



10 September, 2008

Opinion
on the RA Law on Amending the RA Law on Television and Radio
Introduced by RA Government

Based on the examination of the justification for the RA new draft Law On Making Amendments to the RA Law on Television and Radio, presented to the NA discussion on the initiative of the RA government, it follows that the Draft adoption is untimely and, taking into consideration the volume and significance of the regulation subject, needs a policy (concept paper) to be worked out and passed, as stipulated by the RA law On Legal Acts (Article 27.). In this regard, it shall be noted that Ministry of Transport and Communications, back to 2006, had taken steps to develop the action plan for introduction of digital broadcasting but neither civil society organizations nor RA Government gave an approval to that plan.

Of course, working out the policy and action plan is envisaged by the 5th point of the draft justification. However, it is expected to generate it only after passing the draft, which, in our opinion, will become not only a source of legal uncertainty but will also endanger the entrance of new participants into the radio and television market through licensing. Meantime, it is apparent from the justification that at this moment it is not possible to assess the technical requirements and, especially, the expected expenses of the state, citizens and private broadcasters.

Besides, it is not reasonable to consider the license granting “temporary and useless” (see the 5th point of the justification,) as well as the license suspension, since broadcast digitalization on behalf of licensees, in parallel with entire digitalization process, can be stipulated as a mandatory condition for granting a license. Thus, we think that entrepreneurs will have a chance to independently decide whether it is worth applying for a license, and whether the return of investment and the chance to obtain income is real possibility. The latter will stem from the principle of free market, without making obstacles to the natural development of the mass media.

Finally, it should be mentioned that, based on the strategic importance of the Draft regulation area, as well as the circumstance that the introduction of digital telecommunication as a sphere of cooperation between RA and EU is specifically mentioned in the European Neighborhood Policy, in our opinion, initiating public discussions on the issue of the above-mentioned legislative reform and the profound examination of its applicability on behalf of the civil society becomes extremely necessary.