

**MONITORING
OF
ARMENIAN TV AIR**

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PREFACE

Over the past decade major changes took place in Armenia in the quality of TV broadcasting, in the programming approaches, and last but not least - the TV advertising. The advertising relations have significantly developed the forms of advertising and its methods have transformed, and the legislation regulating the advertising no longer satisfies the advertisers, or advertising vehicles or else the consumers.

This monitoring has been implemented by Yerevan Press Club with the funding of Friedrich Ebert Foundation and the Open Society Institute Assistance Foundation-Armenia to assist the realistic assessment of the current situation, the disposal of legislative violations as well as the development of the legislative framework, regulating the Armenian broadcasting.

The monitoring included two periods: April 16-May 31, 2009 and October 1-31, 2009.

During the first period (supported by Friedrich Ebert Foundation) 7 TV channels were monitored: First Channel of the Public Television of Armenia, "ALM", Second Armenian TV Channel, "ArmNews", "Yerkir Media", "Kentron", "Shant".

During the second period (supported by the Open Society Institute Assistance Foundation-Armenia), 6 TV channels were monitored: First Channel of Public Television of Armenia, "Armenia", Second Armenian TV Channel, "Yerkir Media", "Hay TV", "Shant".

The scope of the research is presented in the eight legislative excerpts enclosed. This approach has enabled to study the research material - the pieces broadcast, their language and advertising - in comparison with specific legislative provisions. This helped the analysts to refrain from arbitrary interpretations and contributed to the accuracy of research findings.

It should also be noted that during both monitoring periods the same methodology was applied. All quantitative data were summarized in tables, in which the violations by TV channels, their volume and nature were recorded in accordance with the legislative provisions.

It is undisputable that advertising is the main source of revenues for media and their guarantee of financial independence. Still, it is just as obvious that the requirements and the restrictions stipulated by the RA Laws "On Television and Radio" and "On Advertising" do not correspond to the needs of the present-day advertising market and practice. These restrictions are often purely formalistic and cannot serve as a mechanism that truly regulates the domain.

The civilized development of the media calls for the self-regulation of the advertising domain. Advertising should conform to certain ethical norms, be in line with the law, appropriate, truthful and fair.

This and other issues were discussed on December 16-18, 2009 in Aghveran at a seminar held by Yerevan Press Club with the support of Friedrich Ebert Foundation on the subject of "Policy and Legislation on TV and Radio Broadcasting of Armenia".

This publication is concluded by a brief analysis of the legislative framework that regulates broadcasting in Armenia as well as the law enforcement practice that also draws on the opinions and proposals voiced at the seminar.

REPORT ON MONITORING THE ARMENIAN TV AIR

OVERVIEW OF THE RESEARCH

The goal of this research is to define the real state of things in broadcasting through studying the TV air in the Republic of Armenia, to define the infringements of the legislation and through their analysis - to contribute to the development of the legislative framework of the domain.

The objective of this study is to determine how compliant the TV pieces aired on Armenian TV channels, and particularly - the advertising, are with the requirements of the RA legislation.

The subject of the monitoring was the language and advertising of specified TV channels within the timeframe of 18.00-24.00 (during the second period - 18.00-24.00) every day.

Overall, 9 TV channels were monitored.

The first period of monitoring included seven TV channels:

First Channel of the Public Television of Armenia, "ALM", Second Armenian TV Channel, "ArmNews", "Yerkir Media", "Kentron", "Shant".

The second period of monitoring included six TV channels:

First Channel of the Public Television of Armenia, "Armenia", Second Armenian TV Channel, "Yerkir Media", "Hay TV", "Shant".

The monitoring included two periods:

First period of monitoring: April 16 - May 31, 2009

Second period of monitoring: October 1-31, 2009

The two monitoring periods included four stages.

The schedule of the first stage of monitoring is as follows:

April 16-22, 2009 - First Channel of the Public Television of Armenia, "Shant"

May 1-7, 2009 - "Yerkir Media", "Kentron"

May 15-21, 2009 - "ALM", "ArmNews", Second Armenian TV Channel

The schedule of the second stage of monitoring is as follows:

April 23-29, 2009 - First Channel of the Public Television of Armenia, "Shant"

May 8-14, 2009 - Yerkir Media", "Kentron"

May 22-28, 2009 - "ALM", "ArmNews", Second Armenian TV Channel

The schedule of the third stage of monitoring is as follows:

October 1-7, 2009 - First Channel of the Public Television of Armenia, "Armenia", Second Armenian TV Channel,

October 9-15, 2009 - "Yerkir Media", "Hay TV", "Shant"

The schedule of the fourth stage of monitoring is as follows:

October 17-23, 2009 - First Channel of the Public Television of Armenia, "Armenia", Second Armenian TV Channel

October 25-31, 2009 - "Yerkir Media", "Shant", "Hay TV"

METHODOLOGY OF THE RESEARCH

The main units of the study were the *TV hour*, *TV piece* and *TV advertisement*.

The TV hour denotes every astronomical hour within 18.00-24.00 (18.00-19.00, 19.00-20.00, etc.). The advertising time that started at a certain TV hour and continued into the next one was appropriately divided between the two hours.

Note

Discrepancies of seconds were recorded between the beginnings of astronomical hours and the clocks of the TV channels.

The TV piece denotes a thematically and compositionally distinguished unit of the TV air, with no genre differentiation.

The TV advertisement denotes the advertisement/s that started and ended with "advertising" title, as well as the advertisement/s aired with no title, commercial announcements placed in the TV programs, displays of the brands of program sponsors or reference to them.

The advertisement that started before 18.00 (during the second period - started before 19.00) but did not end was not considered. The advertisement that started before 24.00 but did not end was not considered.

During both periods, the same methodology was applied.

