

# Georgian Law on Broadcasting

## 1. General Provisions

### Article 1. Object of Law and Scope of Regulation

1. This law stipulates the conditions for broadcasting regulation in accordance with the principle of free expression and free enterprise; defines the rules of establishment of an independent regulatory authority in the broadcasting sector and determines the terms and procedures for issuing licenses and reviewing complaints.
2. This law aims to establish an independent public service broadcaster, free from state intervention; to regulate activity in accordance with principles of transparency, fairness and impartiality, by means of an independent regulatory authority; to stimulate freedom of expression and a competitive environment between broadcasters; to provide equality and independence of license holders and efficient use of frequencies.

### Article 2. Definition of Terms Used in the Law

Terms used in this law have the following meanings:

- a) **“Administrative Authority”** – an entity defined by article 2, paragraph a) of the Georgian general Administrative Code.
- b) **“Advertisement”** – a commercial or social pre-election advertisement with the exception of any declaration made by the broadcaster on his own or independent program. The declaration consists of information diffused by any means or form on a natural or legal person, goods, service, work and initiative, which is aimed at forming and maintaining interest in an idea and initiative, and encouraging the realization of goods, service, work, ideas and initiative.
- c) **“Broadcaster”** – a natural or legal entity, holding a broadcasting license and carrying out television and radio broadcasting through terrestrial transmitters via cable network or satellite, wire or air, using coding or encoding.
- d) **“Broadcasting”**- broadcasting through the use of frequencies.
- e) **“Broadcasting Conception”** – a document elaborated by a license seeker or license holder that reflects the supposed model of broadcasting and includes the titles, brief summary and time of programs.
- f) **“Broadcasting Net”** – a document elaborated by a broadcaster that includes the titles of programs, a brief summary and broadcasting time.
- g) **“Cable Broadcasting”** - broadcasting through a cable network.
- h) **“Code of Conduct”** – a normative act, passed by the Commission on the basis of this law, determining the rules of conduct for license holders.
- i) **“Commencement of Practical Activity”** – commencement of services or activities authorized by license conditions in the broadcasting sector.
- j) **“Commercial Advertisement”** – an advertisement that promotes an entrepreneur or enterprise, goods, rights, obligations, service or work, a person, idea or initiative or aids the trade of goods, rights, obligations, service or work, the implementation of an idea or initiative in exchange for remuneration or any other economic profit.
- k) **“Commission”** – the Georgian National Communications Commission.
- l) **“Commissioner”** – Member of the Georgian National Communications Commission.
- m) **“Community Broadcasting”** - broadcasting carried out by a legal entity of public or private law having no commercial purposes, which ensures participation of the community it

serves in broadcasting and which does not aim to profit, according to the rules established by this law.

- n) **“Election Campaign”** – election campaign procedures determined by the Electoral Code of Georgia.
- o) **“Electoral Advertisement”** – an advertisement, that supports election of the President of Georgia, the Parliament of Georgia and local self-governmental representative authorities.
- p) **“Entity”** – a natural person or legal entity, in accordance with the Georgian Civil Code.
- q) **“European Production”** – a program produced in European countries where the European Convention on Transfrontier Television is valid, or in Georgia, or when a legal or physical entity that holds the author’s rights of production is a resident of Georgia or these European countries.
- r) **“Family Member”** – a person determined in the Georgian Law On Independent Regulatory Authorities (Article 3, Paragraph f).
- s) **“General Broadcasting”** – broadcasting of television and radio programs with two or more themes, including news and public-political programs.
- t) **“Governor”** – member of Board of Governors of Public service broadcaster.
- u) **“Independent Program”** - a program of which the holder of author rights and the license holder are not interdependent.
- v) **“Interdependence”**– one person exercises interdependence (control over) with another, if the first directly or indirectly owns stocks or shares in the capital of the second person, or is an official of this person, or if the second person, together with any shareholder, partner or official, performs remunerated services for the first person; or one broadcaster provides broadcasting via another broadcaster.
- w) **“Interested Entity”** – a natural person or legal entity whose legitimate interest is influenced by the activity of a license holder.
- x) **“License”** – special permission envisaged by this law and the law on licensing of and grounds for issuing permits for entrepreneurial activities that authorizes the license holder to perform activities in the broadcasting sector, under specified conditions.
- y) **“License Modification”** – introduction of changes and/or amendments in the license on the basis of the license holder’s or the Commission’s justified request and/or in accordance with changes and/or amendments introduced in priorities of the broadcasting sector or Georgian legislation.
- z) **“Local Broadcasting”** – broadcasting accessible for at least 90% of the population of a relevant service zone, in accordance with rules established by this law.
- aa) **“National Broadcasting”** – broadcasting accessible for at least 90% of the population of Georgia, in accordance with rules established by this law.
- bb) **“Obscenity”** – action that is beyond the scope of ethical norms and has no public-political, cultural, educational or scientific value.
- cc) **“Official”** – a person permanently or temporarily, elected or appointed, acting with or without salary, performing duties related to executive, organizational, managerial, and administrative and other similar functions, including particular tasks and assignments in the Commission or in community broadcasting.
- dd) **“Opinion”** – a value judgment, comment or any kind of view that reflects an attitude towards some events or persons and does not contain any verified fact.
- ee) **“Prime Time”** – the period of time between 19:00 until 24:00, when the license holder’s programs can be viewed or listened to by a peak audience within the license holder’s service area.
- ff) **“Private Broadcasting”** – broadcasting, that is neither public service nor community broadcasting and is carried out by a commercial or non-commercial entity of private law.
- gg) **“Program”** – a television or radio production broadcast live or as a recorded program.

- hh) **“Public Institution”** – an agency, authority or institution determined by Article 27 of the General Administrative Code of Georgia.
- ii) **“Public Service Broadcasting”** – broadcasting performed by a legal entity of public law (hereinafter referred to as a Public Service Broadcaster) established for publicly financed television and radio broadcasting according to Georgian legislation, independent of the state and accountable to the public. (The public service broadcaster aims to deliver various and high-quality programs free from political and commercial influence).
- jj) **“Publishing”** – to provide access to information according to the rules determined in Article 56 of the General Administrative Code of Georgia.
- kk) **“Qualified Election Subject”** – an election subject defined by the Georgian Electoral Code.
- ll) **“Regulation”** – a measure, such as the passing of legal acts, monitoring, control and coordination undertaken by the Commission, within the scope of its competence determined by this law.
- mm) **“Satellite Broadcasting”** – broadcasting through terrestrial stations of television and radio satellite systems in accordance with the rules established by this law.
- nn) **“Scope of Regulation of the Commission”** – the telecommunications, postal and broadcasting sectors, within which activities or provision of services are applicable to licensing according to the Georgian law “On Communications and Post” and this law, or need authorization according to this law, or are already licensed or authorized by the Commission that executes authority determined by Georgian legislation.
- oo) **“Significant Event”** – a political, social, cultural, religious or other event of significant interest (inside or outside country) to society, as defined by the Commission based on public opinion.
- pp) **“Social Advertisement”** – an advertisement that promotes public good and charitable aim, that is neither commercial or election advertisement nor advertisement of a legal entity of public law, or a governmental organization, as well as advertisement of the services provided by them.
- qq) **“Specialized Broadcasting”** – broadcasting of programs of particular topics except for the news and public-political programs.
- rr) **“Sponsorship”** – direct or indirect financing or co-financing of program by a person, in order to promote his name, trademark, image, production or activity.
- ss) **“Teleshopping”** – a program that contains a direct offer of goods, rights, obligations, service or work in return for payment.
- tt) Withdrawn (28.12.2005 N 2565)
- uu) **“Transit of Broadcasting”** – broadcasting of television or radio channels legally received from another broadcaster, without any changes. The term “without any changes” includes cases when despite small changes made in a program, the Commission considers that this is a transit of another broadcaster’s television or radio channel. (28.12.2005 N 2565)

### **Article 3. Legislation in the Broadcasting Sector**

1. The Constitution of Georgia, International Agreements, this law, Georgian laws on: National Independent Regulatory Authorities, Post and Telecommunications, Copyright and Neighbouring Rights, the Georgian Electoral Code and other legislative and law-subordinated normative acts of Georgia provide the legislation for the broadcasting sector of Georgia.
2. Interpretation of legislation in the broadcasting sector shall be provided according to the European Convention on Human rights, the judicial practice of the European Court of Human Rights and other international legal acts that have a legal effect for Georgia.

3. Citizens and legal entities of other countries, as well as the persons without citizenship enjoy the rights and obligations determined in this law for Georgian citizens and entrepreneurial subjects, unless otherwise specified in the legislation.

#### **Article 4. Broadcasting Frequency Plan and Priorities in the Broadcasting Sector**

In accordance with the international regulation of the Radio Union, the Commission shall once in two years define and publish a frequency plan for licence seekers, as well as, the priorities of television-radio broadcasting defined by public opinion survey.

