

**IMC-2018/02**

Pursuant to Article 3, paragraph 2, sub-paragraphs 2.6 and 2.11 of Law No. 04/L-44 on the Independent Media Commission, IMC approves this:

**DRAFT REGULATION ON OWNERSHIP AND CONCENTRATION OF AUDIO-VISUAL MEDIA SERVICE PROVIDERS**

**ARTICLE 1**

**PURPOSE**

The purpose of this Regulation is to establish standards regarding media pluralism and diversity and transparency in media ownership, by defining rules concerning media ownership concentration, prevention of a monopoly in media market, prohibition of dominance and pressure over media, freedom of expression, preserving editorial independence and the right to objective information in line with local legislation and best European practices.

**ARTICLE 2**

**SCOPE**

The provisions of this Regulation shall apply to all IMC licensees that exercise activities of providing audio and audio-visual media services in the Republic of Kosovo.

**ARTICLE 3**

**DEFINITIONS**

1. **Audio-visual Media Service Provider (AMSP)** - a natural or legal person who has editorial responsibility for selection of the audio and/or audio-visual content of the audio-visual media service and who determines the manner in which it is organized. Differs a little from the definition in the Law.
2. **Audio-visual Media Services (AMS) -** the service which is under the editorial responsibility of programming service provider and whose key principle would be to provide programs, in order to inform, entertain or educate the entire public, through electronic communication network.
3. **Operator of distribution -** a legal person who distributes audio and audio-visual media services for users through a cable network, IPTV, OTT, satellite and any other form of distribution outside the terrestrial radio-diffusive frequency band.
4. **Print media -** publications issued in the form of journals, newspapers, manuscripts and other written forms.
5. **News portals -** online news platforms with textual and audio-visual content under the editorial responsibility of the service provider, which are intended for information and are accessible to the wide public.
6. **Concentration of media ownership -** an industry where certain individuals or organizations control different shares in providers of particular media services. In broader terms, the concentration indicates an industry's competition level.
7. **License -** is a contractual permit granted by IMC for radio and television broadcasting and audio-visual media services. The license obliges the licensee to comply with the Law on IMC and other relevant applicable laws in the Republic of Kosovo, such as IMC Regulations and Instructions, as well as general terms and conditions of the IMC license.

1. **Licensee -** implies the entity to which IMC has granted the license and the right to use the frequency, the right to provide program services and rebroadcasting of radio-television programs through network operators.
2. **Ownership –** an audio and audio-visual service provider's ownership of more than 10% of the basic capital of an audio-visual media service provider and/or its equipment.
3. **General program** - media service provider composed of news, discussions, and interviews on issues of public interest, current educational programs for adults or children who need support or change beliefs on topics or models, children's entertainment with educational topics, documentaries, cultural programs, the main purpose of which is to inform and not entertain.
4. **Thematic channel -** media service provider, the program of which contains 70% of a certain type of program, such as information, educational and entertaining program, for children, sports, science, etc.

**ARTICLE 4**

**REGULATION OF AMSPs OWNERSHIP**

1. Natural or legal person, holding a national audio or audio-visual broadcasting license, shall not own more than 10% of the general capital in a second company which holds a national audio and audio-visual broadcasting coverage license. For audio broadcasting, the participation in a legal or natural person is allowed up to 10%. Such a person shall not be allowed to obtain an audio or audio-visual broadcasting license with regional or local coverage.
2. Merging of two or more national media service providers is prohibited by this Regulation.
3. No licensee with national audio and audio-visual coverage can broadcast more than 30% of the value of general media market of audio-visual commercial communications.
4. A natural or legal person who has 100% of shares in a company that holds a regional or local audio-visual broadcasting license, can obtain only a second regional or local audio broadcasting license. In case the natural or legal person operates in the same region, it cannot hold more than one license for a general program.
5. A natural or legal person who has 10% of shares in a company that holds a regional or local audio broadcasting license can obtain only one regional or local audio-visual broadcasting license. In case the natural or legal person operates in the same region, it cannot hold more than one license for a general program.
6. A natural or legal person who has shares in a company that has a regional or local audio-visual broadcasting license, shall not own more than 40% of the general capital of a second AMSP, which holds a regional or local audio-visual broadcasting license. The value of shares in both AMSPs shall not exceed 50% of total general shares.
7. A natural or legal person who has shares in a company which has a local or regional audio-visual broadcasting service, shall not own more than 40% of the general capital in a second AMSP that owns a local or regional audio-visual broadcasting license.
8. The above conditions shall also apply to legal persons authorized to provide audio and audio-visual services through operators of distribution.
9. A natural or legal person may hold two audio-visual broadcasting licenses at the same coverage area, provided that both AMSPs have different program contents, one of a general character and the other thematic character.