BRIEF BACKGROUND OF MEDIA STUDIED

PUBLIC TELEVISION OF ARMENIA (PTA FIRST CHANNEL) is a part of the Public TV and Radio Company, founded in 2001. The managing body is the Council of Public TV and Radio Company. The daily duration of air of the First Channel is 19 hours on the territory of Armenia and 24 hours in Yerevan.

“ALM” is a private TV company, founded in 2000 by “ALM-holding” LLC. Daily duration of air is 24 hours.

SECOND ARMENIAN TV CHANNEL (SECOND CHANNEL) is a private TV company, founded by “Second Armenian TV Channel” LLC in 1998. The daily duration of air is 18 hours.

“ARMENIA” is a private TV company, founded in 1998 by “Gafesjian” family foundation and “Sargsian Family” foundation. The daily duration of air is 24 hours.

“ARMNEWS” is a private TV company founded by “ArmNews” CJSC in 2002. This is a news channel, broadcasting 24 hours a day, rebroadcasting also “EuroNews” programs.

“YERKIR MEDIA” is a private TV channel, founded in 2004 by “Husaber” CJSC. The daily duration of air is 24 hours.

“KENTRON” is a private TV company, founded in 2002 by “SHARM” CJSC. The daily duration of air is 19 hours.

“SHANT” is a private TV company, founded in 1994 by “Shant” LLC. The daily duration of air is 24 hours.

“HAY TV” is a private TV company founded in 2002 by “Shark” LLC. The daily duration of air is 24 hours.

FIRST STAGE OF MONITORING

The schedule of the first stage of monitoring is as follows:

April 16-22, 2009 - First Channel of the Public Television of Armenia, "Shant"

May 1-7, 2009 - "Yerkir Media", "Kentron"

May 15-21, 2009 - "ALM", "ArmNews", Second Armenian TV Channel

During the first stage (lasted a week for each TV channel) the research group studied how compliant **the duration of the TV advertisements and the intervals between them** were with the requirements of the legislation.

EXCERPT 1

It is prohibited to interrupt the TV programs with a duration of up to twenty minutes for more than one advertising slot.

RA Law "On Advertising", Article 9, Clause 1

EXCERPT 2

In electronic mass communication media it is prohibited to air advertising slots within one program at greater frequency than once every 20 minutes and with greater duration per on air hour than 10 minutes.

RA Law "On Advertising", Article 9, Clause 2

EXCERPT 3

The programs broadcast on the Public TV and Radio Company must not be interrupted by commercial advertising.

RA Law "On Television and Radio", Chapter 4, Article 28

At this stage the monitors measured and recorded the airtime allocated to advertising within the periods of 18.00-24.00 per every astronomical hour.

The measurements of this category were made in seconds.

At this stage the research findings were summarized in tables, recording the advertising aired by each of the seven TV channels studied within one TV hour and specifying its beginning and end time, its duration (timing) and if a violation of the law was made - in seconds.

The monitoring revealed that **in terms of violating the requirement of 20-minute advertising breaks** "Shant" TV company tops the list - 21 violations (4423 seconds) were registered on "Shant". However, it should be noted that while the Second Armenian TV Channel is the second in terms of the number of violations (7), in terms of the cumulative volume (6222) it beats both "Shant" with its 21 cases (4423 seconds) and PTA First Channel (6 violations amounting to 1719 seconds). No violations have been recorded along this dimension of the four other TV channels studied - "ArmNews", "Yerkir Media", "ALM" and "Kentron".

TV Channel	Number of violations	Volume of violations (in seconds and minutes)
PTA First Channel	6	1719 sec (28.7 minutes)
ALM	0	0
Second Armenian TV Channel	7	6222 sec (103.7 minutes)
ArmNews	0	0
Yerkir Media	0	0
Kentron	0	0
Shant	21	4423 sec (73.7 minutes)

With regard to preserving the 10 minute limit within one TV hour violations were only recorded on the Second Armenian TV Channel - 16 times, and on PTA First Channel - 15 times. The violations made by the Second Armenian TV Channel amounted to 4152 seconds, which is 2.3 times as much as that of the PTA First Channel - 1808 seconds.

No violations as to the permitted advertising duration have been recorded on “ALM”, “ArmNews”, and “Yerkir Media”, “Kentron” and “Shant” TV channels.

TV Channel	Number of violations	Volume of violations (in seconds and minutes)
PTA First Channel	15 50*	1808 sec (30.1 minutes) (a program was interrupted by commercial advertising)
ALM	0	0
Second Armenian TV Channel	16	4182 sec (69.7 minutes)
ArmNews	0	0
Yerkir Media	0	0
Kentron	0	0
Shant	0	0

*As to the ban on commercial interruption of programs on Public Television (see Excerpt 3), the findings for PTA First Channel are a source of concern: during only one week (April 16-22, 2009) 30 programs of the PTA First Channel were 50 times interrupted for advertising. It is obvious that this requirement of the Broadcast Law is violated by the PTA First Channel very often.

SECOND STAGE OF MONITORING

The schedule of the second stage of monitoring is as follows:

April 23-29, 2009 - First Channel of the Public Television of Armenia, "Shant"

May 8-14, 2009 - "Yerkir Media", "Kentron"

May 22-28, 2009 - "ALM", "ArmNews", Second Armenian TV Channel

During *the second stage* (a week for each channel) the following were studied:

- The language of the TV air
- Sponsor advertising
- Advertising of tobacco and alcohol
- Advertising of lotteries and raffles.

At this stage the monitors recorded and measured the programs and an advertisement aired by the TV channels at 18.00-24.00, in which the respective provisions of the legislation on television advertising are violated. The starting and ending time of the programs and advertisements are specified in seconds, and the nature of the infringement is described.

This category is measured in units and seconds.

LANGUAGE OF TV PROGRAMS

EXCERPT 4

In the Republic of Armenia the language of advertising is Armenian.

RA Law "On Advertising", Article 5

EXCERPT 5

The language of the TV and radio programs aired in RA is Armenian, with the exception of the cases, stipulated by this Law.