### **Chapter II**

#### **Regulation of activity in broadcasting sector**

#### **Article 5. Commission**

1. The Commission regulates activity in the broadcasting sector;
2. The Commission is a legal entity of public law, a permanent, independent, regulatory authority that does not subordinate to any state authority. The Commission is not a legal entity (institution) of public law or corporation of public law established on the basis of state property. This law and the Georgian Law on Post and Telecommunications define the legal status of the Commission.
3. The functions of the Commission in the broadcasting sector are to:
  - a) determine strategic trends of state policy in the broadcasting sector, taking into account broadcasting market research as well as public opinion, and supervise their implementation and control;
  - b) define the license conditions; issue, modify, suspend, renew and revoke licenses;
  - c) determine and allocate the radio-frequency spectrum according to the law;
  - d) allocate radio-frequencies;
  - e) supervise and control implementation of this law and license conditions by the license holders and, in case of breach, impose appropriate sanctions;
  - f) support the creation and development of a competitive environment within the scope of its competence, supervise and control implementation of the Georgian Law on the Protection of Consumer Rights;
  - g) set the license fee and the regulation fee and define payment procedures;
  - h) supervise enforcement of legislative acts on: Copyright and Neighbouring Rights, Defending Minors from Unwholesome Influence and Advertisement;
  - i) consider complaints and disputes raised between license holders as well between licence holders and their consumers, within the scope of its competence.
  - j) issue legal acts as well as the Code of Conduct;
  - k) undertake other responsibilities determined in the law.

#### **Article 6. Independence and Immunity**

1. The Commission, its officials and employees are independent in exercising authority and amenable only to the law. Inconsistent influence and illegal intervention in their activity shall be considered illegal; consequently a decision made under inconsistent influence and illegal intervention shall be declared ineffective.
2. Any affected person has the right to apply to the court for avoiding and preventing any kind of influence or intervention, also nullifying the results of such intervention and influence.

3. Only the Commission is authorized to nominate, appoint and dismiss its employees according to Georgian legislation.
4. Any action of an employee of the Commission may be appealed to the Commission within 30 days, or to the court within the term determined in the legislation. The decision of the Commission may only be appealed to the court within the terms determined in the legislation.
5. Arrest or search of a Commissioner may be provided only with the consent of Parliament, except in cases when the Commissioner is taken *in flagrante delicto*. Parliament shall be informed instantly about such cases. If Parliament refuses its consent, the Commissioner shall be immediately released from custody. Parliament takes decisions according to the rules determined by regulation.

#### **Article 7. Session of the Commission and Confidentiality of Information**

1. The session of the Commission is public. All resolutions, decisions, orders, records and other documents of the Commission shall be available for public discussion, unless otherwise defined in the General Administrative Code of Georgia.
2. The Commission shall ensure transparency and the participation of all interested parties in the decision-making process of the Commission according to the General Administrative Code of Georgia.
3. The Commission is authorized to hold closed sessions to maintain the confidentiality of information. All resolutions and decisions made during closed sessions shall be published after the removal of any secret information, according to the General Administrative Code of Georgia.
4. The session of the Commission shall be called at least twice per month. An extraordinary session may be convened by the Chairperson on his/her own initiative or upon the request of two Commissioners.
5. The Commission shall publish information on the time and place of the nearest session, as well as an agenda, 3 days prior to the session, or information on closing the session, if a relevant decision is taken.
6. In emergency cases the Commission is entitled to hold a session without observing the rules determined in this Article, Paragraph 5. In such cases the Commission shall immediately publish information about the time and place of the session, as well as an agenda, or information on closing the session, if a relevant decision is taken.
7. The Commission is entitled to make a decision if a majority of listed Commissioners attends the session. The Commission takes a decision on the majority of votes of the Commissioners.
8. Each Commissioner has only one vote during decision-making process. In case of a tie, the vote of the Chairperson is decisive.

#### **Article 8. Legal Acts of the Commission**

1. According to the rules determined in the legislation, the Commission, within the scope of its competence, issues legal acts, such as: resolutions and decisions of the Commission and orders of the Chairperson.
2. Resolution of the Commission is a normative legal act that is issued under this law as well as the Georgian Laws on Post and Telecommunications and Independent Regulatory Authorities and other legislative acts, according to the rules and procedures of Georgian Law on Normative Acts.
3. The decision of the Commission is an individual legal act of the Commission. It shall be issued within the scope of the Commission's competence determined in the legislation.

4. The Commission takes decisions on non-normative issues to exercise its authority as determined by the legislation, as well as on intra-organizational issues of the Commission and/or its staff that contain general behaviour rules for a defined number of people.
5. The Chairperson of the Commission issues orders on intra-organizational issues of the Commission and its staff in specified cases. Such orders do not contain the general behaviour rule.
6. All legal acts of the Commission shall be taken in the session of the Commission.
7. Legal acts of the Commission may be appealed to the court under the rules determined in the legislation.

#### **Article 9. Structure of the Commission**

1. The Commission consists of 5 Commissioners.
2. The tenure of a Commissioner is 6 years.
3. A Commissioner shall not be appointed for more than two consecutive terms.
4. Candidates for Commissioner are selected through open competition.
5. 100 days prior to or within 10 days after the expiration of tenure of a Commissioner, the President issues a decree announcing an open competition.
6. A nominee must have wide public trust and a higher education.
7. Any person has the right to nominate a candidate within 30 days of an open competition being announced.
8. If, within the term defined in this law, less than 3 candidates are presented for one vacant position, a new competition shall be announced under the rule determined in this law.
9. Within 10 days of the nomination date expiring, a list of nominees shall be published.
10. Within 10 days of the list of nominees being published, according to the criteria specified in this law, the President of Georgia makes a decision on the selection and submission to Parliament of at least 3 candidates for each vacant position.
11. Within 30 days of list of a candidatures being submitted by the President of Georgia, and in case of recess within 15 days of a session being resumed, Parliament by means of secret ballot gives consent to the President for the appointment of Commissioners.
12. The candidate winning the majority of votes, when no less than half of the attending Members of Parliament Members vote, shall be nominated as a Commissioner. In case of a tie Parliament shall vote again.
13. If no candidate gets more than half of the votes of the attending Members of Parliament, the President shall, within 50 days, submit to the Parliament a new list of candidates. The selection procedure shall be followed according to this Article. The candidate with the majority of votes of the attending Members of Parliament, and no less than one-third of the votes of all Members of Parliament shall be selected for the post of Commissioner.
14. The President of Georgia shall appoint the candidates approved by Parliament.
15. The President of Georgia shall appoint one of the Commissioners to the position of Chairperson of the Commission. The Chairperson reserves the right to resign, but can remain as Commissioner for the duration of his/her tenure.
16. The Chairperson leads the sessions of the Commission; he/she is responsible for: a) maintaining procedural rules during the decision and/or resolution making process; b) publication of a decision and/or resolution; c) management of the Commission's staff.

#### **Article 10. Dismissal of a Commissioner**

1. The President of Georgia shall immediately dismiss a Commissioner and initiate nomination procedures for a new candidate, if a verdict of guilty, considering punishment such as

restriction of freedom or a jail sentence, comes into force; if he/she is declared to be insane or lost without trace, or in case of his/her death or resignation.

2. At least one-third of the listed Members of Parliament may initiate the procedure to dismiss a Commissioner, if:
  - a) a conflict of interest as determined in this law arises;
  - b) he/she fails to fulfil his/her duties for 2 consecutive months without reasonable excuse.
3. Members of Parliament initiating the dismissal procedure shall formulate concrete charges against the Commissioner and provide documentary proof.
4. Within 30 days of signatures being collected Parliament, by majority of listed members, places the issue of a Commissioner's dismissal on the parliamentary agenda.
5. After the issue of a Commissioner's dismissal is placed on the parliamentary agenda, the Parliament shall, during the next 30 days, vote whether to dismiss the Commissioner. Approval of a Commissioner's dismissal requires the votes of more than three-fifths of listed members.
6. If the number of votes is not sufficient, or if Parliament does not conduct the voting within the term determined in this Article, Paragraph 5, the dismissal procedure is closed.
7. On the basis of the same, charges shall not be brought against a Commissioner more than once.
8. A decision on a Commissioner's dismissal may be appealed to the court.
9. The President issues a decree on dismissal of a Commissioner if Parliament votes for approval of charges or, in case of a court appeal, following a final court ruling.

