

GEDİK & ERAKSOY

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Foreign Media Players Limitation on Foreign Shareholding in Radio and Television Broadcasters

The Law on Principles of Radio and Television Broadcasts (the Broadcasting Law) entered into force on 3 March 2011 introducing various changes to television and radio broadcasting in Turkey, especially in terms of foreign television and radio broadcasters.

How Was It Before?

Pursuant to the Abolished Law on Principles of Radio and Television Broadcasts (the **Abolished Broadcasting Law**), the ratio of the foreign capital in a private radio and television broadcasting company could not exceed %25 of the paid-in capital of such broadcasting company. Further, a foreign legal or real person shareholder could only be a shareholder of one broadcasting company. The Abolished Broadcasting Law included limited number of provision restricting the role and presence of the foreign investors in the media market.

What Changed?

The Broadcasting Law now increases the foreign capital limit in a broadcasting company and sets forth that the total direct foreign capital share in media service provider corporation shall not exceed 50% of the paid-in capital of such broadcasting company. A foreign real or legal person may directly become a shareholder of maximum two media service providers. In case foreign real or legal persons hold shares in companies which are shareholders of media service providers and become indirect shareholders of the broadcasting companies, (i) the chairman, the deputy chairman and the majority of the board of directors and the general manager of the relevant broadcasting companies have to be Turkish citizens; and, (ii) the majority of the voting rights in the broadcasting companies' general assemblies must be held by the Turkish citizens. Broadcasting Law entails each media company to clearly stipulate these restrictions in its articles of association.

The enactment of the new Turkish Commercial Code on 1 July 2012 paved the way for joint stock companies having one board of directors' member only. The Regulation on Administrative and Financial Requirements that Media Service Providers and Platform and Infrastructure Operators are required to Comply (the **Broadcasting Regulation**) adopted this novelty and articulated that the chairman of the media service providers having only one board member must be a Turkish citizen.

Regardless of the nationality of the relevant shareholder, a real or legal person may be directly or indirectly be a shareholder in a media service provider holding maximum four terrestrial broadcasting licences. However, in case of shareholding in more than one media service provider, annual total commercial communication revenue of those media service providers in which a real or legal person directly or indirectly holds shares, should not exceed 30% of the total commercial communication revenue of the sector.

Real or legal persons whose aggregate commercial communication income exceeds such ratio are obliged to transfer their shares held in the media service providers within 90 days period granted by the Supreme Board of Radio and Television (**RTUK**). RTUK will be imposing administrative penalty in the amount of TL400,000 for each month to real or legal persons failing to fulfil such requirement within the given time period.

Effect on the Market

Prior to the enactment of the Broadcasting Law, RTUK expressed that the 25% limitation on the foreign investors had a negative impact on the foreign investors and therefore RTUK is planning to increase such limit to 50% to appeal foreign investors to media sector. Although a market research has not been conducted to evaluate the possible effects of increasing the foreign shareholding limits to 50%, it is expected that such increase will encourage the foreign investors to enter into Turkish media sector. The efforts of RTUK are now being awarded since the attention of the foreign investors in the Turkish media sector has been increasing notably. Many foreign investors are negotiating with local media companies to carve out a niche for themselves. It seems like the Turkish media sector is becoming a stimulant sector for other investors all around the world and RTUK is keen on to be a part of globalisation.

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