The programs in foreign languages, movies, documentaries and animated cartoons as well as the fragments in foreign languages in otherwise Armenian-language programs are broadcast with simultaneous Armenian translation - either in voice dubbing or with subtitles.

RA Law "On Television and Radio", Chapter 4, Article 5

The language of the programs aired on the seven TV channels of Armenia was considered only from the perspective of legislative provisions mentioned above, in Excerpts 4 and 5. The quality of the language used in TV programs (compliance with the literary standard) was not assessed.

In the course of the study (a week's period) no infringements were made as to the language requirements by PTA First Channel and "ArmNews". Throughout the monitoring on the air of "ALM", otherwise compliant with the legislation, three films were aired in Russian language. This was the only violation made by the TV company.

The 13 infringements that “Yerkir Media” had committed also were Russian-language films. In terms of language use, the largest number of violations, 42, is accounted for by “Kentron”. Of these, 16 violations were recorded in programs, 26 were films in Russian language and their announcements. It is followed by the Second Armenian TV Channel - 19, of which 2 were in programs, 8 - in advertisements and 9 - in films. The figure for “Shant” was 16, of which 8 were in advertisements, 5 - in films and 3 - in newscasts.

Most of the violations, 56 out of 93 (52.1%) were either films or their announcements in Russian language.

TV Channel	Number of violations	Distribution of violations
PTA First Channel	0	
ALM	3	All in films
Second Armenian TV Channel	19	In programs - 2, in advertisements - 8, in films - 9
ArmNews	0	
Yerkir Media	13	All in films
Kentron	42	In programs and their announcements -16, in films and their announcements - 26
Shant	16	In “Horizon” newscast and its announcement - 3, in films - 5, in advertisements - 8

SPONSOR ADVERTISING

EXCERPT 6

In programs created with sponsorship information on the sponsor can be presented, as well as logos, titles, brief announcements - only in the beginning and in the end of programs and for no longer than 1 minute each.

RA Law “On Television and Radio” Chapter 2, Article 15

As a result of the monitoring it has been recorded that the provisions on the sponsorship advertising are the ones most frequently overlooked (392 violations in the course of a week). Along this indicator again, “ALM” is the only channel that has committed no violations. On other TV channels monitored the ambition to please the sponsors has obviously surpassed the wish to follow the law in its requirement of making a reference to the sponsor only at the beginning and at the end of the program. In this regard the most “pleasing” channel is “Shant”, with 100 violations. Only “Who Wants to Be a Millionaire” program endorsed the sponsors 11 times each. Another program of “Shant”, “Subscriber is Unavailable”, was also interrupted 6-7 times by sponsor advertising. In this regard the Second Armenian TV Channel had 79, “Kentron”- 62, “ArmNews”- 58, PTA First Channel- 57, and “Yerkir Media”- 36 violations.

As to displaying the brand or the products of the sponsor during the whole program, violations of this kind are also abundant. In the course of a week “ArmNews” made 50 such violations, the Second Armenian TV Channel - 14, “Kentron” - 8, “Shant” - 5.

The legal restriction for the duration of every reference to the sponsor to 1 minute was violated 12 times by the Second Armenian TV Channel (each violation lasted for about 32-33 seconds), by “ArmNews” - 8 times, by “Yerkir Media” - 6 times (for 5 seconds each).

TV Channel	Total number of violations	Of these, violation of advertisement distribution	Of these, violation of advertisement duration	Of these, violation of incessant display of the brand
PTA First Channel	57	57	0	0
ALM	0	0	0	0
Second Armenian TV Channel	79	53	12	14
ArmNews	58	0	8	50
Yerkir Media	36	30	6	0
Kentron	62	54	0	8
Shant	100	95	0	5

ADVERTISING OF TOBACCO AND ALCOHOL

EXCERPT 7

With regard to advertisements of alcoholic drinks and tobacco, it is prohibited to advertise strong alcoholic drinks (containing 20% of spirit or more), with the exception of cognac, as well as tobacco goods in electronic media. It is prohibited to address minors directly with advertisements of alcoholic drinks and tobacco, to show or display their use.

RA Law “On Advertising”, Article 15

No advertising of tobacco was recorded on any of the TV channels monitored. The restriction on alcoholic drink advertising was most frequently violated by the PTA First Channel - 7 times. Two violations were recorded on each of the following channels - the Second Armenian TV Channel, “ArmNews” and “Kentron”.

No violations of this kind have been recorded on “ALM”, “Yerkir Media” and “Shant” TV channels.

TV Channel	Number of violations	Nature of violation
PTA First Channel	7	Wine use was demonstrated
ALM	0	
Second Armenian TV Channel	2	Wine use was demonstrated
ArmNews	2	Wine use was demonstrated
Yerkir Media	0	
Kentron	2	Wine use was demonstrated
Shant	0	

ADVERTISING OF LOTTERIES AND RAFFLES

EXCERPT 8

1) *It is prohibited to advertise promotional lotteries and monetary prizes in media.*
RA Law “On Advertising”, Article 15, Clause 9

2) *It is prohibited to display money when advertising lotteries, raffles or casinos.*
RA Law “On Advertising”, Article 15, Clause 11

3) *It is prohibited to advertise lotteries, raffles or casinos on public television, but for sponsorship cases.*
RA Law “On Advertising”, Article 15, Clause 12

4) *It is prohibited to advertise lotteries, raffles or casinos in the course of newscasts, 20 minutes before and 20 minutes after them.*
RA Law “On Advertising”, Article 15, Clause 13

On the seven TV channels monitored, all 44 violations in terms of advertising lotteries, raffles or casinos were recorded on PTA First Channel.

In four cases the rule of 20 minutes before and after the newscast was violated (see Excerpt 8, Clause 4). In the remaining 40 cases Clause 12 of Article 15 of the RA Law “On Advertising” was violated (see Excerpt 8, Clause 3), that is, the advertising of a lottery, raffle or casino was made with no reference to sponsorship.