#### **Article 11. Conflict of Interest of a Commissioner and his/her staff employee**

1. Conflict of interest may arise if a Commissioner simultaneously:
  - a) is an official of another administrative authority;
  - b) is a member of any political party;
  - c) provides any remunerated work for an entity, whose activity is subject to regulation by the Commission;
  - d) holds shares or part of the fixed capital of an enterprise, whose activity is subject to regulation by the Commission;
  - e) is an official, representative or consultant of an entity, whose activity is subject to regulation by the Commission;
  - f) has any other direct or indirect financial interest towards an entity, whose activity is subject to regulation by the Commission;
2. A person with a conflict of interest as envisaged in this Article, Paragraph 1, shall not be a Commissioner.
3. A person, whose family member has a conflict of interest, as envisaged in this Article, Paragraph 1, Sub-Paragraphs *c* and *f*, shall not be a Commissioner.
4. A person with a conflict of interest as envisaged in this Article shall not be a staff employee of the Commission, with the exception of technical personnel.
5. A person, whose family member has a conflict of interest as envisaged in this Article, Paragraph 1, Sub-Paragraphs *c* and *f*, shall not be Chief of the Structural Unit of the Commission.
6. A Commissioner, as well as, any other official determined in Paragraph 5 of this Article shall announce in writing if he/she or his/her family member, within last 5 years, has had conflicts of interests as determined in this Article, Paragraph 1.

#### **Article 12. The Budget of the Commission; Annual Regulation Fee; License Fee**

1. The Commission shall, before the deadline of December 1, draw up its budget for the following year, including all expenses and revenues of the Commission. The budget shall be published.
2. The sources of the Commission's budget are the regulation fee and other financial sources determined in the present law, the Georgian laws "on electronic communications" and "on legal entities of public law". (28.12.2005 N 2565)
3. The license fee is paid by the license seeker for temporary usage of the frequency spectrum. The amount of the license fee and payment procedures shall be determined by the Commission, according to Georgian legislation. The license fee shall be entirely transferred to the State Budget of Georgia. (28.12.2005 N 2565)
4. The annual regulation fee is one of the main sources of the Commission's budget. It is related to the provision of the Commission's competence defined in Georgian legislation and is not considered an income obtained through economic activity. The regulation fee is meant to cover current expenses of the Commission as defined in the budget. (28.12.2005 N 2565)
5. The annual regulation fee shall be paid by license holders. The annual regulation fee shall be no more than one (1) percent of a license holder's individual income and includes his/her total revenue (VAT excluded). The annual regulation fee is calculated by an incremental sum, on a monthly basis, from the beginning of the year, based on actual earned income. The license holders shall transfer the annual regulation fee to the Commission's account on a monthly basis prior to 20<sup>th</sup> of each month and submit information on the transfer to the Commission. (28.12.2005 N 2565)
6. The Commission shall pass a normative act on the annual regulation fee.

#### **Article 13. Report of the Commission (02.06.2005 N 1516)**

1. The Commission shall, under established regulations, make an annual report and financial audit of its expenses and accounting reports. The Parliament of Georgia is empowered to make a decision on the provision of the financial audit approved by the Commission no more than once a year. In such case the Parliament, by means of tender, shall select an internationally recognized audit company. The members of the tender commission shall be represented by the Committee of Economic Policy and the Committee of Branch Economy of the Parliament of Georgia and appointed by the Parliament of Georgia. The Commission shall recompense the auditor.
2. The part of the report concerning the broadcasting sector shall include:
  - a) information on the provision of strategic trends and priorities of state policy for broadcasting;
  - b) the current situation on the broadcasting market and further perspectives;
  - c) a frequency plan and available frequencies;
  - d) the number of licenses issued;
  - e) the number and content of complaints already considered;
  - f) the number and content of applied sanctions;
  - g) public opinion and the results of broadcasting market research;
  - h) the following year's Commission budget;
  - i) execution of the Commission budget;
  - j) the audit report.
3. The Commission shall arrange a public hearing for its previous year's activity report. The main results of the report and the conclusions of the public hearing shall be reflected in the priorities of the broadcasting sector.

#### **Article 14. Complaints**



1. The license holder shall establish an effective mechanism for internal review of and reaction to complaints.
2. If a license holder breaches Georgian legislation, the license conditions and/or the Code of Conduct, any affected person is entitled to file a complaint to the Commission or to court.
3. The Commission shall, within 7 days of a complaint being filed, take a reasonable decision on acceptance or refusal of the complaint and immediately inform the plaintiff about the decision.
4. Consumers' written and verbal complaints shall be considered by means of hearings under administrative proceedings, unless there are exclusions that are defined in the General Administrative Code of Georgia and/or cases, when disputes may be settled without administrative proceedings. Consumers' complaints concerning issues of wide public interest shall be considered by the Commission under administrative proceedings only.
5. In case a violation is approved, the Commission draws up and promulgates a declaration. A broadcasting license holder shall, within 5 days, broadcast on prime time a declaration on violation of the license conditions, Georgian legislation or the Code of Conduct.
6. The Commission, taking into consideration the nature and seriousness of violation, is entitled to raise the question of imposing appropriate sanctions on the license holder.

### **Chapter III**

#### **Public Service Broadcasting**

#### **Article 15. Legal Status of a Public Service Broadcaster**

For the purposes of broadcasting of various programs free from political and commercial influence and corresponding to public interests, a Public Service Broadcaster shall be established on the bases of this law. The Public Service Broadcaster is a legal entity of public law, independent of the state and accountable to the public, established under Georgian legislation, on the basis of public financing, for television or radio broadcasting. The Public Service Broadcaster does not subordinate to any state authority.

#### **Article 16. Content Obligations**

1. The Public Service Broadcaster shall:
  - a) ensure editorial independence, the fairness and impartiality of programs and guarantee that the latter are free from state, political, religious or commercial influence;
  - b) ensure impartiality of the news, public-political, educational-analytical and cultural-sport programs according to public interest;
  - c) ensure the timely and comprehensive information of the audience concerning important events taking place in Georgia, its regions and in worldwide;
  - d) broadcast the news, public-political programs and electoral debates (during electoral campaigns) at prime time;
  - e) not make evident the opinion of the Public Service Broadcaster in programs;
  - f) cover the pluralism of opinions existing in the public;
  - g) broadcast independently-made programs for no less than 25% of the time;
  - h) reflect ethnic, cultural, linguistic, religious, age and gender diversity in programs;
  - i) broadcast a proportional number of programs for children corresponding to the interests of children and teenagers;
  - j) take into consideration the interests of disabled persons;
  - k) support the development of state originality, values and cultural diversity;

- l) broadcast a relevant proportion of programs prepared by minority groups, in their language.

### **Article 17. Frequencies of the Public Service Broadcaster**

1. The Commission, according to the submitted application, assigns to the Public Service Broadcaster the frequencies used by it at the moment of enforcement of this law. The terms and conditions for usage of a frequency are determined by the Commission.
2. Public Service Broadcasting is performed on two television and three radio channels.

### **Article 18. Independence and Immunity**

1. The Public Service Broadcaster, its officials and staff are independent in their activities and amenable only to the law. Any influence and intervention in their activities are illegal and results of such influence and intervention will be nullified.
2. Any kind of influence or intervention in the editorial, managerial or financial independence of the Public Service Broadcaster, on behalf of administrative authorities, is prohibited.
3. Any affected entity can apply to the court to avoid and prevent any kind of influence or intervention and also to nullify the results of such intervention and influence.
4. A decision made by an official of the Public Service Broadcaster can be appealed to the Board of Governors within 30 days and to the court within 6 months. Decisions of the Board of Governors may be appealed to the Commission within 30 days or to the court within the term defined in the legislation.

### **Article 19. Historical Archive**

The Public Service Broadcaster manages the archive and maintains records of programs having historical value.

### **Article 20. Program Priorities**

1. The Board of Governors defines program priorities taking into consideration public opinion, as well as trends and priorities of state policy in the broadcasting sector.
2. The Board of Governors, under public administrative rules, takes decisions on program priorities of the Public Service Broadcaster.
3. The programs of the Public Service Broadcaster are protected by the Georgian law on Copyright and Neighbouring Rights and shall not be subject to Chapter 3 of the General Administrative Code of Georgia.

### **Article 21. Publicity of the Activity of the Public Service Broadcaster**

1. The Public Service Broadcaster ensures publicity of its activities; regularly holds public meetings and considers proposals arising from them, in order to reflect public interest in its work.

### **Article 22. Structure of the Public Service Broadcaster**

1. The managerial authorities of the Public Service Broadcaster are:
  - a) Board of Governors
  - b) Director General

2. The structure of the Public Service Broadcaster is determined by the Resolution of the Public Service Broadcaster, approved on the basis of this law.

