

## Public Broadcasting Corporation Undermined Under Guise of Transparency

This document was written by Zulat in response to the Israel Public Broadcasting Bill-2023 (Amendment: Annual Report to the Knesset Economics Committee) ("the bill").<sup>1</sup> We would like to note from the outset that, in our opinion, the bill seeks to undermine the independence of the Israel Public Broadcasting Corporation (IPBC) and to enable political influence over its operations, contrary to the stated goals of the Israel Public Broadcasting Law-2014, by virtue of which the IPBC was established ("the IPBC Law").<sup>2</sup>

Among other things, the IPBC Law was intended to ensure the independence of the IPBC's broadcasts and free it of political interference and interests, as well as to set oversight and transparency mechanisms over its activities and budgetary conduct. It requires the IPBC to submit annual activity and financial reports to the Minister of Communications, who may examine them, and if necessary, order the IPBC to submit additional reports and forward the financial reports for a professional audit by the Government Companies Authority (GCA).

Therefore, the bill does nothing to increase the transparency of the IPBC's operations, given that its annual reports are transparent as it is, are submitted to the minister, are unclassified, and may be accessed by Knesset members and the general public on the IPBC's website. The bill seeks to add another layer of oversight by the Knesset Economics Committee, thereby allowing for political influence on the IPBC and undermining its independence. The proposed additional supervisory layer would impair the oversight and transparency mechanisms set forth in the law and would run counter to the essence of the law and the purposes for which the IPBC was established, such as ensuring independent broadcasts, freedom of expression, and unbiased reportage, which are vital to the very existence of a democratic regime.

A review of the arrangements applicable to other public corporations scrutinized by the Knesset Economics Committee shows that they do not include such a political mechanism. Therefore, this raises cause for concern that it was uniquely tailored for

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§ All references in Hebrew.

<sup>1</sup> [Israel Public Broadcasting Bill-2023 \(Amendment: Annual Report to the Knesset Economics Committee\)](#), Knesset, 24 July 2023.

<sup>2</sup> [Israel Public Broadcasting Law-2014](#), Nevo, 11 August 2014.

the IPBC to enable politicians to exert improper influence on the IPBC's broadcasts, thereby violating the basic principles of the State of Israel, including freedom of the press. Below are the highlights of our comments on the bill.

1. Article 13(a) of the IPBC Law states that, by 31 March of each year, the Chairman of the IPBC Council shall submit the IPBC's annual financial and activity reports for the previous year to the Minister of Communications. According to Article 13(b), should the minister have reasonable grounds to believe that the financial reports submitted to him do not accurately reflect the IPBC's operations, he is authorized to forward the said reports to the GCA (a professional economic body) to conduct a **professional** review and submit its comments. According to Article 13(c), the minister is also authorized to require the IPBC to compile a new report and set a date for its submission.
2. The aforementioned arrangements would seem to suggest that the law establishes a distinct and balanced mechanism, which requires the IPBC to be transparent vis-à-vis the minister and the public and provides for a GCA professional audit of the IPBC's financial conduct on the one hand, while distancing and protecting the IPBC from any possible intervention in its operations by the political echelon on the other hand.
3. As noted, the bill seeks to violate these balanced mechanisms, and to add the Knesset Economics Committee as a political overseer of the IPBC's day-to-day activities. It should be emphasized that what the bill seeks to accomplish has nothing to do with increasing the transparency of the IPBC's activities, given that its reports are transparent as it is, are submitted to the minister, are unclassified, and may be accessed by Knesset members and the general public on the IPBC's website.
4. The proposed addition of a political oversight layer would undermine the oversight and transparency mechanisms set forth in the law and would run counter to the essence of the law and the purposes for which the IPBC was established, such as ensuring independent broadcasts, freedom of expression, and unbiased reportage, which are vital to the very existence of a democratic regime.
5. A review of the arrangements applicable to other public corporations scrutinized by the Knesset Economics Committee shows that they do not include such a political mechanism. Therefore, this raises cause for concern that it was uniquely tailored for the IPBC to enable politicians to exert improper influence on the IPBC's broadcasts, thereby violating the basic principles of the State of Israel, including freedom of the press.