TV Channel	Number of violations	Nature of violations
PTA First Channel	44	Advertisements aired with violation of the 20 minute interval before and after the newscast. The advertising of a lottery, raffle or casino was made with no reference to sponsorship.
ALM	0	
Second Armenian TV Channel	0	
ArmNews	0	
Yerkir Media	0	
Kentron	0	
Shant	0	

AGGREGATE FINDINGS OF THE FIRST PERIOD OF MONITORING

During the first period of monitoring, on April 16 - May 31, 2009, the overall number of violations made **636**.

The overall picture of the violations recorded on the TV channels is as follows:

PTA First Channel - 179 (28.1%)

“ALM” - 3 (0.5%)

Second Armenian TV Channel - 123 (19.3%)

“ArmNews” - 60 (9.4%)

“Yerkir Media” - 49 (7.7%)

“Kentron” - 106 (16.7%)

“Shant” - 137 (21.5%)

THIRD STAGE OF MONITORING

The schedule of the third stage of monitoring is as follows:

October 1-7, 2009 - PTA First Channel, "Armenia", Second Armenian TV Channel
October 9-15, 2009 - "Yerkir Media", "Shant", "Hay TV"

During the third stage (lasted a week for each TV channel) the research group studied how compliant **the duration of the TV advertisements** and **the intervals between them** were with the requirements of the legislation.

EXCERPT 1

It is prohibited to interrupt the TV programs with a duration of up to twenty minutes for more than one advertising slot.
RA Law "On Advertising", Article 9, Clause 1

EXCERPT 2

In electronic mass communication media it is prohibited to air advertising slots within one program at greater frequency than once every 20 minutes and with greater duration per on air hour than 10 minutes.
RA Law "On Advertising", Article 9, Clause 2

EXCERPT 3

The programs broadcast on the Public TV and Radio Company must not be interrupted by commercial advertising.
RA Law "On Television and Radio", Chapter 4, Article 28

At this stage the monitors measured and recorded the duration of the advertising on each channel per an astronomic hour within the period of 19.00- 24.00. The measurements of this category were made in seconds.

At this stage the research findings were summarized in tables, recording the advertising aired by each of the six TV channels studied within one TV hour and specifying its beginning and end time, its duration (timing) and if a violation of the law was made - in seconds.

It became clear in the course of monitoring that **in terms of violating the 20 minutes advertising breaks** the largest number of violations, 16 (5602 seconds) was committed by "Shant" TV company.

The second along this dimension was the First Channel of the Public Television of Armenia - 8 violations with a total of 2751 seconds. The third was "Armenia" TV channel, with 4 infringements (1877 sec). The Second Armenian TV Channel and "Yerkir Media" have committed no violation along this dimension. One infringement was committed by "Hay TV", with duration of 204 seconds, after 23.25, on October 14.

Notably, when monitored during the first period of the study, in May, the Second Armenian TV Channel was unrivaled in terms of violations, having accumulated 6222 seconds of them. At this stage, the figure nullified. On the contrary, the volume of infringements on the PTA First Channel has doubled, growing from 1719 to 2751 seconds, and on "Shant" the volume of violations increased from 4423 in May to 5602 seconds.

The overall airtime monitored in October was actually one hour less, as the beginning time of daily monitoring session was 19.00, instead of 18.00 in the first period.

TV channel	Number of violations	Volume of violations (in seconds and minutes)
PTA First Channel	8	2751 sec (45.8 minutes)
Hay TV	1	204 sec (3.4 minutes)
Second Armenian TV Channel	0	0
Armenia	4	1877 sec (31.3 minutes)
Yerkir Media	0	0
Shant	16	5602 sec (93.4 minutes)

In terms of exceeding the 10-minute limit on advertising within one airtime hour, the greatest number of violations was committed by “Armenia” TV channel - 22 (3941 sec). Violations were also recorded on PTA First Channel -10 times, on “Shant” - 9 times and on the Second Armenian TV Channel -2 times. The aggregate volume of violations on PTA First Channel amounted to 2192 seconds, on “Shant” - to 676 seconds, and on Second Armenian TV Channel this figure made 233 seconds. It should be noted that along this indicator, too, the Second Armenian TV Channel significantly improved its performance: the change from the 16 violations in the first period with a cumulative duration of 4182 to the 2 infringements only in May (233 seconds) is a sign that the company seeks to abide by the law.

With “Shant” the situation was contrary. There were no infringements along this indicator in May, while in October their number made 9 (676 sec). It should be noted that the 10 infringements recorded on PTA First Channel in terms of their duration - 2192 seconds - are three times more than the figure for “Shant” mentioned above - 8 violations with a total duration of 676 seconds.

On “Yerkir Media” and “Hay TV” channels no violations were recorded in terms of the permitted advertising duration.

TV channel	Number of violations	Volume of violations (in seconds and minutes)
PTA First Channel	10 25*	2192 sec (36.5 minutes) (program interrupted by commercial advertising)
Hay TV	0	0
Second Armenian TV Channel	2	233 sec (3.9 minutes)
Armenia	22	3941 sec (65.7 minutes)
Yerkir Media	0	0
Shant	9	676 sec (11.3 minutes)

*As to the ban on interrupting the programs on Public Television by commercial advertising (see Excerpt 3), the situation on PTA First Channel is quite concerning. In the course of one week (October 1-9, 2009) 25 programs of the Public TV were interrupted by commercial advertising for 42 times. Obviously, this requirement of the RA Law “On Television and Radio” continues to be explicitly and uninhibitedly violated by the public service broadcaster.

FOURTH STAGE OF MONITORING

The schedule of the fourth stage of monitoring is as follows:

October 17-23, 2009 - PTA First Channel, "Armenia", Second Armenian TV Channel
October 25-31, 2009 - "Yerkir Media", "Shant", "Hay TV"

During *the fourth stage* (a week for each channel) the following were studied:

- The language of the TV air
- Sponsor advertising
- Advertising of tobacco and alcohol
- Advertising of lotteries and raffles.

