

The Commission on Extending and Reforming of Broadcasting Choice

Summary of Recommendations

(August, 1997)

1. Principle: "Open Skies"

The Commission recommends adopting a new policy, all-inclusive and current, which will consistently pursue the creation of a free market for electronic communication services, based on the principle of "Open Skies."

This policy, based on clear and defined principles of free competition under fair and equal conditions, will ensure a wide range of choices for the public. Application of the policy obligates, among others, the following steps:

- a. An immediate decision on planned and phased regulation of the electronic communication sector, and includes the required legislative initiative for regulating the sector.
- b. Improvement in the current method via the removal of restraining barriers.
- c. Basic implementation of an open market, under fair and equal conditions, will ensure security and freedom of choice for all branches of the electronic media.

2. New Comprehensive Broadcasting Act

Legislation of the Broadcasting Act in Israel, which will unite all existing communication laws in a new and improved format, based on the principles recommended in the Commission's report.

3. Creation of a National Authority for Electronic Communication Services^{*}

An all-inclusive Authority will be formed, similar to the FCC, that will be the Statuary Regulator. The Authority will deal with planning, licensing and supervision in the sector of all broadcasting services; It is also recommended to review the possibility of including the telecommunications services within the framework of one Authority.

* In the sections marked by an asterisk (*) there are accompanying reservations or notes of an individual member of the Commission or a minority opinion. See Chapter 4 - Recommendations of the Commission.

4. Commission for Public Complaints

According to the new Act, a commission for public complaints will be created, that will set up a united code of ethics for the broadcasting and advertising; The council will act over all license holders in both the public and commercial electronic media services sectors, for both carriers and content providers to the public.

5. The Transition From Broadcasting Franchises to Broadcasting Licenses

The Act will provide, a new approach to allocation broadcasting and operating licenses and in place of the current system of different laws, granting the right to broadcast and operate, in order to prevent future claims of exclusivity or “first rights” which are likely to prevent, or to limit free competition and implementation of technological innovation in the sector.

6. Separation Between Carrier Services and Content Services

According to the Act, a clear differentiation and separation between carrier services in the electronic communications sector and content providers will be formed. License holders to operate carrier service will not be licensed to provide content services, and license holders of content services will not be permitted to engage in carrier services.

7. Regulation of the Carriers Services Sector

Each kind of carrier service, terrestrial carriers, cable carriers, satellite carriers and independent telephone providers, will operate under the condition of equal competition, that will be defined by law, and will offer their carrier services to content services license holders. Carriers of all kinds will not put any conditions of exclusivity on service provision. Content license holders may offer their services to the public through any carriers concurrently, in part, or in whole.

8. Regulation of the Content Services Sector *

Content Provider license holders will be able to offer their services to the public in the obligatory framework of free competition, which is based on the equal conditions for all license holders who supply content services to the public.

Licenses to provide content services will be granted according to defined criteria. The law will set the following criteria (among others):

- a. Pluralism and variety in broadcasts
- b. Uniform ethical guidelines in broadcasting and advertising
- c. Safeguarding original Israeli productions in broadcasts and assistance programs to Israeli producers and artists.

9. Methods of Financing Electronic Media Services*

Content license holders (except public broadcasting) will be entitled to use all methods of financing available as long as the transparency rules hold for the method of financing the ongoing broadcasts, as well. These will be published at predetermined intervals as to the character of each channel.

10. Obligation of Transparency for Broadcasting License holders

The basic conditions for receiving a license to provide content services will be the obligation of the license holder to abide by the "Transparency Principle," of all those who are principles in the license holder, whether directly or indirectly, or whoever holds over 5% of the license holding entity. It must be clear to the public who the principles and owners of the licensing-holding entity are.

11. Licenses Period

A License to provide content services to the public will not be limited to a fixed period of time, as long as the license holder abides by the threshold conditions that were determined in his license and are acceptable to the National Authority for Electronic Communications Services.

12. Enforcement of License Conditions

The law will provide enforcement methods (sanctions) of various levels of severity and will include monetary fines, suspending or revoking the license, in order to fulfill the license conditions in the fields of carrier and content services.

13. News and Information Services

Those who hold licenses to provide content services may offer the general public news and information services without limitation in sector, subject or geographic region, subject to specific instructions that will be in the license, with respect to the code of ethics, and the prevention of conflict of interest.

