

The Regulation of Commercial Audio-Visual Broadcasting in Israel

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This paper reviews the current regulation of commercial audio-visual broadcasting in Israel, and proposes a radical change to better suit the major shift of the industry from one based on scarce resources to one with no technological restrictions on entry to the broadcasting market.

The **first chapter** lays out the theoretical justifications for public broadcasting and broadcasting obligations and refutes them.

The **second chapter** traces the history of broadcasting regulation in Israel, including the lessons to be learned from past failings.

The **third chapter** deals with the current regulation and puts forth proposals for improvement, summarizing the recommendations at the end.

Two **annexes** (i) demonstrate the invalidity of additional arguments and (ii) detail an alternative policy model for promoting original Israeli work.

Summary

Current regulation of commercial audio-visual broadcasting traces its roots back to theories that justify publicly funded broadcasts, from the days – more than thirty years ago - when television channels were few and represented a scarce resource. Regulators thought these channels must be governed in the public's interest by imposing public duties on the commercial companies that won the rights to broadcast on them.

Such theories were based on two main claims: (a) private broadcasting aimed at as wide an audience as possible will of necessity be inferior in terms of its content; and (b) broadcaster market concentration must be prevented, particularly in the realm of news content. These in turn obligated the state to fund – or oblige private bodies to fund – broadcasts of specific quality and balance. These claims held true when technological constraints restricted the amount of competitors in the market and their ability to address specific content to distinct groups, but they seem largely irrelevant today.

Under contemporary conditions, one would be hard pressed to demonstrate that public broadcasting is of higher quality or maintains more balance than its commercial competitors or even that it can be. Without concrete evidence that public broadcasting provides a public benefit that the commercial broadcasting market cannot provide, the argument for public broadcasting falls short.

Broadcasting history shows that "public" obligations imposed on commercial broadcasters or the existence of a public broadcasting body creates improper "quid pro quo" relations between broadcasters and elected officials. The latter can set the terms according to which the broadcasters are permitted to operate and the former can influence politicians' careers by critical or supportive reporting. Eliminating this problem can be accomplished very simply by eliminating the regulation of what has become a sophisticated and competitive industry.

In today's technological environment, current regulation is obsolete, since there are no restrictions on the number of broadcasters or channels, and new ones enter the market all the time.

The Ministry of Communications, under the aegis of two different ministers, published two bills proposing a revision of existing regulation. Some of the proposed changes are welcome, such as merging both regulatory bodies into one and abolishing all restrictions on how broadcasters may charge the public for their services.

However, both preserve a significant portion of the obsolete regulation.

Recommendations:

(a) All requirements to create specific content should be abolished, as they are a form of unjustified additional income tax.

(b) The restriction on news broadcasting should be abolished and news programs treated as any other content.

(c) The proposed restrictions on holding shares in communications companies is misguided. Under sophisticated market conditions they serve to prevent rather than promote competition. The Economic Competition Law 5748-1988 and the Law for Promotion of Competition and Reduction of Concentrations should be sufficient, with perhaps one addition: add a provision to prohibit hyper-concentration (over 35% of market share) as measured by viewership and not ownership.

(d) All current restrictions on the ways to disseminate new programs, on public broadcasts and/or on their form of charging payment should be abolished.

(e) Adopting all the above will obviate the proposal to maintain a registry of broadcasters and channels.

If the state is nonetheless interested in funding original Israeli cultural creation, it should carry the cost itself and not impose it on commercial media companies. This paper includes a policy proposal delineating the funding and management of such a program.

Although the paper's critique of the arguments for public broadcasting are applicable to The Israeli Public Broadcasting Corporation, it makes no recommendations for its future, aside from the more efficient way to utilize the monies transferred to the corporation today in the form of the proposal for funding Israeli creation.

[For the full Hebrew paper](#)