At this stage, the monitors recorded and measured the programs and an advertisement aired by the TV channels at 19.00 - 24.00, in which the respective provisions of the legislation on television advertising are violated. The starting and ending time of the programs and advertisements are specified in seconds, and the nature of the infringement is described.

This category is measured in units and seconds.

LANGUAGE OF TV PROGRAMS

EXCERPT 4

*In the Republic of Armenia the language of advertising is Armenian.
RA Law "On Advertising", Article 5*

EXCERPT 5

*The language of the TV and radio programs aired in RA is Armenian,
with the exception of the cases, stipulated by this Law.
The programs in foreign languages, movies, documentaries and animated
cartoons as well as the fragments in foreign languages in otherwise
Armenian-language programs are broadcast with simultaneous
Armenian translation - either in voice dubbing or with subtitles.
RA Law "On Television and Radio", Chapter 4, Article 5*

The language of the programs aired on the six TV channels of Armenia was considered only from the perspective of legislative provisions mentioned above, in Excerpts 4 and 5. The quality of the language used in TV programs (compliance with the literary standard) was not assessed.

In the course of monitoring (a week's period), only the PTA First Channel was free from violations of any kind in terms of the language legislation. All 5 violations of "Yerkir Media" were broadcasting of Russian language films. In terms of language, 50 violations were committed by "Hay TV". 17 of these infringements were recorded in programs, 7 more were the Russian language films, and 26 violations were the rebroadcasting of Russian programs with no translation. It is followed by "Shant" (23) and the Second Armenian Channel (18).

As to the 4 violations committed by “Armenia”, 2 of which were in “Fort Boyard” program, the number could tenfold, if the program series was not viewed as one thematic unit of air and had all the Russian speech by Tina Candelaki been recorded as a violation.

It should be noted that overall the largest number of violations, 46 out of 100 were the Russian-language films broadcasting.

TV channel	Number of violations	Location of violation
PTA First Channel	0	
Hay TV	50	26 - rebroadcasting Russian programs with no translation 7- films, 17- programs
Second Armenian TV Channel	18	Programs - 9, advertising - 3, films - 6
Armenia	4	“Hour” - 2, “Fort Boyard” - 2
Yerkir Media	5	All in films
Shant	23	Advertising - 18, programs - 3, films - 2

SPONSOR ADVERTISING

EXCERPT 6

In programs created with sponsorship information on the sponsor can be presented, as well as logos, titles, brief announcements - only in the beginning and in the end of the program and for no longer than 1 minute each.

RA Law “On Television and Radio” Chapter 2, Article 15

The monitoring has revealed that the requirements on sponsorship advertising are the ones most frequently neglected (268 violations in a week). On the six TV channels monitored the wish to please the sponsors obviously surpassed the wish to follow the legal provision concerning placement of the reference to sponsors only in the beginning and the end of the program.

In this regard, the most “pleasing” was “Shant” - 94 violations. In May this same figure for “Shant” amounted to 100. PTA First Channel had 50 violations, “Yerkir Media” - 39. The Second Armenian TV Channel made 36 infringements - twice as few as 79 in May, while “Armenia” committed 21.

As to displaying the logo, the brand or the product of the sponsor throughout the program, such violations are numerous, too. During the week, 14 such infringements were recorded on “Yerkir Media”, 11 - Second Armenian TV Channel and “Shant” each.

The legislative demand to be limited to a 1 minute reference to the sponsor was violated by the Second Channel 10 times, by “Hay TV” - 6 times, “Armenia” - 5 times, “Shant” - 2 times.

TV channel	Total number of violations	Of these, violation of advertisement distribution	Of these, violation of advertisement duration	Of these, violation of incessant display of the brand
PTA First Channel	50	50	0	0
Hay TV	28	22	6	0
Second Armenian TV Channel	36	15	10	11
Armenia	21	16	5	0
Yerkir Media	39	25	0	14
Shant	94	81	2	11

ADVERTISING OF TOBACCO AND ALCOHOL

EXCERPT 7

With regard to advertisements of alcoholic drinks and tobacco, it is prohibited to advertise strong alcoholic drinks (containing 20% of spirit or more), with the exception of cognac, as well as tobacco goods in electronic media. It is prohibited to address minors directly with advertisements of alcoholic drinks and tobacco, to show or display their use.

RA Law “On Advertising”, Article 15

No advertising of tobacco was recorded on any of the TV channels monitored.
No advertising of alcohol was recorded on any of the channels, either.

TV channel	Number of violations	Nature of violation
PTA First Channel	0	
Hay TV	0	
Second Armenian TV Channel	0	
Armenia	0	
Yerkir Media	0	
Shant	0	

ADVERTISING OF LOTTERIES AND RAFFLES

EXCERPT 8

1) *It is prohibited to advertise promotional lotteries and monetary prizes in media.*
RA Law “On Advertising”, Article 15, Clause 9

2) *It is prohibited to display money when advertising lotteries, raffles or casinos.*
RA Law “On Advertising”, Article 15, Clause 11:

3) *It is prohibited to advertise lotteries, raffles or casinos on public television, but for sponsorship cases.*
RA Law “On Advertising”, Article 15, Clause 12:

4) *It is prohibited to advertise lotteries, raffles or casinos in the course of newscasts, 20 minutes before and 20 minutes after them.*
RA Law “On Advertising”, Article 15, Clause 13.

Of all 45 infringements recorded on 6 TV channels monitored with regard to lottery, raffle or casino advertising 36 were made by PTA First Channel, 9 - by the Second Armenian TV channel.

All 35 violations on PTA First Channel were against Clause 12 of Article 15 of the RA Law “On Advertising” (see Excerpt 8, Clause 3), and on Second Armenian TV Channel all 9 cases violated the requirement of giving a 20 minute break before and after the newscast (see Excerpt 8, Clause 4).

