually, no later than February 1 broadcasters are obliged to provide the Regulator as well as society with the following information:

- Declaration of compliance;
- Other broadcasting licenses/authorization;
- Shares in any other broadcaster;



Supervision and disclosure of failures - 1

Only GNCC can supervise and control the conformity of the activities of a broadcaster with legislation of Georgia.

- ❑ Supervision is based mostly on submitted information by broadcasters; The difficulties might appear while monitoring the authenticity of the information submitted by the license/authorization seeker as well as the broadcaster about its owners/beneficial owners;
- ❑ If the owner/beneficial owner of the license/authorization seeker, as well as the broadcaster is a foreign legal entity, to control the authenticity GNCC is empowered to oblige the license/authorization seeker to provide Regulator with additional documentation;



Supervision and disclosure of failures – 2

- ❑ In case of Georgian resident natural persons or legal entities, it is easy to check data, because GNCC uses the data of Public Register of the ministry of Justice which is publicly available (www.napr.gov.ge).
- ❑ The problem remains if the broadcaster does not inform the Regulator within 10 days about changes. In this case, the ownership of the broadcaster remains non transparent for a time. When the broadcaster submits the annual information to the commission (including the declaration of compliance) this information becomes public;
- ❑ The failure to meet declaration submission deadline will trigger sanctions against broadcaster, which can be considered as prevention measure for this kind of violation.



Practice and Solutions

What happens when:

- The Broadcaster submits the information later than 10 days;
- After monitoring reveals that the owner/beneficial owner of the broadcaster is the person specified in Paragraph 2 of the article 37 and the licence/authorization seeker submitted false information to the commission;

Let's consider two cases from the Practice of GNCC:



Case 1

“Broadcasting Company Evrika”

- ❑ „Broadcasting Company Evrika” LTD made changes in the incorporation documents and changed the owners of the company, but the broadcaster did not provide the declaration of compliance to the commission within the 10 days determined by the law;
- ❑ GNCC imposed an administrative liability (administrative fine) on „Broadcasting Company Evrika” LTD for failing to notify promptly (within 10 days) the regulator on changes in broadcasters ownership;

In this case the violation was failure to meet declaration submission deadline



Case 2 “Energy Group”

- ❑ Broadcasting company „Energy Group” LTD was announced as a winner in the competition and received a broadcasting license.
- ❑ After monitoring revealed that the beneficial owner of the broadcaster was the official of the administrative authority who according to the law on Broadcasting is a person who is prohibited to own the broadcasting license, GNCC revoked the license.



- ❑ According to Georgian law on broadcasting one of the grounds for revocation of a license is expiration of the license suspension period in case the license holder fails to eradicate the violation pointed out by the Regulator.
- ❑ The question is - should the Regulator specify a reasonable period of time for eliminating the violation or is it a sufficient ground to revoke a license?



Disclosure of Financial Sources

In 2011 GNCC adopted a resolution, based on which license holders/authorized entities were imposed obligation to fill periodically statistical forms and to submit them to the Commission;

In order to provide community, market participants and investors with reliable and frequently updated data about broadcasting market of Georgia, GNCC has developed an Analytical Portal, where all the submitted information is made public (analytics.gncc.ge);

- Broadcasters are obliged to submit information regarding the Sources of the Revenue – Advertising/Teleshopping, Sponsorship, Product Placement, Announcements (mostly regional broadcasters); The revenues which are more than 7000 Gel (approximately 3000 US Dollars) should be disclosed to the last individuals/legal entities;
- Broadcasters are also obliged to submit information regarding the services provided for the broadcasters – Production costs, Audit etc;



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THANK YOU

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