14. Regulation of Cross Ownership Competition

Regulation of competition in the areas of carrier and content services will be based on defined principles, ensuring equal competition conditions and limiting cross ownership. Concentration of ownership will be limited in the two sectors - according to various criteria of market dominance in every field and sector, as is specified in the final report.

15. Public Broadcasting in Israel

Currently, the public broadcast sector is being examined by a committee appointed by the Prime Minister (the Zuckerman Committee). Therefore, the Commission will not present specific recommendations for methods of implementation of the principles included in this report, regarding public broadcast.

16. Digital Broadcasting

The Commission recommends making a planned transition to digital broadcasting in the television and radio sectors.

The Commission recommends preparing for entrance into the digital sector in two phased periods: (1) Three years of transition to operating digital broadcasts; (2) a period of transition of 5-8 years in stages for the population to be able to receive digital broadcasts.

Accordingly, the commission recommends examining the intrinsic possibilities of motion and sound via the Internet. Currently, the prediction is that the world-wide web will change into a global net which will provide a wide variety of TV and Radio programs .

Part 2: Implementation of the Policy in the Interim Period

1. The Interim Period for Reregulation and Implementation *

The Commission recommends determining an interim period, during which all necessary steps would be taken according to the recommendations; specifically the required legislative steps to implement the recommendation, in order to apply the principle of “Open Skies” at an arranged time, from the year 2003 onwards, or another time that will be decided during the course of the legislation of the Broadcasting Act

2. The Broadcasting Act

The Commission is aware of the complexity in the transition from the current situation which is characterized by an abundance of government authorities and statutory bodies, to the desired situation, as stated in the recommendations. Taking this into consideration, it is advised to begin preparing the Broadcasting Act immediately, so that the National Authority will be established no later than the end of 1999.

3. Establishment of the National Authority for Electronic Communication Services

The National Authority for Electronic Communication Services will operate as an independent Statutory-Regulatory body, whose main job is to deal with the future planning of broadcast services using the advancement of new technologies, the allotment of broadcasting licenses and supervision of the fulfillment of conditions determined in the licenses, as well as ensuring the conditions of free and fair competition without involvement in the content of the broadcasts, except the basic conditions that were determined in broadcast licenses.

The National Authority for Electronic Communication Services will be established, in accordance with the Broadcasting Act, no later than the end of 1999. The Authority will concentrate in its hands, all authorities, with the changes recommended, that according to the existing laws are split among the government agencies and statutory bodies, who work with the broadcasting sector.

4. Commission for Public Complaints

The Commission recommends forming a special committee, that will prepare a recommendation regarding the establishment of a commission for public complaints which will unify ethical guidelines in broadcasting and advertising.

The Commission feels that the establishment of the Commission for Public Complaints and the legislation it demands, should not be postponed until the process of legislation of the Broadcasting Act is completed. The necessary preparations should begin in a separate process.

5. Direct Satellite Broadcasts to the Consumer's Home

The commission recommends immediately allocating licenses for direct satellite broadcasting based on DBS (Direct Broadcast Satellite), to the consumer's home.

Broadcast licenses will be allocated, as previously stated, to one-channel broadcasts and multi-channel broadcasts coded as Pay TV. It is also to allocate DBS licenses which are uncoded and free of charge, only if they do not broadcast commercial advertisements, at least until the year 2004.

The Commission recommends allocating licenses, as previously stated, according to a reform in the Bezeq Law, established in 1982, Section B,1, that will be included in the completed Broadcasting Act.

Another recommendation is to determine as soon as possible, in law and regulations, unified and obligatory standards for end units installed in the consumer's home, whether for cable broadcasts or satellite broadcasts.

6. Dedicated Channels

The Commission recommends granting licenses to operate national dedicated channels, which will be broadcast through cable television, with the status of "Cable Broadcast License Holder" ("Usage Authorization" under the Bezeq Law). These channels will be authorized to transmit via satellite broadcast as well.

During the interim period, licenses will be given to five (5) dedicated channels, which will be financed by advertisers:

- (1) An Arabic Language Dedicated Channel
- (2) A Russian and Amharic Dedicated Channel
- (3) A Dedicated Channel for Israeli Heritage
- (4) A Dedicated Channel for Israeli Music, and Middle-Eastern Music
- (5) A News and Information Channel

7. The International Israeli Channel

The Commission recommends establishing an Israeli satellite channel, dedicated in principle to Jewish communities in the Diaspora and Israeli communities abroad.