TV channel	Number of violations	Nature of violation
PTA First Channel	36	Promotion of “Family Dice” lottery In an advertising slot
Hay TV	0	
Second Armenian TV Channel	9	Advertisements aired with violation of the 20 minute interval before and after the newscast
Armenia	0	
Yerkir Media	0	
Shant	0	

AGGREGATE FINDINGS OF THE SECOND PERIOD OF THE MONITORING

During the second period of the monitoring, on October 1-31, 2009, the overall number of violations totaled 510.

The distribution of the violation by channel is as follows:

PTA First Channel - 129 (25.3%)
 “Hay TV” - 79 (15.5%)
 Second Armenian TV Channel - 65 (12.7%)
 “Armenia” - 51 (10%)
 “Yerkir Media” - 44 (8.6%)
 “Shant” - 142 (27.8%)

BRIEF ANALYSIS OF THE PROVISIONS STIPULATED BY THE RA LAWS “ON ADVERTISING” AND “ON TELEVISION AND RADIO”

The RA legislative framework, regulating advertising relations includes the RA Law “On Advertising”, the RA Law “On Television and Radio” as well as other legal acts and international documents.

The RA Law “On Advertising” which was adopted on March 30, 1996, regulates the legal relations of producing and disseminating advertising on the territory of the Republic of Armenia. The Law defines the notion of “advertisement”, the general requirements mandatory for all advertisements as well as the specific requirements to be met by advertisements of certain goods and in certain media, the relations between the advertisement vehicle, the advertisement, the producer and the consumer of advertisement, and finally - the responsibility for violating the legal provisions on advertising and the competence of the supervising agency. It should also be noted that the certain standards defined for advertisement, including the sponsorship advertisement and the advertisement aired on the RA Public TV and Radio Company are included in Articles 15 and 28 of the RA Law “On Television and Radio” respectively.

Article 1 of RA Law “On Advertising” defines an exhaustive list of the objectives of the regulation. According to this article, the Law “...aims at:

- a) providing necessary conditions for the creation and dissemination of advertisements corresponding to the interests of the public, advertisement consumers, advertisers, commercial producers, commercial transmitters;
- b) preventing the spread of unreliable information through advertising that may cause damage to legal and physical entities, to their honor, dignity, business reputation and the interests of citizens;
- c) preventing misguiding of legal and physical entities through advertising, if it concerns the quality, the nature, the ways and the place of production, distinctive features of consumers, the conditions of realization and other indications of merchandise, works, services (hereinafter - merchandise), as well as the rights of an advertiser;
- d) preventing the dissemination of advertisements, containing disrespectful comparisons with other pieces of merchandise, as well as with the rights and the status of legal and physical entities;
- e) preventing the dissemination of advertisements, infringing upon public values and conventional norms of morality”.

While the list of regulation objectives is quite broad, some of them, that are recorded in different ways in other articles of the Law and are essential mechanisms of the advertising relations, are not included in this article. Thus, for example, one of the main purposes of

the legislation is not only to prevent the violation of the provisions laid out in the Law, but also to disclose them and to ensure the punitive measures by competent body. In this regard the purposes of the legislation listed in Article 1 must not be restricted to this formula, but rather must have a general presentation that would incorporate all requirements and actions, stipulated by the Law. Following the overall rationale of the advertising legislation, the most important purposes are: protection of consumers, protection of competition, as well as supervision of the compliance with the requirements of the legislation and application of appropriate punitive measures.

Article 2 of the RA Law “On Advertising” defines the notion of “advertising”, according to which “Advertising is spread of information in an indefinite circle of persons, through various mass media, on legal and physical entities, merchandise, ideas and projects, intended to form and maintain interest in those physical and legal entities, merchandise and projects”. With this definition the law in fact restricts the scope of information the dissemination of which can be considered commercial advertising. This prompts a question of why **the services provided** by natural and legal entities, part and parcel of business nowadays, as not included into the definition of “advertising”. At the same time, Article 16 of the same Law defines specific requirements for advertising financial services.

Thus, it is necessary to reconsider the definition of “advertising”, including in it every piece of information that is related to entrepreneurial or commercial activities of natural and legal persons, with no restrictions.

LEGISLATIVE REQUIREMENTS ON COMMERCIAL ADVERTISING

Chapter 2 of the RA Law “On Advertising” lists the general and specific requirements posed to advertising. They refer to the content of the advertising, regardless of the advertising vehicle used for dissemination, as well as the specifics of its dissemination. According to the RA Law “On Advertising”, the list of the standards advertising should meet, includes provisions on language, legitimacy, accuracy, decency - in Articles 5, 6, 7, 8 respectively.

According to Article 6 of the RA Law “On Advertising”, the advertisements must meet the demand of legitimacy, stipulated in the Article. It is first of all necessary to note that Article 6 records only specific kinds of illegitimate advertising. Thus, the advertising that contains discrediting expressions to the address of one or several competitors or the quality of the goods produced and sold, or else includes inappropriate comparisons with other legal and natural persons. In this Article it is necessary to specify that it refers to the criteria of **content** legitimacy.

According to this Article, the advertising that uses “...taking advantage of people's trust, their lack of experience or knowledge, prejudices...”, etc. Yet, the criteria for qualifying the advertisement as illegal demand further specifying, development of special guidelines. In that case it will be possible to avoid their arbitrary interpretation and application. Thus, it is unclear what the legislature meant by saying “using appeals and argumentation directed against the environment”, since it is extremely relative and can be interpreted in different ways by competent bodies in the judicial system - resulting in ungrounded restrictions of rights and legal interests of advertisement producers and disseminators.

The provisions on the legitimacy, however, fail to include the most important criterion, that is, on advertising that violates human rights and their legal interests.

