

14 March 2024

To: MK David Bitan  
Chairman of Knesset Economy Committee

**Subject: Bill To Increase Competition in Broadcasting Market-2023  
(Legislative Amendments) (P/3653/25)**

Written by Adv. Ronen Reingold and Adv. Uri Bassat

This document is submitted on behalf of Zulat and of Ms. Liora Nir of the Fair Regulation Movement ahead of a meeting of the Knesset Economics Committee scheduled for 18 March 2024. It deals with the first version of the aforementioned bill submitted by MK Ariel Kellner, as well as with an updated version dated 13 March containing amendments presumably instigated by the committee's legal counsel. Both versions consist of unlawful customized arrangements that clearly favor vested interests at the expense of the public purse and the public interest.

In its original version, the bill seeks to cut to a minimum the fee paid by niche television channels for transmission on the Idan Plus system. This is an unlawful customized arrangement specifically tailored to the needs of Channel 14 (owned by Jewish Israeli Channel Ltd.) that seeks to exempt it from this payment.

To cover up its true intent and to fend off claims about unlawful customized legislation, an amended version of the bill seeks to extend this financial benefit to all users, including the age-old commercial channels that transmit on Idan Plus using SD technology (Channel 12's Keshet and Reshet) and the public broadcasters Kan and Knesset Channel, thereby imposing it on the entire Israeli public under the false pretext of "increasing competition."

If this were not enough, the bill, in both of its versions, seeks to introduce yet another customized arrangement, whereby Channel 14 would be fully immune from termination of its transmissions for failure to pay its debt to the Second Authority for Television and Radio (SATR), at a time when the latter's lawsuit to collect this debt is currently pending in court.

In addition, the bill seeks to generate another significant financial benefit for tycoons at the expense of the public purse. At present, the Israel Public Broadcasting Corporation (IPBC) is allowed to collect standard rates from commercial bodies for the use of its archive material. The bill seeks to change this situation, and oblige the IPBC to make this material available at operating cost only.

An air of illegality hovers over these proposals, which constitute a clear violation of the public interest. They create customized arrangements tailored to the size, status, and specific needs of Channel 14, which will create a budget shortfall that will be then be passed on to the public. It is an unfounded, unjustified, and disproportionate move that will in no way result in "increasing competition."

These unlawful arrangements were put forward without any factual basis or financial/competitive examination, and without affording the legislator the opportunity to review the economic and public justification for awarding such major benefits to broadcasters and tycoons. Granting benefits totaling tens of millions of shekels is illegal at all times, and even more so in the country's current state of emergency due to the war in Gaza. It is absurd that even at such a time the legislator should choose to grant huge benefits to tycoons and exacerbate the harm to the public, instead of acting for its good and wellbeing.

Below are the highlights of our comments on the bill.

### **Unlawful Customized Benefits for Channel 14**

1. The first iteration of the bill seeks to reduce the transmission fee paid by niche television channels to a measly 15,000 shekels per year, instead of the millions collected to date based on the operating costs of Idan Plus. The amended version presented to the Knesset Economics Committee ahead of the first reading of the bill proposes to exempt these channels of any payment at all.
2. Even if the first version is extended to two other tiny channels that currently transmit on the Idan Plus system (Channels 24 and 9), there are many indications that the proposal is intended to benefit mainly or only Channel 14 at the expense of the public purse.
3. The Supreme Court has ruled that a piece of legislation designed to serve a distinct

customized purpose (promoting Channel 14's financial interests, in our case) constitutes an abuse of legislative authority, and is illegal and unlawful. The court ruled as much a few months ago with respect to an amendment of a Basic Law (the so-called Incapacitation Law designed to shield Prime Minister Binyamin Netanyahu from being declared unfit for office),<sup>1</sup> so it is even more applicable when it comes to amendments of ordinary legislation.

4. As mentioned, to cover up its true intent and to fend off claims about unlawful customized legislation, the updated version of the bill seeks to extend this financial benefit to all users, including the age-old commercial channels that transmit on Idan Plus using SD technology (Channel 12's Keshet and Reshet). According to this version, the exemption would apply to all such channels and the budget shortfall caused by the tens of millions of shekels saved by the tycoons would then be passed on to the Israeli public through the public broadcasters Kan and Knesset Channel under the false pretext of "increasing competition."

