



State Comptroller and Ombudsman
Annual Report 70B | 2020

Ministry of Communications

Independence of Regulatory Bodies in the Broadcasting Sector

Abstract



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Background

The media is of great importance in the fabric of democratic life and the exercise of freedom of expression. The field of broadcasting is a meeting point between varying public interests, between important economic interests and between political interests, arising from the fact that communication influences public discourse and public opinion formulation. This is particularly the case with news reports and current affairs content, through which the general public is provided with information on processes and decisions on political and economic issues.

The establishment of dedicated independent regulators, including the Broadcasting Councils, is intended to increase the professionalism and professionalization of the regulatory bodies and to provide stability, consistency and certainty in the area under their auspices, all while maintaining the independence of the regulator.

Key figures

3.23 billion NIS

Broadcasting domain revenues in 2018

18%

Proportion of revenues in the broadcasting sector from the total revenue of the communications market in 2018

1.7 million NIS

Number of multi-channel television subscribers in 2018

15

Number of members in the Second Authority Council for Television and Radio

13

Number of members in the Cable and Satellite Council

12

Number of members in the Council of the Israeli Broadcasting Corporation

74

Number of advisory bodies available for selection by the Second Authority Council members





Audit Actions



From November 2016 to April 2018, the State Comptroller's Office examined intermittently aspects of the regulatory bodies' independence in broadcasting. This includes aspects relating to the establishment of an independent communications authority; appointment of members of the Second Authority Council; independence of the Cable and Satellite Council. The audit was conducted at the Ministry of Communications. Supplementary examinations were conducted at the Second Television and Radio Authority, the Cable and Satellite Council, the Government Companies Authority, and the Ministry of Justice.

The Situation Reflected in the Audit Findings



-  **Commercial and multichannel broadcasting model:** For about two decades, public committees have recommended changing the regulatory structure of the communications field in general and the broadcasting sector in particular. These recommendations were anchored in government decisions, the last one from 2015, but have not yet been implemented.
-  **Complementary Procedure for Appointing Members to the Second Authority Council in 2018-2017:** Although 3 more members were appointed to the Second Authority Council (out of 6 applicants) in accordance with the existing directives, and calls were sent to all advisory bodies, only 17 of the 74 advisory bodies took active part in the consultation process; the list of 14 candidates for the Second Authority Council - of which 6 were submitted for approval by the nominating committee - included a large proportion of candidates sent on the part of the then-Minister of Communications (about 70%) compared to candidates proposed by the advisory bodies (30%); there is no record of the considerations and reasons that underpinned the Minister's decision whether to include or exclude the candidates proposed by the advisory bodies, from the list of candidates he formulated; 60% of the candidates proposed by the minister on the list of candidates had affiliation or past affiliation with the then Minister of Communications or his party or government ministers. In the end, three members were appointed to the council, two of whom were among the candidates proposed by the Minister and another candidate recommended by the advisory bodies.
-  **Delay in appointment of a permanent CEO to the Second Authority:** The Second Authority has been operating for more than three years without a permanent CEO. When an authority has been running for a long time without a CEO, its independence is vulnerable and it lacks the resilience required to perform its professional duties optimally.
-  **Independence of the Cable and Satellite Council:** The Cable and Satellite Council depends on the Ministry of Communications in many significant aspects of its operation, including budgetary and manpower aspects. This may affect its functional independence and ability to make decisions and implement them as required.



The State Comptroller's Office welcomes the adoption of the report's findings by the Ministry of Communications and the implementation of corrective actions.

Main Audit Recommendations

- 💡 It is proposed to implement the government's decisions on changing the structural model of the communications sector in general and the broadcasting sector in particular, including the split model of the two broadcasting councils. This is to ensure that regulation in this area is independent, efficient and uniform and will lead to the realization of long-term broadcasting goals.
- 💡 The Ministry of Communications should consider ways to improve the consultation process, including examining the weight to be given to the advisory bodies' recommendations, and to increase the responsiveness of the advisory bodies to be part of the council's appointment process. In this context, it is proposed to examine the list of advisory bodies with the aim of improving and reducing it to include the most relevant bodies for the purpose of consultation. This should help to streamline the consultation process and fulfil the requirements of the law and the guidelines of the Attorney General.
- 💡 It is recommended that the Ministry of Justice examine the need to refine its guidelines in regard to the appointment of the Broadcasting Council, including on the question of the time period set for severing political affiliation or otherwise, whether by means of setting general standards or by establishing detailed guidelines for the procedure.
- 💡 It is proposed to examine whether the organizational structure within which the Cable and Satellite Council operates, in terms of budget and operations, does indeed allow for the degree of independence required for an independent dedicated regulator. The same is true in regard to the model for appointing public representatives to the council, who are appointed without consultation.

Summary

The media is of great importance in the democratic fabric of life and the exercise of freedom of expression. Furthering the examinations and recommendations outlined in this report may contribute to the existence of independent regulation in the sensitive field of communications and broadcasting in three main areas: reorganization of the structural arrangement of the broadcasting field; modes of appointment and termination; and budgetary aspects.

Restructuring the regulation of the communications sector



1996

9

committees discussed the need to change the regulation of the communications field in general and the broadcasting field in particular

7

government decisions were made within which the committee recommendations were prescribed

X

the government decisions were not implemented

2019