

Amendment No. 49 of Second Authority for Television and Radio Law-2024

Regulatory Benefits to Channel 14

The government's Amendment No. 49 of the Second Authority for Television and Radio Law-1990 (hereinafter, "the SATR Law"),¹ submitted for public comment on 4 July 2024, proposes to extend the "transition period" during which major regulatory reliefs have been awarded to broadcasters defined as "micro license holders," such as Channel 14, for yet another year beyond the six-and-a-half years stipulated in previous amendments in order to "enable them to keep operating in the same format they have operated to date."

Defined as "infant industry protections" in 2018, these reliefs were meant to allow these broadcasters to "prepare" for the regulatory changes under Amendment No. 44, whose dispositions were more lenient toward them than to other broadcasters.²

Zulat's position is that there is no room for extending the transition period and the regulatory reliefs therein. Although these also apply to three other broadcasters, the extension awards governmental benefits specifically tailored to Channel 14's needs. There was no reason in the first place to grant it any reliefs for five years under Amendment No. 44, there was no reason to extend these reliefs for an additional one-and-a-half years under Amendment No. 48,³ and as stated above, there is no reason or justification to extend them now for another year.

Channel 14 does not need protection. It is a broadcast channel for all intents and purposes, a channel that airs news and current affairs programs and enjoys exposure and ratings that often rival those of other channels without being subject to the regulatory obligations imposed on the latter.

This disposition is unconstitutional because it is inequitable and personalized, has no worthy justification or purpose, and violates the basic constitutional norms of a democratic regime, including an independent free media and independent news broadcasts.

Following are Zulat's main comments about Amendment No. 49 (hereinafter, "the proposed amendment").

§ All references in Hebrew.

¹ [Second Authority for Television and Radio Law \(Amendment No. 49-2024\)](#), Ministry of Justice, 4 July 2024.

² [Second Authority for Television and Radio Law \(Amendment No. 44-2018\)](#), Knesset, 25 February 2018.

³ [Second Authority for Television and Radio Law \(Amendment No. 48-2023\)](#), Knesset, 21 February 2023.

Background of Switch From Heritage Channel to Primarily News Channel

As will be detailed below, Channel 14's path is paved with major customized regulatory reliefs awarded over the years by legislators and regulators, who removed every obstacle in its way to becoming a major influential broadcast channel in Israeli society.

The license first issued to Channel 14 by the Cable and Satellite Broadcasting Council (CSBC) allowed it to operate as a niche microchannel broadcasting content about Israel's heritage but no news. In December 2016, the CSBC expanded the license to allow it to air a limited amount of news,⁴ on the condition that Channel 14 join the Israel Press Council (IPC) and adopt its code of ethics. The channel complied.

Initiated by the then-communications minister, Amendment No. 44 passed in February 2018 allowed the SATR to grant a "micro license" to broadcasters who had until then operated under a "niche microchannel license." These licenses, which were issued to broadcasters whose annual revenue did not exceed NIS 80 million, included major benefits not given to other license holders, such as the option to broadcast news without having to establish a news company and lesser obligations to invest in quality local productions and Israeli films. Based on Amendment No. 44, the niche microchannels operating at the time, including Channel 14, began operating under micro licenses and received major concessions and exemptions.

It bears emphasizing that the revenue test stipulated in the law for the purpose of defining a "micro license holder" (annual revenues of NIS 80 million) was set arbitrarily and was based on extraneous considerations, in order to serve the specific purpose of including Channel 14 under the definition, thus exempting it of the regulatory requirements applied to other broadcast channels.

News Broadcasts Under Lenient and Inequitable Regulatory Dispositions

Amendment No. 44 actually allowed Channel 14 to shift the bulk of its programming from Israeli heritage content to almost entirely news and current affairs, and in effect become a broadcast channel for all intents and purposes, competing for daily ratings with long-standing broadcast channels Keshet, Reshet, and Kan, without being subject to the numerous regulatory restrictions and obligations applied to broadcast channels.

⁴ One hour in prime time and another half hour during the day.

Thus, under the micro license, Channel 14 could broadcast news without the obligation to form a news company in order to abide by structural separation restrictions and without being subject to the SATR's supervisory and enforcement powers over channels broadcasting news via a news company, such as the ban on single ownership of a channel, restrictions on cross-ownerships of other media outlets, ethics requirements, and more. In addition, the SATR exempted the channel from the obligation to establish an ethics committee chaired by a retired judge, join the IPC, and adopt its code of ethics. Consequently, Channel 14 withdrew from the IPC and discontinued its abidance by its code of ethics.

Unlike the CSBC, which required Channel 14 to accept ethics rules as a condition for airing news programming, the legislator and the SATR allowed it to operate as a news channel for all intents and purposes, but one that is completely free from basic journalistic ethics rules. This decision has to this day allowed the channel, for example, to spread "fake news" under the guise of "news," thus posing a real threat to democracy.⁵ This represents selective implementation and enforcement of the law under the auspices of the legislator.