10. A natural and legal person may hold two audio broadcasting licenses at the same coverage area, provided that both AMSPs have different program contents, one of a general character and the other thematic character.

11. A natural and legal person may hold two broadcasting licenses, one for audio and the other for audio-visual services at the same coverage area.

12. A natural or legal person who holds a national license cannot own other shares exceeding 10% of the legal person's capital who performs activities of an agency in the field of media, and vice versa.

13. A natural or legal person who holds a national license cannot own shares exceeding 10% of the publisher's capital who publishes daily newspapers printed in more than 3000 (three thousand) copies, and vice versa.

14. A natural and legal person who holds a regional and local coverage license cannot own daily newspapers with local importance in the same coverage area.

15. A natural and legal person who holds a regional or local coverage license cannot own a share of capital exceeding 10% of the daily newspaper's capital, with local importance in the same area or in a nearby area.

16. A natural and legal person who holds a license for audio and audio-visual AMSP with national coverage cannot own more than 10% of the capital of a portal publisher, which is of general content and visited by more than 3000 (three thousand) daily visitors.

**ARTICLE 5**

**MULTIPLE OWNERSHIP**

1. A natural or legal person cannot hold more than three regional or local licences, covering two different areas, of which not more than two can be audio-visual providers. Only one AMSP of general content shall be allowed within one coverage area.

1. A natural or legal person can hold only three regional or local licenses, in two different areas, provided that in each region only one can have general content, which is specific / different for each area.
2. A natural or legal person may own two audio providers in a coverage area should the same area is covered by one or more other audio providers.

4. No restrictions shall be applied to owners owning only one audio or audio-visual service provider in areas other than commercial areas. Ownership of multiple broadcasters serving in same uncovered areas shall be prohibited, unless the same area is covered with one or more different broadcasters.

5. Natural and legal person with national coverage cannot own more than one another audio provider that covers two different areas and not more than one audio-visual provider that covers one local area, ensuring that none of them is the only audio or audio-visual provider in the relevant area.

6. Except in special cases when required under technical rules and/or in compliance with international obligations, IMC shall issue a licence whereby providers of a certain media service shall cover the same area from different positions and frequencies.

7. Obligations provided for in this article shall be dedicated to audio and audio-visual service providers of general character.

**ARTICLE 6**

**FOREIGN OWNERSHIP**

1. Foreign ownership of an AMSP shall be allowed only in the case of commercial companies legally registered in the Republic of Kosovo, in compliance with the legislation in force.
2. Rules on concentration of audio and audio-visual media service providers shall apply mutatis mutandis even to foreign natural and legal persons.

**ARTICLE 7**

**RESTRICTIONS ON AMSPs OWNERSHIP**

1. Broadcasting licence shall not be issued or renewed to the:

1.1 political party, religious community, group or organizations managed by the individual who holds an elected post or is member of an executive body of a political party;

1.2 legal person managed by an individual who has been convicted under a process in compliance with international standards, for crimes related to the violence or frauds, which have not been officially pardoned.

**ARTICLE 8**

**PERSONS RELATED TO AMSPs**

1. Restrictions set out in this Regulation for owners of audio or audio-visual provider shall apply even to persons related to them, such as:

1.1 Blood relatives, members of the close family (parents, children, brothers and sisters, adopters and adoptees);

* 1. Persons from marriage and out-of-marriage relationship;
	2. Members of the close family of the spouse;
	3. Persons owning a general part of business, shares or other rights based on which they participate in the management of an AMSP.
	4. Persons who are member of the steering or supervising board of an AMSP, as well as persons considered to have relationship with chairs of the directorate of supervising board of that AMSP.

**ARTICLE 9**

**RIGHTS AND OBLIGATIONS**

1. The audio and audio-visual media service providers shall be obliged to inform in written, within five (5) working days, the IMC of the changes in the organizational structure and ownership.
2. For every change in ownership by the audio and audio-visual service provider with over 10%, the prior approval of IMC shall be required.
3. Audio and audio-visual service providers shall be obliged to inform IMC of special aspects of their ownership and organizational structure upon IMC request.
4. Audio and audio-visual service provider shall submit a report containing data on aspects of ownership, and organizational and financial structure.

**ARTICLE 10**

**SANCTIONS**

Failure to comply with this Regulation shall be sanctioned under the Law on Independent Media Commission.

**ARTICLE 11**

**ENTRY INTO FORCE**

This Regulation shall enter into force on the day of its signature.

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**Muja FERATI Date**

**Chairman of Independent Media Commission**