### **Article 23. Conflict of Interest of the Governor, Director General and Staff of the Public Service Broadcaster.**

1. Conflict of interest may arise if the Governor simultaneously:
  - a) is an official of another administrative authority;
  - b) is a member of any political party;
  - c) performs any remunerated work for a license holder in the broadcasting sector;
  - d) holds shares or part of the fixed capital of an enterprise, which holds a license in the broadcasting sector or makes and/or provides television productions;
  - e) is an official, representative or consultant of an entity, which holds a license in the broadcasting sector or makes and/or provides television productions;
  - f) has any other direct or indirect financial interest towards an entity, which holds a license in the broadcasting sector or makes and/or provides television productions;
2. A person with a conflict of interest as envisaged in Paragraph 1 of this Article shall not be a Governor.
3. A person, whose family member has a conflict of interest as envisaged in Sub-Paragraphs *c - f* of Paragraph 1 of this Article, shall not be a Governor.
4. A person with a conflict of interest as envisaged in this Article shall not be Director General.
5. A person, whose family member has a conflict of interest as envisaged in Sub-Paragraphs *c - f* of Paragraph 1 of this Article, shall not be Director General.
6. An employee of the Public Service Broadcaster shall not be an official of or perform any remunerated work for another broadcaster.
7. The Governor and the Director General shall announce in writing if they or their family members, within the last 5 years, have had conflicts of interest as envisaged in Paragraph 1 of this Article.

### **Article 24. Board of Governors**

1. The Board of Governors consists of 9 Governors.
2. Tenure of a Governor is 6 years.
3. One-third of Governors shall be changed every two years by rotation.
4. A Governor shall not be appointed for more than two consecutive terms.
5. A member of the Board of Governors receives an honorarium for the provision of his/her activities. All expenses incurred for the performance of functions determined in this law shall be reimbursed.

### **Article 25. Nomination of Candidates for Governor**

1. Candidates for Governor are selected by means of open competition;
2. 100 days prior to or within 10 days of a Governor's tenure expiring, the President of Georgia issues a decree announcing an open competition;
3. A nominee must have wide public trust, a higher education and at least 5 years work experience;
4. Any person has the right to nominate candidates within 30 days of an open competition being announced;
5. If, within the term defined in this law, less than 3 candidates are presented for one vacant position, a new competition shall be announced under the rules determined in this law;
6. Within 10 days of a nomination date expiring, a list of nominees shall be published;

7. Within 10 days of the list of nominees being published, according to the criteria specified in this law, the President of Georgia makes a justified decision on the selection and submission to Parliament of at least 3 candidates for each vacant position.

#### **Article 26. Appointment of a Governor**

1. Within 30 days of a list of candidates being submitted by the President of Georgia, and in case of recess within 15 days after renewal of session, Parliament conducts public hearings and votes for Governors by secret ballot;
2. The candidate winning a majority of votes, when no less than half of the attending Members of Parliament vote, shall be nominated as a Governor. In case of a tie, Parliament shall vote again.
3. If no candidate gets more than half of the votes of the attending Members of Parliament, the President shall, within 50 days, submit to Parliament a new list of candidates. The selection procedure shall be followed according to Article 25 of this law. The candidate getting the majority of votes of the attending Members of Parliament and no less than one-third of the votes of all Members of Parliament shall be selected for the post of Governor.
4. The President of Georgia shall appoint the candidates selected by Parliament.

#### **Article 27. Dismissal of a Governor**

1. The President of Georgia shall immediately dismiss a Governor and initiate the nomination procedure for a new candidate, if a verdict of guilty considering punishment such as restriction of freedom or a jail sentence comes into force; if he/she is declared to be insane or lost without trace, or in case of his/her death or resignation;
2. At least one-third of listed Members of Parliament may initiate a Governor's dismissal procedure if:
  - a) a conflict of interest as determined in this law arises;
  - b) he/she fails to fulfil his/her duties for 2 consecutive months without reasonable excuse;
3. Members of Parliament initiating the dismissal procedure shall formulate concrete charges against the Governor and provide documentary proof;
4. Within 30 days of signatures being collected Parliament, by majority of listed Members, puts the issue of a Governor's dismissal on the parliamentary agenda;
5. In case the issue of a Governor's dismissal is put on the parliamentary agenda, Parliament shall, within 30 days, arrange for the case to be heard and vote on dismissal of the Governor. Approval of a Governor's dismissal requires the vote of more than three-fifths of listed Members.
6. If the number of votes is not sufficient, or Parliament does not conduct the voting within the term determined in this Article, Paragraph 5, the dismissal procedure is closed.
7. On the basis of the same, charges shall not be brought against a Governor more than once;
8. A decision on dismissal of a Governor may be appealed to the court;
9. The President of Georgia issues a decree on dismissal of a Governor if Parliament votes for approval of charges or, in case of a court appeal, following a final court ruling.

#### **Article 28. Session of Board of Governors**

1. The Board of Governors takes decisions during its sessions. The Board is entitled to take decisions if more than half of the listed Governors attend the session. The Board takes decisions by a majority of votes of presented Governors.

2. Session of the Board of Governors shall be held at least once per month. The Chairperson may convene a special session on his/her own initiative or on the request of one-third of the Governors, the Director General or the Public Service Broadcaster Auditor.
3. A Governor shall be notified of the date and agenda of a session at least 3 days prior to the session.
4. Each Governor has only one vote during the decision-making process. In case of a tie, the vote of the Chairperson is decisive.
5. The Director General, the Public Service Broadcaster Auditor and an independent auditor have the right to attend the session. Any official or employee of the Public Service Broadcaster or may, with the consent of the Chairperson of the Board and/or on the initiative of the Director General, attend the session.

### **Article 29. Chairperson and Deputy Chairperson of the Board of Governors**

1. The Governors shall appoint a Chairperson of the Board of Governors (hereinafter referred to as Chairperson) and a Deputy Chairperson by the majority of votes of listed Governors, at the very first session of Board of Governors.
2. The Chairperson or, in case of his/her absence, the Deputy Chairperson convenes and conducts Board sessions, signs decisions and represents the Board of Governors to the Director General.
3. 30 days prior to the expiration of a Chairperson's tenure, the Board elects a new Chairperson.
4. The tenure of the Chairperson is 3 years. The Chairperson shall not be appointed for more than two consecutive terms.
5. The duties and responsibilities of a new Chairperson shall become effective from the moment of expiration of the previous Chairperson's tenure.

### **Article 30. Functions of the Board of Governors**

The Board of Governors is authorized to:

- a) define the program priorities of the Public Service Broadcaster;
- b) approve the Charter of the Public Service Broadcaster upon submission by the Director General;
- c) approve the budget and audited accounts of the Public Service Broadcaster upon submission by the Director General;
- d) review the quarterly activity report of the Public Service Broadcaster;
- e) give its consent to the Director General for conducting transactions not exceeding 1% of the Public Service Broadcaster's budget.
- f) determine remuneration terms for the Director General.

### **Article 31. Public Councils**

1. In order to represent public interests in public broadcasting activity and to ensure the fulfilment of obligations determined by Article 16 of this law, Public Councils may be created. Public Councils are entitled, with the direct participation of the public, to elaborate recommendations for the Public Service Broadcaster.
2. The quantity, rules of formation, activity and functions of the Public Councils are determined by the Charter of the Public Service Broadcaster.

### **Article 32. Director General**

1. The Board of Governors shall, by means of open competition, appoint a Director General for 6 years of tenure. The Director General can be re-appointed for a second term by the Board of Governors without an open competition. (20.05.2005 N 1475)
2. An open competition for the post of Director General and the subsequent appointment of a Director General shall be carried out within one month of vacancy arising. (20.05.2005 N 1475)
3. The Board of Governors shall draw up a contract with the Director General. (20.05.2005 N 1475)
4. The Director General shall, under the rules established by this law, lead and conduct the activities of the Public Service Broadcaster and represent it in relationship with third parties.

### **Article 32.1. Rules and conditions for the dismissal of Director General (20.05.2005 N 1475)**

1. The basis for dismissal of the Director General may be:
  - a) The end of tenure;
  - b) A decision of the Board of Governors on declaring distrust in the Director General;
  - c) A court conviction;
  - d) A private declaration;
  - e) Decease.
2. The Board of Governors is entitled to discuss the issue of declaring distrust in the Director General and his/her dismissal on this basis, in case discussion of the above-mentioned issue is requested in writing by at least one-third of the members of the Board of Governors.
3. The decision of the Board of Governors on dismissal of a Director General on the basis determined by paragraph 2 shall be considered as taken, if the decision is supported by at least two-thirds of members of the Board of Governors.
4. If the initiative of the members of the Board of Governors on declaring distrust in the Director General is not supported by the quantity of members determined in paragraph 3, it is inadmissible to reconsider the issue of declaring distrust in the Director General within the following 6 months.

### **Article 33. Budget of the Public Service Broadcaster and Public Service Broadcasting Fee**

1. The budget of the Public Service Broadcaster is approved by the Board of Governors.
2. The Public Service Broadcaster shall be funded from the public service broadcasting fee and/or other sources defined in and/or allowed by the legislation in force.
3. Any natural person having a taxable income shall pay the public service broadcasting fee.
4. The public service broadcasting fee is transferred monthly to the Public Service Broadcaster's account.

### **Article 34. Audit**

1. The Board of Governors appoints an independent auditor by means of open competition. An independent auditor conducts an external audit of the Public Service Broadcaster at least once a year.
2. A Public Service Broadcaster Auditor, appointed by the Director General, regularly conducts internal audits of the Public Service Broadcaster.
3. The Chairperson of the Board of Governors, Director General and one-third of listed members of the Board of Governors are authorized to order an auditor of to conduct an additional audit of the Public Service Broadcaster.