Additional Infant Industry Protections Further Extended by Legislator

As if the lenient dispositions toward a micro license holder were not enough in the first place, Amendment No. 44 instituted a series of additional benefits during a "transition period" initially set for five years, until 25 February 2023, and later extended by Amendment No. 48 for an additional one-and-a-half years, until 25 August 2024.

These dispositions embody significant economic benefits and exemptions from requirements pertaining to securities and guarantees required by the law, certain cross-ownership constraints, denial of a license due to past violations, payment of license fees to the SATR, and payment for the channel's distribution by the cable and satellite providers Hot and Yes.

On top of all the above, micro license holders were given other major non-economic reliefs during the transition period from obligations under the SATR Law: a) exemption from the ban on a person holding more than 74% of any type of control over the license

⁵ [Supreme Court Petition: Channel 14 Aims Incitement and Fake News](#), Zulat, 24 December 2023.

holder;⁶ b) exemption from the ban on cross-ownership of radio stations.⁷ The character of these exemptions more than suggests that they were customized and personalized for the owners of Channel 14.

Per the proposed amendment, the purpose of this "temporary" disposition is to allow channels that due to their small revenues or target audience, as the case may be, need to "prepare" for the new regulations in Amendment No. 44, thereby upholding pluralism and diversity in television broadcasting in Israel. We would like to reiterate that this is a particularly problematic argument, since the new regulations set extremely lenient rules for the small channels compared to the other broadcasters, and therefore it is not clear why it was necessary to give them additional concessions during the "transition period" to "prepare," as it were, for a more relaxed and easier regulatory environment.

Transition Period Extension Unnecessary and Misses Purpose, Therefore Inequitable and Unconstitutional

As stated above, the proposed amendment seeks to again extend for yet another year the reliefs that were intended to apply only during a limited transition period, with the stated purpose of "completing by then the legislation pertaining to the regulation of the broadcasting industry." In other words, the legislator intended for those "temporary" reliefs to be extended until they were permanently anchored in legislation through the enactment of a new broadcasting law.

However, Channel 14, which went on the air in June 2014, needed no reliefs or preparation period in the first place when it became a micro license holder. It had no need for them when the transition period was extended for another year-and-a-half, and most definitely doesn't need them today when it has become a dominant broadcaster in Israel, a broadcast channel for all intents and purposes, which primarily airs news and current affairs programs and competes for daily ratings with Keshet, Reshet, and Kan.

Therefore, there is no justification for extending the transition period as suggested in the proposed amendment. In practice, these governmental benefits are specifically customized for Channel 14, are inequitable and unconstitutional, and violate the basic

⁶ [Second Authority for Television and Radio Law-1990: Article 41\(b2\)\(4\)](#), Nevo, 13 February 1990.

⁷ [Second Authority for Television and Radio Law-1990: Articles 41\(c\)\(1\), 36\(b\)\(3\), 36\(e\)](#), Nevo, 13 February 1990.

constitutional norms of a democratic regime, including an independent free media and independent news broadcasts.

Per the proposed amendment, the stated purpose of extending these reliefs is "not to encumber or hinder their continued operation" and "to enable these microchannels to keep operating in the same format they have operated to date."

Although the proposed amendment notes that the professional echelon in the Ministry of Communications believes that the regulations applied to micro license holders may encumber and hinder their continued operation, this argument is unacceptable when applied to a broadcaster of the status of Channel 14, and in any event the proposed amendment includes no factual basis to back this contention.

There is no worthy purpose to exempting Channel 14 from financial regulatory obligations just because its revenues are below the arbitrary threshold tailored to its dimensions, including exemption from payment of annual license fees, distribution fees for Hot and Yes, and the obligation to deposit additional securities. These governmental financial benefits were customized for Channel 14 and awarded to it inequitably, at the expense of the public, and without any worthy justification or purpose.

As mentioned, Channel 14 enjoys the same influence and ratings as other channels, positions itself as their direct competitor, and doubtfully merits the economic benefits stemming from the transition period. In any case, the revenue test, which is in itself arbitrary, cannot be the sole standard for the enforcement of regulation on its operations.

Furthermore, where the non-economic benefits are concerned, it is even more clear that they have no justified purpose. As noted, the aforementioned infant industry protections include exemption from many regulatory obligations that are not economic in nature and aim to protect the public from infringement upon the independence of news broadcasts and to fend off the centralization of the media market, such as the ban on single- or cross-ownerships and on issuing a broadcasting license to someone who violated the provisions of his license in the past.

