

## **Regulation on Radio, Television and On-Demand Broadcasts on the Internet**

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Regulation on Provision of Radio, Television and On-Demand Broadcasts on Internet Medium (“Regulation”) has been published on the Official Gazette of August 1, 2019. The main aim of the Regulation is to regulate the internet broadcasts.

### **I. Scope of the Regulation**

The amendment to the Law on Radio and Television Broadcasts (“RT Law”), which was published in the Official Gazette of March 28, 2018, regulated broadcasting services (i.e. radio, television and on-demand broadcasts) provided through internet and required these services and their providers (media service providers and platform operators) to be under the supervision and authority of Radio and Television Supreme Council’s (“RTUK”). The Regulation provides detailed information regarding this process.

The Regulation is enacted in order to determine rules and procedures of provision of broadcast services through the Internet, the broadcast license to be granted to the media service providers, the broadcast transmission authority to be granted to platform operators, and supervision of such broadcasts. The Regulation excludes individual communication from its scope, and states that (i) platforms that are not dedicated to transmitting radio, television and on-demand broadcast services through internet medium and (ii) real persons and legal entities which only provide hosting services to radio, television and on-demand broadcast services will not be considered as “platform operators”.

The Regulation further states that the Regulation is applicable to the content or hosting providers in a foreign country, or for media service providers that are under the jurisdiction of another country, or for media service providers which broadcast in Turkish through internet targeting

Turkey or in another language but targeting Turkey and including commercial broadcasts to Turkey, if RTUK determines these broadcasts to be in violation of RT Law and international treaties.

## **II. Obligations Set Out by the Regulation**

According to the Regulation, media service providers that are willing to broadcast their radio, television and on-demand broadcast services solely through internet are obliged to obtain a broadcast license from RTUK and platform operators that are willing to transmit these broadcasts on internet are obliged to obtain broadcast transmission authorization from RTUK. The broadcast license is exclusively granted to joint stock companies established as per the Turkish Commercial Code, for the purpose of providing radio, television and on-demand broadcast services. The application for this license is made to RTUK along with a request petition, signed license application forms drafted by RTUK and the necessary documents specified in Article 7 of the Regulation. The license is granted for ten years.

The media broadcast service providers' further obligations are provided as follows:

- Keeping RTUK up to date regarding the changes in the documents provided to RTUK,
- Complying with the obligations set out by RT Law, which includes provisions setting forth certain requirements, restrictions and measures regarding broadcasts and their contents.
- Removing the on-demand broadcast services from program catalogues which is found in violation of RT Law by RTUK.
- Providing RTUK with information on corporate structure,
- Providing audio and image files used in broadcast services to RTUK so that RTUK may remotely monitor the broadcasts, and where necessary provide RTUK with membership rights, license and usage rights to RTUK so that RTUK may record the broadcasts,
- In encrypted broadcasts, encrypting both images and audio in a manner that these images and audio cannot be identified,

- Providing RTUK with the website addresses that the broadcast will be made on, identification tags, addresses, registered e-mails, names and addresses of the representatives,
- Keeping broadcast records for a year following the broadcast,
- Providing RTUK with a copy of broadcast record upon RTUK's request within ten days,
- If the broadcast is subject to an investigation or prosecution, keeping the record of broadcast until the investigation or prosecution is over,
- Using protective symbols to inform audience on the content of programs either visually or audibly,
- Informing the program catalogues to RTUK for on-demand broadcasts,
- Declaring commercial communication income and paying RTUK share in this regard,
- Paying broadcast license fees.

### **III. Fees**

Regulation states that the fee for radio broadcast license fee from the Internet is 10,000 (ten thousand) Turkish Liras, TV broadcast license fee from the Internet is 100,000 (hundred thousand) Turkish Liras, and on-demand broadcast license fee from the Internet is 100,000 (hundred thousand) Turkish Liras.

Having said that, Regulation Amending the Regulation on Procedures and Principles on Auditing Commercial Communication Revenues of Media Service Providers and Declaration and Payment of the Supreme Council's Share was also published on the Official Gazette of, August 1, 2019. This regulation requires the media service providers holding internet broadcasting license to declare their commercial communication revenues.

### **IV. Sanctions**

If RTUK finds out about broadcast services through Internet without a broadcast license, the issue is announced on RTUK's website and in this announcement notifies the broadcaster,

informing that they can request a broadcast license by way of a petition and a letter of undertaking, along with a payment for license fees of three months, and an access ban request will be issued to the criminal judgship of peace, and a criminal complaint will be filed, in case of failure to do so. If the broadcaster does not provide the petition and undertaking letter, and does not pay the license fees of three months, access ban procedure will be initiated.

If RTUK determines that broadcasting services of entities who do not have temporary broadcast right and/or broadcast license, or whose broadcasting license has been cancelled are transmitted through internet, upon RTUK's request, a criminal judgship of peace may render a decision for removal and/or access ban of contents. The criminal judgship of peace judge will render its decision within twenty four (24) hours at the latest without a hearing. However, it is still possible to appeal such decisions within the scope of provisions of the Turkish Code of Criminal Procedure. The article also refers to fifth paragraph of Article 8/A of the Law No. 5651 which requires access ban decisions to be rendered regarding specific URL addresses and sets forth monetary fines for those who do not comply with access ban decisions, respectively.

## **V. Practical Effects of the Regulation**

The Regulation states that broadcast services provided on internet under a license and/or authorization from RTUK shall be in accordance with RT Law which includes provisions setting forth certain requirements, restrictions and measures regarding such broadcasts and their contents. Therefore, RTUK will be authorized to monitor such broadcasts and their contents; and decide on measures such as broadcast bans and monetary fines that are determined within the scope of RT Law. Also, media service providers that are willing to broadcast their radio, television and on-demand broadcast services solely through internet would be obliged to obtain a broadcast license from RTUK and platform operators that are willing to transmit these broadcasts on internet are obliged to obtain broadcast transmission authorization from RTUK.

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In conclusion, the RTUK will be entitled to intervene in certain online broadcasts. Entities that provide radio, television and on-demand broadcasting services through the internet will need to assess whether their services fall under the Regulation and whether they will need to obtain a license from the RTUK to maintain their services, and they will have to adjust their broadcasts accordingly to avoid potential restrictions or penalties.

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*(First published by Mondaq on August 6, 2019)*