Article 8 of the RA Law “On Advertising” stipulates criteria of appropriateness for advertising. Here, again, the provisions are not definite and clear enough and can be a source for misinterpretations. Thus, for example, the advertising that violates norms of appropriateness, that is, discredits general and national norms of morality, is prohibited. This is again potentially a source of arbitrary law enforcement. Moreover, of the four requirements in Article 2, with slight differences in definitions, repeat the provisions stipulated in Article 6 of the Law.

According to Article 8 of the Law, “An advertisement is prohibited if it violates the appropriateness of advertising, namely:

- a) if it discredits the conventional and national norms of morality;
- b) if it contains insulting phrases, comparisons and images with regard to the race, nationality, profession or social background, age group or sex, language, religious or other beliefs;
- c) if it directly or indirectly discredits state symbols (banner, flag, hymn, currency notes, etc) or expresses disrespectful attitude towards them;
- d) if it discredits legal or physical entities, as well as industrial, commercial or other activities, profession, assortments, etc”.

It should also be noted that the Law “On Advertising” does not deal the copyright and adjacent right, with their due regulation, thus, leaving the copyright owners or their heirs unprotected.

LEGISLATIVE REQUIREMENTS ON ADVERTISING IN ELECTRONIC MEDIA

Article 9 of the RA Law “On Advertising” defines the requirements to the advertising disseminated via electronic media. These requirements mostly refer to the time and frequency restrictions of advertisement broadcasts. Thus, according to the Article:

- “1. It is prohibited to have more than one advertising interruption in radio programs of less than 10 minutes and TV programs of less than 20 minutes.
2. It is banned to broadcast advertisements during a TV or radio program more often than after every 20 minutes. The duration of advertisements should not be more than 10 minutes on the expectation of each broadcasting hour.
3. An advertising break during broadcasting of official information is banned.
4. The regularity of social advertising, broadcast through electronic media, is not restricted, but the duration of each program should be no more than 5 minutes during one hour of broadcasting.

5. The provisions of this Article are not valid if a TV or radio program is an advertisement itself or if the advertisement is broadcast through an advertising channel”.

It is unclear what is meant by “broadcasting hour”, what the exact unit is? Does it correspond to the one astronomical hour? Under the circumstances, recording of violations of this Article becomes complicated.

Besides, proceeding from the economic issues faced by TV companies, as well as taking into account the circumstance that the nighttime audience is less vulnerable, the restrictions on nighttime advertising should be more lenient or else the time restrictions should be completely abolished.

Moreover, in the same Article notions “special advertising programs” and “programs of purely advertising nature” are recorded in the same Article, that have more lenient time restrictions applied on. However, the Law failed again to define these two notions, which may very well enable the broadcasters to violate the provisions of the advertising legislation. Overall, it is more effective to license a dedicated advertising channel to air only advertising and programs of advertising nature, and remove the differentiation between the advertising restrictions on other channels.

Despite the time restrictions imposed on TV advertising, they still cannot ensure the completeness of TV programs. Occasionally, the time restrictions, the required periodicity of 20 minutes, become a reason for logical disruptions in the commercial breaks of the TV programs. In this regard it is necessary to define the requirements that would enable not only distinguishing the advertising from the TV program but also would leave the right of slot placement to the broadcaster. This refers to the cases when the program is interrupted by a commercial breaker, with a legislative stipulation of a prior announcement of the break. The Law must also expand the list of the programs that should not be interrupted by advertising. This requirement is particularly important for live programs.

In the course of the monitoring a number of cases were recorded when a certain product or an object with its brand, such as a glass, were shown throughout the program. In this situation the restrictions dealing with the TV advertising cannot be applied since they refer to specific advertisement clips and these cases are in fact out of legislative framework, which is unacceptable. Hence, the legislation on advertising should prescribe the procedure for displaying goods or their brands in the programs, as it is implicit promotion. The legislation on advertising does not in any way reflect the promotional subtitle lines that should also be covered by the law, with all the due restrictions, particularly, with regard to the language and content.

LEGISLATIVE REQUIREMENTS ON ADVERTISING CERTAIN GOODS

Article 15 of the RA Law “On Advertising” deals with the requirements posed to advertisements of specific products, including tobacco and alcoholic drinks. The restrictions on such advertisements mostly refer to their content: “it is prohibited to advertise strong alcoholic drinks (containing 20% of spirit and more), with the exception of cognac, as well as tobacco goods in electronic media. It is prohibited to address minors directly with advertisements of alcoholic drinks and tobacco, to show or display their use”.

The Law mentions it also that the advertisements of alcoholic drinks are not to be placed in programs for children and adolescents.

Meanwhile, it would not contradict to Armenian traditions and would well serve the interests of the broadcasters if the ban on alcohol advertisement was lifted. These restrictions can only refer to the display of the use of alcoholic drinks and involvement of minors.

This Article also regulates the advertising of lotteries, raffles, casinos. In this case, too, the legislature does not clarify the notions defined, so it is unclear as to which specific advertisements can be ascribed to advertisements of raffles. These advertisements of coffee with a lottery prize - is it the same as advertising lotteries? Besides, according to Clause 13 of Article 15, "It is prohibited to advertise lotteries, raffles or casinos in the course of newscasts, 20 minutes before and 20 minutes after them". This restriction is not rationale at all, as it refers to goods/services that pose no danger to the society, nor have any particular importance. Hence, these restrictions should be abolished.

LEGISLATIVE REQUIREMENTS ON STATE SUPERVISION OF COMPLIANCE WITH THE ADVERTISING LEGISLATION

Article 24 of the RA Law "On Advertising" defines the scope of agencies, in charge of monitoring the compliance with the advertising legislation. According to this Article,

"1. The compliance with the legislation on advertising is monitored by a competent state body of Republic of Armenia, formed through a procedure defined by the RA Government.

2. The state competent body of Republic of Armenia, in charge of supervision of compliance with advertising legislation in TV and radio broadcasting, is the National Commission on Television and Radio".