### **Article 35. Report of the Board of Governors**

1. The Board of Governors shall, by May 1 each year, submit its activity report to the Parliament of Georgia, the President and the Commission. The report shall be published.
2. The report shall include information on:
  - a) the broadcasting policy of the Public Service Broadcaster;
  - b) current and future program priorities;
  - c) current and future program schedules;
  - d) independent programs and their producers;
  - e) public opinion and the results of broadcasting market analysis;
  - f) the number and content of complaints handled;
  - g) the contents of public hearings and the proposals of citizens;
  - h) enterprises that are interdependent with the Public Service Broadcaster;
  - i) execution of the current budget of the Public Service Broadcaster;
  - j) the Public Service Broadcaster's budget for the following year;
  - k) internal and external audit results.
3. The Parliament of Georgia conducts public hearings of the Public Service Broadcaster's report. Results of the hearings shall be reflected in the Public Service Broadcaster's program priorities.
4. Any Member of Parliament is empowered to request and receive information from the Public Service Broadcaster about its activities.

## **Chapter IV Licensing in the Broadcasting Sector**

### **Article 36. Organization of Licensing**

1. The Commission is the only entity authorized to issue broadcasting licenses. The Commission
  - a) issues licenses for the activities defined in this law and maintains a departmental license register;
  - b) provides control on the fulfilment of license conditions;
  - c) modifies, renews, suspends, or revokes licenses according to this law;
  - d) within the scope of licensing, has other responsibilities defined by the legislation.
2. Activity within the broadcasting sector that is related to necessary technical regulation and the usage of scarce resources shall be undertaken under the relevant license only, except for the Public Service Broadcaster and cases determined in Article 75 of this law. Activity in the broadcasting sector without the relevant license is punishable by law.

### **Article 37. Licence holders in the broadcasting sector**

1. A license holder may be any natural person or legal entity resident in Georgia.
2. A broadcasting licence should not be held by:
  - a) An administrative authority, officials or employees of an administrative authority;
  - b) A legal entity interdependent with, or controlled by, an administrative authority;
  - c) A political party or its officials.

### **Article 38. Types of Broadcasting Licenses**

1. The Commission issues community and private broadcasting licences.
2. The Commission issues private broadcasting licences for general and specialized broadcasting.
3. General and specialized broadcasting is provided by the terrestrial stations of broadcasting satellite systems, cable networks or the frequency spectrum. Transit of broadcasting through the frequency spectrum is unauthorized, except for the unaltered broadcasting of television and radio programs legally received from a licensed broadcaster under Georgian legislation. (28.12.2005 N 2565)
4. Licenses for frequency spectrum-based broadcasting shall be issued, modified, suspended and revoked following public administrative proceedings; licenses for activities by the frequency spectrum, as well as by terrestrial stations of broadcasting satellite systems or cable networks, shall be suspended and revoked under the same procedures.
5. Licenses for terrestrial stations of broadcasting satellite systems or cable networks shall be issued and modified under simple administrative procedures.

### **Article 39. The Validity of Broadcasting Licenses**

A license is issued for a ten-year term. On expiration, a license may be prolonged automatically once, if the sanctions determined by article 72, paragraph 2, have not been applied to the license holder. In this instance, the license holder pays a license levy and an initial license fee in cases determined by the legislation. Six months prior to the expiration of a license, the license holder shall submit an application to the Commission for the announcement of an open competition. The Commission shall conduct the competition before the license expires.

### **Article 40. Terrestrial License Service Area**

1. According to the decision of the Commission, the territory of Georgia is divided into terrestrial broadcasting service areas.
2. A terrestrial broadcasting license holder shall ensure the accessibility of quality reception of radio or television signals for at least 90% of the population in the proposed service area.
3. For the acquisition of national and/or local broadcasting licenses considered in article 38, paragraph 2 of this law, separate competitions shall be arranged.

### **Article 41. Broadcasting License Issuance Procedure**

1. The Commission shall, within 30 working days of submission of an application, take the decision on issuance of a license for the activity of terrestrial stations of satellite broadcasting and/or cable network; licenses for the frequency spectrum activities shall be issued by means of open competition. (02.06.2005 N 1516)
2. The license seeker shall, for acquiring a broadcasting licence, submit to the Commission an application consisting of the following:
  - a) For an individual - first and last name, date and place of birth, registration data, address and citizenship;
  - b) For a legal entity - name of the organization, organizational-legal form, legal address (locality), registration data as listed in the manufacturing register, first and last name of the authorized representative, information on partners and shareholders holding more than 5% of shares;
  - c) The type of broadcasting license required by the seeker;
  - d) proposed geographical area for broadcasting;
  - e) proposed duration of broadcasting within a 24-hour period;



3. The following shall be annexed to the application:
  - a) Withdrawn (28.12.2005 N 2565)
  - b) copies of the documentation asserting state registration; for an individual – a copy of his/her identity card;
  - c) the document confirming payment of the license levy;
4. The terrestrial broadcasting license seeker shall annex the following to the documents determined in Paragraph 3 of this Article:
  - a) a financial plan for the broadcasting activity to be carried out; (28.12.2005 N 2565)
  - b) documents on the technical means to be used for broadcasting;
  - c) a broadcasting concept;
  - d) confirmation of a 10% payment of the initial license fee. This amount shall be transferred to the account of the Commission. If the applicant does not obtain a license, this amount, excluding the bank fee, shall be returned to the applicant within 10 working days of a written application being submitted to the Commission. A successful applicant shall pay the remainder of the license fee according to the rule determined by the Commission.
5. Only the Commission issues licenses and authorizations. The establishment of and request for other types of licences or authorizations is prohibited (one stop principle).
6. Withdrawn (02.06.2005 N 1516)

#### **Article 42. The Basis for Application Refusal**

1. The Commission shall not accept an application if:
  - a) documents determined in this law are not fully presented;
  - b) the application is submitted by an entity defined in Article 37 of this law;
  - c) a new application concerning acquisition of a license or authorization is submitted by a license holder sanctioned by the Commission for any violation envisaged in this law, if the application is submitted within a year of such a decision being taken.

#### **Article 43. Terrestrial Broadcasting License Issuance Procedure**

1. The decision of the Commission on the announcement of an open competition shall include:
  - a) the exact name of the license to be issued;
  - b) broadcasting type, subjects, minimal duration and geographical area to be covered;
  - c) minimal requirements for programming (the concept submitted by the license seeker shall comply with these requirements); (28.12.2005 N 2565)
  - d) technical parameters; projects submitted by the license seeker shall comply with these parameters;
  - e) the amount of the license fee and payment procedure;
  - f) dates of conducting a preparatory session and competition.
2. At least 2 (two) months prior to the date of the open competition, the Commission shall publish information about the competition; (28.12.2005 N 2565)
3. The Commission shall, 20 (twenty) days before the open competition, arrange the preparatory session; All seekers shall submit an application and attached documents to the Commission at the preparatory session. The submitted documents shall be immediately opened in attendance of all participants and shall be made available to the public. (28.12.2005 N 2565)
4. In case incomplete and/or incorrect documents are submitted, the Commission shall notify the bidder and give him/her additional time (no less than 5 and no more than 15 days) to correct the application and make it comply with the requirements set forth in this law. The application and the attached documents shall not be sent by post.

5. If a submitted application is incomplete, or the investment obligations and minimal requirements of programming are not fulfilled, the Commission considers a decision on rejection of the application and excluding the license seeker from participating in the competition.
6. The Commission holds the competition during a public session.
7. The Commission shall evaluate the application and the attached documents according to aspects of programming.
8. If the winner is defined by aspects of programming, the following shall be considered during the evaluation:
  - a) the proposed program's diversity of and conformity with audience interest;
  - b) the availability of other broadcasters' programs within the same service area and target audience.
9. In case the license seekers participating in the competition are evaluated equally, the license seeker who undertook broadcasting on the basis of a previously issued license, with the use of frequencies granted on the basis of a competition, shall be declared the winner.
10. The Commission adopts and publishes a justified decision on determination of a winner.
11. If only one seeker participates in an open competition, he/she shall be defined a winner on confirmation of the license fee payment.
  - 11.1. In case a competition winner requires the permission of other authorities to carry out broadcasting with the usage of frequency spectrum, in order to receive this permission using the one-stop-shop principle, the winner is entitled to submit the relevant documentation required by Georgian legislation to the Commission and the Commission shall ensure permission is obtained from the relevant entities. In such cases, the Commission shall within 5 working days of the documentation being submitted, send the documentation submitted by the winner of competition to the relevant entities. If within 20 working days, a relevant entity refuses to issue a permit, the refusal shall justify unconformity with Georgian legislation and indicate ways to correct such unconformity. An additional time period shall be given to the winner of the tender to correct any unconformity. (02.06.2005 N 1516)
12. If a winner fails to pay 20% of the license fee within the term defined in the Commission's decision, the Commission shall take a decision to refuse to consider a license application (in such cases, the seeker is not permitted to submit to the Commission an application to participate in an open competition for a 2-year period.