5. It is therefore clear that this is a benefit born in sin. Out of a desire to award an unlawful customized benefit to Channel 14 and in order to prevent a court process that would invalidate the sought amendment, the legislator is now seeking to extend the unlawful benefit to additional tycoons, thereby further damaging the public interest and the public purse.

6. This being the case, the aforementioned arrangements are illegal and harmful to the public interest.

## **Unlawful Immunity From Sanctions for Channel 14 Over Multimillion Debt**

7. As noted, under both versions of the bill, a channel will be immune from the removal of its broadcasts on the Idan Plus system, even if it does not pay its debts.

8. As of today, of all the channels transmitted on the Idan Plus system, Channel 14 is the only one being sued by the SATR to collect a huge debt of 6.5 million shekels for the years 2018-2021.

9. Given that the bill has been tailored to Channel 14's needs and consequently constitutes an

---

<sup>1</sup> [Supreme Court Case HCJ 2412/23 Movement for Quality Government v. Knesset](#), *Supreme Decisions*, 3 January 2024 (Hebrew).

unlawful customized piece of legislation, it will not meet the criteria set by the Supreme Court in the aforementioned petition on the Incapacitation Law.

10. Furthermore, the bill is intended to strip the SATR of the wide-ranging latitude currently at its disposal to enforce the provisions of the law, thereby shielding Channel 14 from any effective oversight over its implementation of the law and impairing the SATR's obligation to minimize its losses, which are the loss of the entire public, at a time when a lawsuit to collect this debt is pending against Channel 14.

11. Hence, what we are facing here is a serious interference in the relations between a regulator and a supervised entity that clearly violates the independence of the former, as well as political interference in the relations between the two.

12. Such immunity is an incentive for other channels to violate the law and to evade the regulatory provisions binding on them.

13. Therefore, distinct illegality hovers over this proposal as well.

## **More Benefits to Tycoons at Public Purse's Expense on IPBC Archive Material Use**

14. At present, the IPBC is allowed to collect standard rates from commercial bodies for the use of its archive material. These rates are set by the IPBC Council, and non-commercial users are charged operating costs only.

15. The bill seeks to change this situation, and compel the IPBC to make its archive material available to commercial users at operating costs only.

16. Apart from the significant financial benefit to commercial users as they would be required to pay operating costs only, the proposal will significantly reduce the revenue that the IPBC can generate from its archives for the benefit of the public. Such a move would help private channels to slash production costs, without reducing their revenue from advertisements and without cutting the cost of cable and satellite service fees to consumers. In other words, the "savings" will not reach the public but will enrich the private channels.

17. The timing of this financial benefit, on the eve of the expected launch of the 24i News Channel, tells us that the bill has been customized for a specific purpose in this case too.

Providing unlimited access at cost price to a wealth of archive material signifies a substantial savings, especially for a news channel such as 24i that will find it hard to survive without it, given that the bill will be footed by public funds.

## **No Financial Substantiation for Proposed Legislation**

18. As noted, all the aforementioned proposals deal a major blow to the public purse and favor the interests of tycoons, all under the guise of "increasing competition."

19. They are not supported by any factual, economic, competitive, or legal basis, as required.

20. Likewise, the bill contains no indication that there exists a problem of competition that the proposed arrangements are meant to resolve.

21. Even if there was such an indication, the bill contains no sign that the subject has been researched or is based on any economic, competition-wise, or other data to substantiate the claim that the proposed arrangements will solve the "competition problem" or that the harm to the public is justified and proportionate. Moreover, it contains no data to support the proposal in the first iteration of the bill to set the annual transmission fee at a measly 15,000 shekels, and it is not at all clear what this sum reflects or how it was calculated.

22. Hence, the bill cannot be said to be intended for a proper purpose, and consequently, or that the harm inherent in it meets the parameters of proportionality set forth in the law.

In conclusion, these are unlawful and illegal proposals, whose harm to the public interest is clear and substantial.