The establishment of a cross-sector committee is recommended to examine the economic implications of the suggested channel. The committee will also review the option of creating a joint initiative of the Government of Israel, the Jewish Agency, Jewish organizations abroad, and private parties.

Private parties who participate in this project will have the right of first refusal of control of the project, when it reaches financial break-even.

8. Cable Television

There will be changes in the current franchise period of cable television; most of them via consensus or legislation, that will be completed by 1999. They will be enforced from the end of the franchise period given to the five (5) cable company operators currently active in the sector.

Recommendations of the Commission on this topic are in accordance with the recommendations of the inter-ministerial committee which was established to examine the policy in the telecommunications sector and opening it to competition (The Wax-Brodet-Lyon Commission); the commission presented their findings to the Minister of Finance and the Minister of Communications in December 1996.

Recommended Changes:

- (1) Each Cable TV operator (carriers only) is entitled to hold management and control shares in cable systems, which will not exceed 35% of all cable homes passed in the country.

- (2) Cable carrier license holders, as well as current franchisees, will not be permitted to transmit direct broadcasts to the consumer's home via satellite (DBS), and as such will not be permitted control in companies operating satellite carriers in the direct broadcast sector.
- (3) The policy of the current service in cable television, which supplies one service package to consumers, without options (Super Basic) - will be canceled within two years, when the "ICP Settlement" expires.
- (4) A group of separate services (tiering) will be offered to cable television customers. There will be a basic package of services for all at a basic rate (lower than current), which will be under control. Also, subscribers will be offered additional coded groups (premium channels) which will be supplied according to customer order, via content suppliers. Prices will be determined by "supply and demand."
- (5) Cable companies will be permitted to supply pay cable to their customers, along- side of external content suppliers, under the condition that their operation in this sector will be done through a separate subsidiary company, which operates under the conditions of equal competition.
- (6) The Commission understands that the transition to tiering involves a long process, which is likely to continue for a period of time during the interim period. The Commission understands the need for a substantial financial investment in the installation of broadcast and end unit equipment as required.

Therefore, the Commission recommends accelerating the process by giving permission for direct satellite broadcasts (DBS) which will provide a competitive alternative to cable TV. Concurrently, the Commission recommends reaching an agreement with the cable TV franchisees within the next two years. Should an agreement not be reached, the changes will be enacted via legislation which will be in effect at the end of the current franchise period (in the year 2002).

9. A Second Commercial Television Channel (Additional) in 1999

It is advised to begin preparations immediately, and institute legislative changes, in order to publish a tender through 1998 for a single corporate license holder who will establish and operate an additional commercial channel available to all.

The new channel will begin broadcasting at the end of 1999, at the completion of the first franchise period of the "Second Channel" franchisees.

If, by the end of 1999, it becomes impossible to operate the new channel through terrestrial carriers (similar to the Second Channel), which provides the public with the option of receiving the broadcast freely by air, an operating license will be given to the additional channel via cable (free of charge - Must Carry), via direct satellite broadcast, and will be uncoded.

The establishment of the new channel will be based on full equality and unity of all of the license conditions, between the new channel and the existing Second Channel, in a way that will allow free and fair competition between the two channels, as channels which broadcast commercial advertisements.

This equality will be based on the suggested changes in the Law for the Second Authority for Television and Radio, 1990.

10. Commercial Broadcasts in the Interim Period

In the interim period, the following legislative changes will be made, which will be in force on the date when whichever one of the following comes into effect first:

- a. With the establishment of the National Authority for Electronic Communication Services according to the Broadcasting Act.
- b. With the completion of the first franchise period of owners in the second channel - end of November 1999
- c. The Second Authority Council has the right, at any time, to extend the franchise periods for a second period, under the present law.

Please Note: Option "c" may create an obstacle to implementation.

The Recommended Changes:

- (1) From the end of 1999, broadcasting franchises will be replaced by broadcasting licenses, which will not allow additional rights to the broadcasting license holders.
- (2) A license holder will be considered a supplier of content services to the general public.