#### **Article 44. Refusal to Issue a License**

1. The Commission shall refuse to issue a license if the seeker does not win an open competition. Refusal to issue a licence shall be approved by resolution of the Commission.
2. The Commission's refusal to issue a licence may be appealed to the court.

#### **Article 45. License modification**

1. The basis for license modification may be due to:
  - a) amendments to the legislation in force and/or changes in strategic trends and priorities in the broadcasting sector;
  - b) reasonable request of the Commission and/or a license holder.
2. The Commission shall decide on license modification under the rule determined in this law, within the terms defined in the General Administrative Code of Georgia.
3. A license shall not be modified if modification causes a basic change in the license, or the activity area. In such cases a new license shall be issued according to the procedures determined in the law.

## **Chapter V Community Broadcasting**

### **Article 46. Community Broadcasting License Holder**

1. A community broadcasting license holder shall:
  - a) serve community interests;
  - b) ensure participation of members of the community it serves;
  - c) ensure minority opinions are broadcast.
2. The Commission allocates a frequency spectrum for community broadcasting.

### **Article 47. Community Broadcasting License Issuance Procedure**

1. To acquire a community terrestrial broadcasting license, an open competition shall be held in accordance with article 43 of this law.
2. The Commission shall, when issuing a community broadcasting license, consider whether the proposed service conforms to:
  - a) the current and future interests of the community as well as an applicant's capacities;
  - b) nature and diversity of the community;
  - c) types of services provided by other broadcasters within the applicant's service area.

## **Chapter VI License Conditions and Content Requirements**

### **Article 48. License Conditions and Inadmissibility of License Transferring**

1. License conditions are defined by the legislation as well as the obligations determined in the application.
2. Involvement in any action defined in the Georgian Civil Code concerning transferring or delivering the license to any other person, including tenancy and the inclusion of the license obligation in the fixed capital value, is inadmissible.

### **Article 49. Archive**

License holders of general and specialized broadcasting, as well as community and public broadcasters, shall maintain a program archive and keep programs for at least one month after they were broadcast. In cases of dispute, programs related to the dispute shall be retained until the dispute is settled.

### **Article 50. License Holders Code of Conduct**

The Commission shall, on the basis of consultations with license holders and public representatives, under public administrative proceedings, draw up and pass as law the Code of Conduct for license holders.

### **Article 51. Programming**

General, specialized, public and community broadcasting license holders shall, where applicable, reserve a substantial part of television time (except the time for news, sports events and games, advertisement, teletext and teleshopping) for European programs. Providing time for European programs is ensured progressively on the basis of relevant criteria and taking into account the informational, educational, entertainment and cultural obligations of the license holder.

### **Article 52. Accuracy, Right of Correction and Retraction**

1. General, specialized, public and community broadcasting license holders shall take all reasonable steps to ensure factual accuracy and correct mistakes in a timely manner.
2. Within 10 days of an initial statement being made, an interested party is entitled to request publication of retraction or correction of the facts using the same means and format, including duration, as the initial statement.
3. Correction and retraction shall not be made if:
  - a) the relevant request for publication is not made within the period of 10 days;
  - b) the initial statement applies to an indefinite group of people or does not allow direct identification of the plaintiff;
  - c) the length, content or mode of the reply exceeds what is necessary to correct or retract in equal means and mode the facts stated in the initial statement, or the reply contains correction or retraction of an opinion and not the facts stated in the initial statement;
  - d) a reply or retraction contains defamation or advocacy prohibited by Paragraph 4 of Article 24 and Paragraph 3 of Article 26 of the Constitution of Georgia;
  - e) a reply or retraction adversely affects a third party;
  - f) the plaintiff cannot demonstrate the existence of a legitimate interest.
4. Refusal of a license holder to correct or retract factual errors, with equal means and format, may be appealed to the court.

### **Article 53. Schedule and Classification**

1. General, specialized, public and community broadcasting license holders shall publish a weekly program schedule including the titles and brief summaries of television and radio programs and make classification of programs and films by defining the categories and assigning corresponding marks.
2. The Commission sets the criteria for classification and the corresponding marks for films that may have a harmful influence on minors.

### **Article 54. Fairness and Impartiality**

1. General, specialized, public and community broadcasting license holders shall ensure accurate and fair coverage of facts and opinions and the identification of personal views.
2. General, specialized and public broadcasting license holders must ensure the establishment of non-discriminatory and pluralistic coverage of public views and concerns.

### **Article 55. Electoral Debates**

1. A general broadcasting license holder shall broadcast electoral debates during election campaigns within its service area.

2. During election campaigns, general and public broadcasting license holders shall, within their service areas, ensure without any discrimination the equal participation in electoral debates of at least all registered electoral subjects.

### **Article 56. Prohibition**

1. Any type of war propaganda is prohibited.
2. Broadcasting license holders shall avoid broadcasting programs containing material to incite ethnic or religious hatred and which are of a discriminatory nature to any group.
3. Broadcasting license holders shall avoid broadcasting programs containing material to stir up hatred, discrimination, that is offensive to any person or group on the basis of ethnic background, religion, opinion, age, gender, sexual preference or disability, or any other feature or status. Special emphasis of these features or statuses is only permissible within the context of a program if it aims merely to illustrate such hatred or discrimination, as they already exist in society.
4. Television programs or advertisement including pornography, as well as obscenity and infringing a citizen's dignity and his/her basic rights, are prohibited.
5. Programs having a harmful influence on the physical and intellectual development of children and adolescents must be scheduled accordingly (not at times when they are likely to be tuned in).
6. Cable broadcasting license holders have the right to broadcast, using a coded form, television and radio programs or advertisements as determined in this Article, Paragraph 4, under the individual agreement reached with the consumer.

### **Article 57. Prohibition of Subliminal Broadcasting**

License holders of general, specialized, public or community broadcasting shall not broadcast programs that, by means of technical audio and visual editing in a very short period of time or in another way, may transmit information or influence the opinion of listeners or viewers by affecting their sub-consciousness, so that they are not fully or partially aware of the influence.

### **Article 58. Significant Events**

1. The Commission shall, on the basis of public opinion, under administrative proceedings, determine a list of significant events, which are of major public interest and publish the list once every 5 years (using public code proceedings).
2. Exclusive rights to broadcast significant events are prohibited for a broadcasting license holder, whose service is not accessible for 90 % of the population of Georgia.

### **Article 59. News and Current Affairs Programs**

General terrestrial broadcasting license holders and public broadcasting license holders shall broadcast in prime time news and current affairs programs and ensure timely information is delivered to the audience regarding current events within state and worldwide within their service area.

## **Article 60. Prohibition of Media Ownership Concentration**

A person/legal entity may possess independently or with an interdependent person/legal entity no more than one terrestrial broadcasting licence for television and one for radio in any one service area.

## **Article 61. Transparency of Media Ownership**

1. A broadcasting license holder shall annually disclose information to the Commission about:
  - a) partners, shareholders with the shares of more than 5% and directors of the organization, if the license holder is a commercial legal entity of private law;
  - b) founders, other members, sponsors and managerial staff of the organization if the broadcasting license holder is a non-commercial, legal entity of private law;
  - c) ownership of another broadcasting license;
  - d) ownership of a share in the capital of another broadcasting license holder;
  - e) ownership of a newspaper;
  - f) ownership of a share in the capital of a newspaper;
  - g) ownership of a news agency;
  - h) ownership of a share in the capital of a news agency;
  - i) ownership of another enterprise or possession of 5% or more of the shares in another enterprise;
2. A broadcasting license holder shall also publish information and submit it to the Commission if its (license holder's) shareholders, top managers, investors, founders, other members or their family members simultaneously own:
  - a) a share in the capital of another broadcasting license holder;
  - b) a share in the capital of a newspaper;
  - c) a share in the capital of a news agency.

## **Article 62. Change in Ownership of a Broadcaster**

1. A license holder shall notify the Commission in writing about changes concerning a partner, shareholder, member, director or governor no later than 10 days after becoming aware of such a change.
2. The Commission takes all measures concerning stimulation of opinion pluralism in mass media as envisaged in Georgian legislation, as well as in international-legal norms having legal effect in Georgia, to avoid prohibited media ownership concentration arising as a result of changes.

## **Chapter VIII**

### **Advertisement, Teleshopping and Sponsorship**

## **Article 63. General Provisions**

1. The Georgian Law on Advertisement is applicable to advertising unless otherwise defined in this law;
2. Running of untrue, deceitful, covert, anonymous, offensive or defamatory advertisements or teleshopping is prohibited;
3. The license holder shall not be responsible for the content of social and electoral advertisement. The customer (the person placing the advertisement), according to the legislation in force, is responsible for the content of social and electoral advertisement;

4. Advertisement and teleshopping shall be clearly identified and distinguished from programs;
5. Journalists of news, current affairs and election debate programs shall in no way participate in advertisement or teleshopping;
6. Advertisements targeting children, or in which children are performing, must avoid anything likely to damage their interests;
7. Teleshopping shall not exert pressure on minors.