Regarding the latter exemption, we should like to note that Channel 14 has been a serial violator of the provisions of its license and the law, through the spread of "fake news," its call for noncompliance with court rulings, attacks on the public's feelings, honor, and

reputation, the promotion of personal and financial interests in its broadcasts, unbalanced broadcasts that are politically prejudiced and blend facts and views, biased and distorted editing, lack of fact-checking, and airing of marketing content contrary to the rules.⁸

Therefore, there is no purpose or justification to continue granting exemptions from the non-economic regulatory obligations applied to news broadcasters, which are essential in order to protect the content delivered to the public, the standards of compliance with the regulator, the basic constitutional norms of a democratic regime, such as a free media and independent news broadcasts. This being the case, there is no place or justification for exempting Channel 14 from these obligations, at any revenue level.

Moreover, since shifting under the SATR's supervision as a consequence of Amendment No. 44, Channel 14 has been operating as a non-niche "microchannel," and has practically stopped devoting its broadcasts solely to Israeli heritage. In other words, Channel 14 enjoys a "flexible" broadcasting license, and to the extent that it needs economic exemptions at the public's expense to keep operating, this license allows it to amend the nature of its programming accordingly (like the Music Channel, which is currently in the process of becoming a channel devoted to health and family topics). Thus, there is no reason to exempt Channel 14 from its financial obligations at the expense of the public.

The sole purpose behind the proposed amendment, and an unworthy one at that, is to enable Channel 14 to continue broadcasting "in the same format it has operated until now." In other words, to allow it to keep operating as a broadcast channel for all intents and purposes, but to be exempt from the regulatory obligations applied to other channels that broadcast news and current affairs programs. At the same time, this format is intended to allow the owners to be the channel's sole owner, to acquire other outlets in parallel, and to enjoy unprecedented financial exemptions.

We should like to reiterate that the owner of Channel 14, which does not operate as a niche channel (that is, it does not adhere to its designation as a channel solely dedicated to Israel's heritage), also owns a radio station, in contravention of Article 41(c)(1) of the SATR Law. To the best of our understanding, the original license granted to Channel 14

⁸ [Supreme Court Petition: Channel 14 Aims Incitement and Fake News](#), *Zulat*, 24 December 2023.

by the SATR was for a non-niche microchannel.⁹ Hence, the exemption from the ban on owning a radio station, which is also included in the proposed amendment, does not now and has never applied to it.

This appears to be yet another serious and prolonged violation of the law and the terms of its license. In any event, even if it was originally granted a license as a "niche microchannel" (which is not the case, judging by the title of the license and the nature of its operations) and after its owner took advantage of the aforementioned exemption to purchase holdings in a radio station, Channel 14 sought to change its license to that of a "non-niche microchannel" so as to derestrict the content of its broadcasts. This reflects the lenient, flexible, and personalized attitude toward Channel 14 on the part of the regulator, which overnight adapts license terms and legislation to the specific needs of Channel 14.

Clearly, the proposed amendment reaffirms the fact that this is yet another link in a chain of efforts to grant unlawful, illegal, and personalized governmental benefits to Channel 14 at the expense of the public. In this context, it is also worth mentioning the private bill submitted with the encouragement of the government (Amendment No. 7 to Digital Broadcasting Stations Law: Provisions re Distribution Fees-2024),¹⁰ which seeks to exempt Channel 14 from distribution fees on the Idan Plus platform, without any legitimate purpose or justification.

Conclusion

The extension of infant industry protections to Channel 14, as suggested in the proposed amendment, is a personalized, unlawful, inequitable, and unconstitutional disposition that violates the basic constitutional norms of a democratic regime, including an independent free media and independent news broadcasts.

According to the proposed amendment, the duration of the extension was determined with the goal of "completing by then the legislation pertaining to the regulation of the broadcasting industry." This means that the stated and explicit ambition of the government and the true and unconstitutional purpose underlying the proposed

⁹ According to the title of the license and the specifications listed on page 2, although a clause (Paragraph 2) describes it as a niche channel.

¹⁰ [Digital Broadcasting Stations Law: Provisions on Distribution Fees \(Amendment No. 7-2024\)](#), Knesset, 10 July 2024.

amendment is to turn the "temporary" infant industry protections into permanent unlawful dispositions personalized for Channel 14.

The Supreme Court has ruled in this context that a piece of legislation intended to serve a distinct personalized purpose (the promotion of Channel 14's specific economic and structural interests) constitutes an abuse of legislative authority, is illegal and unlawful. This principle, established recently in response to the anchoring in a Basic Law of legislation pertaining to the prime minister's incapacitation,¹¹ is tenfold more relevant when it comes to ordinary legislative amendments.

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¹¹ [Supreme Court Ruling HCJ 2412/23 Movement for Quality Government v. Knesset](#), *Supreme Decisions*, 3 January 2024.