- (3) From the time of the establishment of the National Authority for Electronic Communications Services, or at the end of the first franchise period of the Second Channel (1999), according to the earlier time, the statutory authority will not be a production and/or broadcasting body, but a regulatory body. A supervisor, only.
- (4) At the end of 1999, the relevant statutory authority will decrease its involvement in planning broadcasts and in supervising the content of the broadcasts. They will supervise according to the specific threshold conditions that will include abiding by uniform ethical standards in all broadcasts and advertisements, while ensuring the position of original Israeli productions.
- (5) The Second Channel will operate from the end of the first franchise period as one corporate body which will broadcast seven days a week, whether the present ownership will be extended by transferring to a broadcasting license for another franchise period, or the license is given to another corporation.
- (6) From the end of the first franchise period of the Second Channel (November 1999) the franchise of Educational Television in the Second Channel will be canceled, as previously stated, according to the law.
- (7) Broadcasting licenses that will be valid from the end of 1999 will also include authorization to broadcast news and current events without limitation.
- (8) The news company of the Second Channel will operate from the end of 1999 as a separate subsidiary of the license holder and will be under his full control, with changes that obligate the establishment of an independent news system while preventing conflict of interest.

11. Transition to Digital Broadcasting

It is recommended to immediately begin preparations for the implementation of the transition to digital broadcasting in all broadcast carrier sectors. The transition to digital broadcasting will allow an increase in the number of channels (radio and television) with a high quality of broadcast and reception.

Within the framework of the project, obligatory uniform standards will be determined for reception, transformer, and decoding equipment at the consumer's home.

The project will be managed in two transition periods - (1) A transition period of three years to operate digital broadcasts; (2) A transition period of 5 - 8 years for phased preparation of the population to receive digital broadcasts.

12. Opening Radio Stations to Competition

- (1) Opening the sector of radio broadcasts to free competition will be done in stages, concurrent with the complete re-allocation of the frequencies (under the principle of “Open Skies”) with the completion of the transition to digital radio broadcasts.
- (2) Franchises that were given to local radio stations will be transformed into broadcasting licenses, and permission will be given to move to national broadcasts. Character of the broadcasts and content will be determined by the license holder.
- (3) As long as the broadcast range is defined as a “scarce resource,” it is recommended to allow local stations who wish, to become part of a national network (Networking) via the broadcast network of the Second Authority which will be at the disposal of the radio stations.
- (4) All of the local stations (13 in number) will be permitted to unify for the purpose of marketing groups of time for advertisements, whether all or part of them will decide to associate in a national group, or if all or part decide to continue to broadcast locally only.
- (5) The local stations will be allowed to broadcast news and current events programs (national and international) without limits to local regional broadcast, as long as they obey the principles of ethics and prevention of conflict of interest in their news broadcasts.
- (6) The Commission recommends making frequency available immediately, in order to allocate broadcasting licenses to national radio stations, which will characterize its broadcasts as being religious or heritage related. The broadcasting license will be allocated through a competitive tender.
- (7) In the process of regulating radio broadcasts, the Commission recommends allocating licenses to operate community radio stations, on a low power supply, with a radius that does not exceed 5 km.; for the use of universities, schools, small neighborhoods or villages.

13. Radio Broadcasts to Other Countries

Israeli radio broadcasts abroad have an important role in establishing the connection with Jews in the Diaspora as well as Israelis living abroad. Many of the Western countries broadcast international radio stations, both for national reasons and to spread their language and culture.

The broadcasts abroad are the responsibility of the Broadcasting Authority, and currently represent a very minor part of its operations, even according to their definitions in the Broadcast Authority Law (in Section 3).

The Commission recommends removing the sector of broadcasts abroad from the Broadcasting Authority (“Kol Yisrael”) and to establish it, in a separate and independent framework that will be budgeted and financed according to the purpose of the broadcast and its needs.

14. Limits in the Allocation of Radio Broadcasting Licenses

The Commission recommends determining by law, immediately, that whoever has been convicted of operating an illegal radio station (pirate) will not be permitted to receive a legal license for the operation of a radio station. This will extend to all who have been convicted of a major crime.

15. Preparation for Implementation of the Recommendations

Preparation to implement the recommendations and all-inclusive regulation of broadcasting to the general public, as advised in the Commission’s report, obligates the establishment of implementation committees. They will be established in the framework of an Administration or Executive Board for Start-up and Regulation in the Ministry of Communications. This will be similar to the Administrations which were established for the Start-up of the Second Channel and Cable TV.