#### **Article 64. Commercial Advertisement and Teleshopping**

1. The Public Service Broadcaster is not allowed screen commercial teleshopping and advertisements on holidays, as well as on other days, in prime time with the exception of start and finish times of, and the natural intervals during, sports programs.
2. Teleshopping shall be restricted to no more than 15 minutes during a day and commercial advertisements - no more than 30 minutes. The duration of advertisements and teleshopping shall not exceed 10% of 1 hour (6 minutes). On the Public Service Broadcaster's channels, advertisements shall be run only at start and finish times of, and the natural intervals during, sports programs.
3. Private and community broadcasters are allowed to place commercial and teleshopping advertisements only between programs. According to this law, teleshopping and advertisements may be placed during the program provided that the value of the program is maintained.
4. Teleshopping and advertisements shall not interrupt the following programs:
  - a) speeches of the President of Georgia, plenary sessions of the Parliament of Georgia, official state events or official speeches of state officials;
  - b) religious ceremonies;
  - c) any program with a duration less than 15 minutes;
  - d) news, current affairs, religious, election debate programs and documentary films with a duration less than 30 minutes;
  - e) feature films or television films or series, except for serials and documentary films, with a duration, which does not exceed 45 minutes.
5. A program with a duration no less than 45 minutes, may be interrupted with advertisements and teleshopping no more than 3 times;
6. Duration of the breaks assigned for advertisement and/or teleshopping shall be no less than 15 minutes, except for programs consisting of autonomous parts. The same applies to sports and feature programs consisting of natural intervals and programs structured in the same way.
7. Advertisements and teleshopping may be placed in programs consisting of autonomous parts. The same applies to sports and feature programs consisting of natural intervals and programs structured in the same way only during their natural breaks.
8. Educational-scientific, children's and religious programs may be interrupted with advertisements or teleshopping no more than every 15 minutes and no more than for 45 seconds.
9. News, current affairs and political debate programs may be interrupted with advertisements or teleshopping no more than every 15 minutes and no more than for 120 seconds.
10. Feature films or television films or series, except for serials and documentary films, with a duration no longer than 45 minutes may be interrupted with advertisements or teleshopping no more than every 45 minutes.
11. The duration of advertisements or teleshopping during programs, except for special advertisements and teleshopping, shall account for no more than 15% of the entire broadcasting time per day. Teleshopping programs, except for the exclusive teleshopping

channel, shall be no longer than 15 minutes. The entire duration of teleshopping programs shall not exceed 3 hours per day.

12. The limitations concerning duration determined in this Article do not apply to banner advertisements. During cover up advertisements, including a running banner, the size of the advertisement shall not be more than 7% of the frame.

#### **Article 65. Social Advertisement**

1. A broadcasting license holder shall allocate free of charge at least 90 seconds per 3 hours for social advertisement.
2. The Public Service Broadcaster and Community Broadcaster shall allocate free of charge and without discrimination at least 60 seconds per 1 hour for submitted social advertisement and during election campaigns in their service area, by way of social advertisement, inform the public about the candidates and parties participating in election and the procedural issues for voters during an election campaign. Information must be accurate and shall include:
  - a) addresses of polling stations;
  - b) date of elections;
  - c) procedural rights and obligations of voters.

#### **Article 66. Electoral Advertisement**

1. A general terrestrial broadcasting license holder, as well as other broadcasting license holder that broadcast electoral advertisements, shall, during an election campaign conducted within its service area, broadcast the electoral advertisement presented by the electoral subject. Such election advertisement shall be broadcast free of charge and without any discrimination no more than 90 seconds per 3 hours.
2. The Public Service Broadcaster and community broadcasting license holders broadcasting electoral advertisements, shall during election campaigns conducted within their service areas, broadcast the electoral advertisement presented by the electoral subject. Such election advertisements shall be broadcast free of charge and without any discrimination no more than 60 seconds per 1 hour.

#### **Article 67. Prohibition of Sponsorship**

1. An administrative authority, members of an administrative authority or its employees, any political party, leader or official of a political party, coalition, and electoral subject shall not sponsor programs.
2. Programs shall not be sponsored by legal entities or natural persons, whose core activity is the production or sale of products or provision of services, the advertisement of which is prohibited by the Georgian Law on Advertisement.

#### **Article 68. Identification of Sponsored Programs**

Identification of the sponsor shall be displayed at the beginning and/or the end of the program only.

#### **Article 69. Prohibition of Influence of a Sponsor on Program Content and Length**

1. A sponsor shall not influence the content and scheduling of the sponsored program, and/or intervene in the editorial independence of the broadcasting license holder.
2. The following programs are prohibited to be sponsored:



- a) news, with the exception of sports and weather forecasts if they are broadcast as separate programs;
- b) commentaries on social and political topics;
- c) consumer and practical advice programs, electoral programs or programs directly related to electoral campaigns.

## **Chapter IX**

### **Accountability and Sanctions**

#### **Article 70. Accountability**

1. A broadcaster shall ensure conformity of the information about broadcast programs, advertisements and sponsors with the legislation in force, the license conditions and Code of Conduct.
2. Only the Commission and tax and law-enforcement agencies, within the scope of their competence, can regulate, supervise and/or control conformity of the activities of a license holder and the Public Service Broadcaster with the legislation in force.
3. The license holder shall, no later than May 1 each year, submit to the Commission a report on fulfilment of the requirements of this law, the license conditions and Code of Conduct, as well as the plan for the following year's activity and funding sources. The audit report shall be annexed to the main report.
4. The Commission shall set up accounting forms.
5. The Commission can request any information about fulfilment of legislative requirements in force, license conditions and/or Code of Conduct by the license holder. If a license holder breaches the legislation, license conditions and/or Code of Conduct, the Commission is empowered to apply sanctions as determined in the legislation.
6. The Commission is entitled to require information from the Public Service Broadcaster on fulfillment of legislative requirements and the Code of Conduct. In case of violation of these requirements, the Commission is authorized to apply as determined in the legislation.
7. The license holder and the Public Service Broadcaster shall, within 15 days, submit the requested information to the Commission.

#### **Article 71. Sanctions**

1. The Commission is authorized to notify in writing a license holder and/or the Public Service Broadcaster if the regulatory legislation in the field of television and radio broadcasting and/or the Code of Conduct are breached, or decisions of the Commission are not fulfilled as well as cases of license conditions being violated by license holders.
2. The Commission is entitled to impose a fine on the license holder and/or the Public Service Broadcaster in case of:
  - a) failing to eradicate violations defined by paragraph 1 of this article within the term determined by the Commission or repeated violation.
  - b) violation within 1 year of a license holder and/or the Public Service Broadcaster being warned for a single breach as determined by paragraph 1 of this article. (28.12.2005 N 2565)
3. Only the Commission is authorized to suspend and/or revoke a license. The resolution of the Commission shall approve suspension and/or revocation of a license.

#### **Article 72. Amount of Fine and Payment Procedures**

1. In the case envisaged in this law, Article 71, the Commission is authorized to impose a fine on the license holder. The amount of a fine shall be defined by the Commission and shall not exceed 0.5% of the license holder's annual income, but shall not be less than 2500 GEL.
2. If, within a year of a fine being imposed, the license holder and/or the Public Service Broadcaster repeatedly breaches the rules determined in Article 70, the Commission is empowered to impose a fine not exceeding 3% of the annual income of the entity and no less than 5000 GEL, or commence public administrative proceedings concerning suspension of a license.
3. The license holder and/or the Public Service Broadcaster shall be notified in writing about the decision on the penalty within 7 days of the decision being made. The notification shall include the justified reason and basis for the penalty.
4. The license holder and/or the Public Service Broadcaster shall pay the fine within 1 month of receipt of the relevant decision.
5. If a license holder fails to execute the decision on imposition of a sanction, the Executive Department of the Ministry of Justice of Georgia assumes execution of the decision. The fine paid by the license holder shall be transferred to the state budget of Georgia.

### **Article 73. Suspension of Licensed Activity**

1. Suspension of a license means the prohibition of licensed activity until renewal of the licence.
2. The Commission is entitled to consider suspension of a broadcasting licence, if a warning or fine has been already used as a sanction.
3. A license is suspended before eradication of violations specified in Paragraph 2 of this Article, but within three months of a decision on suspension of the license.
4. The decision to suspend a licence, including the motivation and basis for suspension, shall be sent to the license holder within 7 days of the decision being made.
5. The license shall, based on the license holder's application, be renewed after eradication of the violations according to the decision of the Commission.