6. The explanatory notes attached to the bill (emphases not in the original) explain the proposed amendment as follows: *"Given that the IPBC was established by law, there is justification for the legislator to examine the implementation of this law, in addition to the oversight by the Minister of Communications."*

7. We believe that the establishment of the IPBC by virtue of a law was meant to achieve a completely opposite goal to that described in the explanatory notes and to protect the IPBC from further interference by the political echelon. In our view, the proposed bill contravenes the essence and express goals of the IPBC Law and the purposes for which the IPBC was established, and there is no justification for the proposed intervention in the IPBC's operations.

8. This is made abundantly clear in the Landes Committee report, on which the IPBC Law is based, which recognized the crucial importance of preventing any political influence on the IPBC and its broadcasts: *"Reducing the interdependence between the political-governmental echelon and all management levels of public broadcasting is a fundamental principle in the recommendations of this committee. If our recommendations on increasing the professional and journalistic freedom of public broadcasting are accepted, the fear of extraneous political influence on the content of broadcasts will be greatly reduced."*<sup>3</sup>

9. This fundamental principle was also established in the bill that preceded the enactment of the IPBC Law: *"Based on the recommendations of the Landes Committee, the bill seeks to create a new, efficient, and independent public broadcasting corporation, which would operate according to professional, ethical, and economic parameters of excellence, innovation, and fairness."*

10. Accordingly, the IPBC Law sought to ensure the IPBC's autonomy and independence from the political echelon, based on the principle that the media is a central factor in preserving and advancing the democratic system of government and attendant democratic values.

11. This principle was also established in Supreme Court Case HCJ 2996/17 Union of Journalists in Israel et al v. the Prime Minister: *"Public broadcasting of news and current events programs must be independent and free of political interference and*

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<sup>3</sup> [Landes Committee Report Examining Future of Public Broadcasting](#), Ministry of Communications, 1 March 2014, p 55.

*interests....<sup>4</sup> Strong and independent public broadcasting is an important tool for upholding a diverse, vibrant, and critical media market that does not favor those with power, money, or interests, and as such preserves democracy and the participation of the country's citizens in shaping its image.<sup>5</sup>*

12. According to the aforementioned Supreme Court ruling, it is vital that public broadcasting should be *"professional, credible, and independent of political or economic influences, provide the public with reliable and unbiased information on political, social, economic, and cultural issues, and serve as a "public platform" for the full range of opinions and ideas in society.... The robustness of a democracy depends on freedom of expression for all and on a sophisticated marketplace of ideas that gives expression to all opinions and views in society, without economic, political, or other control or influence.*<sup>6</sup>

13. The Supreme Court further noted that legislating additional oversight of public broadcasting, as the bill proposes, would cast a "chilling effect" on freedom of expression, and would therefore pose a real danger to the democratic regime in Israel.<sup>7</sup>

In conclusion, Zulat's position is that this bill, which seeks to add the Knesset Economics Committee as a political layer to existing professional oversight mechanisms, would harm democratic values, cast a "chilling effect" on freedom of expression, and undermine the IPBC's ability to ensure reliable and unbiased reportage. Adding a political mechanism to oversee the IPBC's budgetary conduct and the implementation of the IPBC Law contravenes the law and its goals and the creation of the IPBC as a professional and autonomous body free of political influences. The bill seeks to do all this arbitrarily and improperly, without any substantiation, reasoning, or justification.

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<sup>4</sup> [Supreme Court Case HCJ 2996/17 Union of Journalists in Israel et al v. the Prime Minister](#), *Supreme Decisions*, 23 January 2019.

<sup>5</sup> *Ibid*, pp 19-20.

<sup>6</sup> *Ibid*, p 37.

<sup>7</sup> *Ibid*, p 34.