As to print media, no competent monitoring body has as yet been formed by the RA Government to follow their compliance with the advertising legislations. It is obvious that under these circumstances the compliance with the advertising legislation is in now way supervised. The international experience shows that this competence is normally given to the state Competition Protection Commissions, as this domain is directly related to protection of rights and legal interests of natural and legal persons operating in business, and in many cases the violation of advertising legislation can impede the free and conscientious competition.

Besides, the same Article addresses the National Commission on Television and Radio, authorized to supervise the advertising on TV and radio.

According to **Article 58 of the RA Law "On Television and Radio"**, "In case of violation of this law, decisions of the National Commission and other legislative acts regulating this sphere, as well as not implementing or violating the licensing conditions the National Commission shall warn about it in writing to the given TV and radio company (TV company

or radio company) that is obligated to meet the mentioned requirements in a sensible period of time. In case the requirements mentioned in the written notice are not met, the National Commission is authorized:

- a) To impose administrative fines upon the given Television and Radio Company 100 or 500 fold of the minimum wages;
- b) To suspend the programs or the activities of that particular Television or Radio Company until the violations, recorded by NCTR, are resolved, or a verdict is adopted by the court”.

Thus it follows from the Law that NCTR, among other authoritative bodies stipulated by the Law, is also competent to record and to take measures on every case of broadcasting regulation, and no complaint on the matter or prior notification is necessary. According to the comments of NCTR members, the Commission is not authorized to take any step against violations of the Law unless an appropriate complaint is received. The basis for this comment can be Article 37 of the RA Law “On Television and Radio”, according to which the National Commission on Television and Radio “receives, records, studies and makes justified answers to complaints, offers and inquiries, related to the activities of TV and radio companies”. Yet, in our opinion, this interpretation of the Article does not follow the overall rationale of the law and the article itself. In particular, the abovementioned Article that spells out the mandate of the National Commission on Television and Radio mentions among other things: f) in the case of this Law or the license terms and/or NCTR decisions being violated the Commission makes a written notification to the TV company, obliging it to meet the requirements defined. Should this demand be neglected or the offence be repeated, the NCTR suspends the program of the TV Company, until the violations are overcome or the court has made an appropriate decision. As it can be seen, this norm is a general norm on supervision functions of the NCTR, while clause (k) of Article 37 is an individual case that cannot be interpreted as a priority for NCTR. Obviously, NCTR has to perform supervision functions, and not only when there are complaints received.

LEGISLATIVE REQUIREMENTS ON SPONSORSHIP

Article 15 of the RA Law “On Television and Radio” defines the notion of “sponsorship”, as well as the specific legal requirements to it. In particular they refer to the time restrictions on sponsorship advertising and its frequency. Thus, “In the sponsored program statements about the identity of the sponsor, symbols, autographs can be expressly presented at the beginning and at the end of the broadcast program for no longer than one minute each”. In this case it is unclear what is meant by “the beginning” and the “end” of the program, which should be clarified within the Law.

According to the same Article, “in the cases when sponsorship is performed by entities engaged in the production of alcoholic or tobacco goods the restricting provisions of the RA Law “On Advertising” are applied”. This is a positive fact since it enables to avoid the abuse by natural and legal persons that may use sponsorship for endorsing the products, otherwise prohibited for advertising. Yet there is still a way to bypass some other restrictions of the RA Law “On Advertising” through sponsorship, such as the provisions on

lotteries , which can be bypassed in this manner since Article 15 does not directly mention that the restrictions are here to be applied in case of sponsorship, too.

LEGISLATIVE REQUIREMENTS ON THE LANGUAGE OF BROADCASTING

According to **Article 5 of the RA Law “On Advertising”**, “The language of television and radio programs broadcast in the territory of the Republic of Armenia is Armenian, except for the cases stipulated by this Law. The television and radio programs are obliged to provide appropriate level of clarity in the language. TV and radio programs, films and documentaries and cartoons languages, as well as the foreign version of Armenian programs are to be broadcast with simultaneous translation in Armenian either with the voice over or subtitles”.

This Article is to promote the use of Armenian language on Armenian TV channels. Yet, however, when imposing a demand on translating all films or other programs into Armenian, with the exception of specially prescribed cases, the legislature did not take into account the expenses associated with the quality translation of the foreign films into Armenian. So very often the Armenian TV channels due to the lack of funds air such films in Russian translation.

We believe it would be more effective to consider the possibility to air films and other programs in Armenian as an advantage in licensing process, with simultaneous creation of certain mechanisms, including funding, to stimulate the quality translation of fringe TV production in Armenian. The translation of films and programs should be promoted by the law rather to be a mandatory requirement. Besides, while the law defines very strict requirements for broadcasting in Armenian on the TV channels of the country and adherence to literary standards on air, there are no specific and effective mechanisms to monitor the quality of the language on TV and to hold the violating media accountable. And while nowadays this requirement is occasionally infringed by TV companies, there has been no precedent of it being recorded and responded to. The function to do this lies with the RA State Language Inspection that cannot attend to language issues of Armenian TV air due to lack of resources and mechanisms.

Having analyzed the legislation that regulates broadcasting in Armenia as well as its application practice, we arrived at the following conclusions:

1. The legislative demands and the restrictions set forth by the RA Law “On Advertising” do not correspond to the demands of the present-day advertising market and practice. These provisions are of formalistic nature and cannot serve a mechanism that regulates and stimulates the domain. Thus, it is necessary to either profoundly reform the RA Law “On Advertising” or develop a new Law.
2. Currently the 60% of the advertising aired in Armenia is concentrated on 3-4 major TV channels. Under the circumstances other TV companies, in particular, the regional ones receive very little advertising with very little proceeds. To stimulate the development of these TV companies it is necessary to mitigate the restrictions on advertising.

3. In order to ensure effective regulation of advertising it is necessary to move it in part into the self-regulation domain, forming an appropriate body that would attend to advertising issues. The existing state control mechanisms are almost completely ineffective. As the research administered showed, the TV companies repeatedly violate the legal provisions, and the supervision bodies leave these violations without a response.



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