### **Article 74. Revocation of a License**

1. The basis for revocation of a license may be:
  - a) request of the license holder;
  - b) death of the license holder;
  - c) suspension of licensed activity for more than 3 months or 120 days intermittently within one calendar year;
  - d) expiration of the license suspension period in case the license holder fails to eradicate violations;
  - e) failing to commence licensed activity within the period determined in the decision of the Commission;
2. Only the Commission is entitled to take a decision on revocation of a license.
3. In the case of a license's validity period expiring, it is considered that the license is revoked.
4. A license holder shall be notified about a decision to revoke a license within 7 working days.

## **The usage of radio frequencies (28.12.2005 N 2565)**

### **Article 75. The usage of radio frequencies**

1. Broadcasting frequencies (channels) shall be defined for private and/or community broadcasting license holders carrying out terrestrial broadcasting on the basis of private and/or community broadcasting licenses.
2. The Commission shall grant radio frequencies to the Public Service Broadcaster as well as private and/or community broadcasting license holder carrying out terrestrial broadcasting for assisting technological purposes, in order to ensure the fulfilment of the license conditions. When the license is suspended or renewed, the usage of radio frequencies granted by the Commission for the period of license validity shall be accordingly suspended or renewed.
3. Private and/or community broadcasting license holders carrying out broadcasting by cable network, shall obtain the right of use of radio frequencies for assisting technological purposes by means of an auction under the Georgian law “on electronic communications”, on the basis of a license.
4. The use of radio frequency spectrum without a license or granting is prohibited and punishable under the Administrative Code of Georgia.

## **Chapter XI**

### **Transitional and Conclusive Provisions**

### **Article 76. Transitional and Conclusive Provisions**

1. The present Commissioners shall perform their duties for the term for which they are appointed. Other Commissioners shall be appointed according to this law immediately this law comes into force.
2. The Commission shall adopt the Code of Conduct for broadcasters before 31<sup>st</sup> December 2006. (28.12.2005 N 2565)
3. Until the Code of Conduct is adopted, the Commission is not entitled to impose sanctions considered in article 71 of this law on broadcasting license holders or the Public Service Broadcaster for breaches determined by articles 52, 54, 56, 57, and 59 of this law.
4. The Commission shall, within 2 years of enforcement of this law, bring its normative acts into conformity with this law.
5. The Television and Radio Broadcaster of Georgia, a legal entity of public law shall, after enforcement of this law, until the Board of Governors is appointed, conduct its activities as Public Service Broadcaster under this law. State assets in the Television and Radio Broadcaster of Georgia, a legal entity of public law and “Television and Radio of Georgia” shall be transferred to the Public Service Broadcaster of Georgia within 1 month of enforcement of this law, by the government of Georgia.
6. The Government of Georgia shall, within 1 month of enforcement of this law, guarantee the transfer of those technical means being on the account of “Teleradiocentri of Georgia” LTD, to Public Service Broadcaster that ensures broadcasting of television and radio programs of the legal entity of public law “Television and Radio of Georgia”.
7. The “Teleradiocentri of Georgia” shall ensure that all broadcasting license holders and the Public Service Broadcaster have non-discriminatory, equal, direct access to every free

- element of technical means and services with cost-oriented and non-discriminatory tariffs. The Commission shall consider disputes raised for the non-fulfilment of the given conditions.
8. The candidates for Board of Governors shall be selected according to the procedures determined in this law in the following periods: the open competition is announced within 3 months of this law coming into force, on the basis of a presidential decree;
  9. According to paragraph 10, article 9 and paragraph 7, article 25 of this law, in 2005, the President of Georgia shall present no less than 2 candidates for every vacancy of Commission member and no less than 2 candidates for every vacancy of Governor to the Parliament of Georgia.
  - 9.1 The requirements determined by paragraph 3, article 26 and paragraph 13, article 9 shall not be applied to the procedures for selecting candidates for membership of the Commission or the Board of Governors in 2005. If in accordance with articles 9, 25 and 26 and paragraph 8, article 76 of this law, it is not possible to fill every vacant position in the Commission or Board of Governors, the President of Georgia is entitled, within 50 days, to present candidatures to the Parliament of Georgia from the list of candidates who had been nominated and who had submitted applications for participating in the competition announced according to paragraph 1 and 8 of this article. Therefore, any candidate may be presented, except for a person who had more opponents than supporters during the ballot of the first presentation to the Parliament. In case of presentation according to this paragraph, if a candidate receives more votes than another and no less than one-third of the votes of attending Members of Parliament, the appointment of this candidate will be deemed accepted. (20.05.2005 N 1475)
  10. On the basis of voting conducted between the appointed Governors after adoption of this law the tenure of the Governors shall be defined in the following manner: one-third of the Governors shall be appointed for a 2-year term, one-third for a 4-year term and one-third for a 6-year term.
  11. The Commission shall issue a relevant decree on the zone divisions of local broadcasting before the 1<sup>st</sup> July 2006. (28.12.2005 N 2565)
  12. The Commission shall, within one year of enforcement of this law, modify the licenses already issued in order to bring the licenses into conformity with the legislation in force.
  13. The Commission shall, within 2 years of enforcement of this law modify those licenses with service areas less than defined in the Commission's decision.
  14. Article 45, Paragraph 3 of this law, envisaging prohibition of any kind of modification that causes changes in the activity area, shall come into force after the fulfilment of liabilities determined in Article 76, Paragraph 11.
  15. Article 64, Paragraphs 4, (d) and (e), Sub-Articles (8), (9) and (10), paragraph 1 article 65 and paragraph 1 article 66 of this law, envisaging liabilities for broadcasting time and duration of advertisement and teleshopping towards private broadcasters, shall come into force within 5 years of enforcement of this law. In case of contradiction between this law and the Georgian Law on Advertisement, the provisions of this law shall be applied to the Public Service Broadcaster.
  16. The Parliament of Georgia shall, within 1 year of enforcement of this law, ensure conformity of the Georgian Law on Advertisement with this law.
  17. Privatization of the state-owned shares of legal entities of private law, having been established with the participation of state-owned shareholding broadcasting license holders, shall be effected under the rule determined in Georgian legislation within one year of this law being enforced.
  18. Within 6 months of this law being enforced, the legal entities of public law providing television and radio broadcasting (except for the Television and Radio Broadcaster of Georgia, a legal entity of public law and state television in the Autonomous Republic of

- Ajara) shall be transformed to legal entities of private law; during the following 6 months the state-owned shares in equity capital shall be privatized under Georgian legislation.
19. The Government of Georgia shall elaborate proposals for the re-organization of state television in the Autonomous Republic of Ajara, before the 31<sup>st</sup> December 2006. (28.12.2005 N 2565)
  20. From the enforcement of this law up until 1 January 2006, financing of the Public Service Broadcaster will be implemented according to the Georgian law on the State Budget of Georgia of 2005.
  21. From 1 January 2006 up until the enforcement of paragraphs 2 and 4 of article 33 of this law, the main source for financing the Public Service Broadcaster shall be the state budget. The value of financing shall be no less than 0.15% of GDP.
  22. Within 5 years after the enforcement of this law, instead of limitation of 90% population coverage established by the paragraph a) and h) article 2, paragraph 2 article 40 and paragraph 2 article 58, no less than 70% of population coverage limitation shall be in force.
  23. The Commission shall, within one year after the enforcement of this law, submit proposals to Parliament on the development of community broadcasting.
  24. If the present law establishes rules of issuing licenses in the field of broadcasting as well as inspecting the implementation of license conditions which are different from rules defined by the Georgian law “on licenses and permissions”, as well as different form and/or size of responsibility, the present law shall be used. (28.12.2005 N 2565)
  25. Private and/or community broadcasting license holders carrying out broadcasting with cable network and holding radio frequencies for internal technological purposes maintain these radio frequencies during the relevant period. Before the expiration of this period, on the basis of an application submitted to the Commission by the relevant undertaking, the Commission is entitled to take a decision on issuing a license for the use of these radio frequencies without an auction, for a period of 10 years. In such case, the undertaking shall pay the license levy. (28.12.2005 N 2565)
  26. Change of radio frequency assigned on the basis of a license and/or the Commission’s decision, within the period of license validity and/or the period defined by the Commission’s decision is possible solely in agreement with the license holder. In case if, the undertaking was damaged as a result of changing the radio frequency, the amount of compensation of the damage received shall be defined on the basis of an independent audit’s report. The payment conditions and payment form shall be agreed. (28.12.2005 N 2565)

#### **Article 77. The enforcement of this law**

1. This law (except paragraphs 2-4, article 33 and article 71) is to be enforced immediately after publication.
2. Paragraphs 2-4, article 33 of this law, are to become effective immediately after the enforcement of the legislative act determining the fee level of the Public Service Broadcaster and its payment rules.
3. Article 71 of this law to be enforced on the 15<sup>th</sup> day after its publication.

Mikheil Saakashvili  
President of Georgia

Tbilisi,  
23rd December 2004

