

Radio and Television Supreme Council as a Regulatory Board

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Abstract—In parallel, broadcasting has changed rapidly with the changing of the world at the same area. Broadcasting is also influenced and reshaped in terms of the emergence of new communication technologies. These developments have resulted a lot of economic and social consequences. The most important consequences of these results are those of the powers of the governments to control over the means of communication and control mechanisms related to the descriptions of the new issues. For this purpose, autonomous and independent regulatory bodies have been established by the state. One of these regulatory bodies is the Radio and Television Supreme Council, which to be established in 1994, with the Code no 3984. Today's Radio and Television Supreme Council which is responsible for the regulation of the radio and television broadcasts all across Turkey has an important and effective position as autonomous and independent regulatory body. The Radio and Television Supreme Council acts as being a remarkable organizer for a sensitive area of radio and television broadcasting on one hand, and the area of democratic, liberal and keep in mind the concept of the public interest by putting certain principles for the functioning of the Board control, in the context of media policy as one of the central organs, on the other hand.

In this study, the role of the Radio and Television Supreme Council is examined in accordance with the Code no 3894 in order to control over the communication and control mechanisms as well as the examination of the changes in the duties of the Code No. 6112, dated 2011.

Keywords—Regulatory Boards, Radio and Television Supreme Council.

I. INTRODUCTION

FOLLOWING World War 1, the importance and power of mass media was recognized better and the states always wanted to have power on mass media and tried to keep them under control. As a result of the stressful, national and ideological atmosphere caused by war, monopolistic broadcasting manner appeared in many countries especially in the field of radio and television. While broadcasting in some countries was undertaken by the state itself, the state in some other countries tried to keep broadcasting under control by intervening in autonomous public broadcasting organization or commercial broadcasting organization directly or indirectly.

New developments taking place about information technologies in 1980s affected the monopoly status of states in the field of audio-visual communication. The winds of freedom started to blow at the same period also supported to remove monopolies. Thus, by 1990s, all communication media radically changed all over the world, the structure of mass media, especially in Europe, almost completely changed and took a new shape. Radio television systems substantially changed almost in all European countries. Such situation was brought to an end in many countries where broadcasting was monopolized by state.

As from 80s, the term, deregulation was used to define such new development in the field of mass media. As regards broadcasting, the term deregulation means removing state monopoly in the field of broadcasting, flexibilisation and liberalisation of the legislation regulating the finance, management and programming of broadcasting. First phase of deregulation required to change and bend the legal regulations imposing monopolistic condition [3].

It was neither only under a single format to remove state monopoly nor could it be achieved under a single step. It was firstly removed in some countries the broadcasting monopoly of public authority and then it was permitted to establish private broadcasting organizations. As to some other countries, new organizations were added to bring in a competitive appearance to current business. It was a method rarely applied to privatize current public institutions.

This process experienced after 1980 mainly affected public broadcasting corporations. In the new period, the state, rather than operating actively in the field of broadcasting, narrowed down its own sphere of activity by privatizing broadcasting institutions through deregulation policies or allowing recent commercial broadcasting organizations to operate in the sector; and further preferred to regulate and supervise the field of broadcasting with substantially stretched rules within the scope of general principles such as public interest, pluralism and equity by means of autonomous and independent supreme councils [1].

It is the field of broadcasting, one of the sensitive sectors of public life where independent administrative authorities carry on business. The definition of "sensitive sectors" in relation to areas where independent administrative authorities operate is deemed to be a rather proper definition for audio-visual communication.

Required to be regulated and audited not only for its interest in fundamental rights and freedoms but also including technical, financial and cultural aspects, the field of

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audio/visual communication attracts attention as an area for which classical state intervention is not suitable.

During the periods of state monopoly, fundamental regulation issue in terms of radio and television was public broadcasting and the public service rendered by it. Thanks to the removal of state monopoly and commencement of private organization to operate in this field, the scope of regulation however, substantially widened, varied and became complicated. The presence of private broadcasters in the sector led to gaining importance of freedom of audio visual communication increasingly.

Thus, Independent Administrative Authorities almost in every European country were established to regulate audio/visual communication field such as the previous establishment of public broadcasting organizations. Recent broadcasting policies focused on economy rather than culture put independent authorities into effect to implement exclusively the rules with regard to the issues such as property rates, advertisement rules and programme quotas in the field of visual communication which is privatized, commercialized, expanded and getting complicated in every countries [4].

II. REGULATORY BOARDS

As from the beginning of 20th century, new organizations reducing the influence of political power have emerged in order to be able to prevent breaches arising out of public activities and ensure a more participatory management process. Such councils designed with different forms and contents in every country but basically independent from political authorities holding the state government in their hands which are executing the regulation, audition and supervision tasks through using efficient and important powers of their own considering the sensitive issues in relation to economic activities and fundamental rights and freedoms are called as "Independent Administrative Authorities, (IAA)". These councils also called in literature as "independent administrative authorities, supreme councils, regulatory or supervisory boards" were established in order to ensure more orderly functioning of market mechanism with fundamental rights and freedoms depending on rather comprehensive transformation and change process experienced in many parts of the world [4].

Having special attention and sensitivity to social life, executing activities of arrangement, supervision and guidance (regulation) with regard to fundamental rights and freedoms and economical and social sectors or areas, Regulatory boards with decision making bodies having special guaranties, the decisions of which are under effect of no authorities are defined as public corporate entities with autonomous budgets [4].

III. CHARACTERISTICS OF REGULATORY BOARDS

As a new type of public administration system, regulatory boards have some distinctive features in comparison to classical administrative institutions. Main features of the boards, that is, the most significant aspects separating them

from other public institutions and organizations are that they are independent and function as regulatory boards [2]. However, they also have other distinctive features apart from these two features in that they are autonomous, administrative authorities and carry out activities in sensitive areas of public life.

A. Regulation

It can be said that the most important distinctive feature of regulatory boards and the actual mission is to execute regulation process. As to independence, it comes to the fore as a complementary factor ensuring such major function to be executed as required.

The concept regulation which is not covered thoroughly in our language is translated as arrangement activity by some researchers. Such translation is not corresponding to whole meaning of the word but including only one aspect of regulation concept. However, the concept of regulation has three aspects such as *regulation, supervision and guidance*. In other words, the term of "regulation" has a meaning including regulation, supervision and guidance [4].

As for regulation in terms of Regulatory Boards, involves determining the rules of the game in a specific area or with regard to specific activity, in other words organizing and controlling that area.

B. Independence

While dictionary definition is taken into consideration, independence means "not depending on others in terms of material, moral and intellectual aspects", "State of being free from dependency, obedience and inspection", it can be defined sociologically as "not being under the effect, guidance, management and determination of society, social group or person, another society or social class." As regards Regulatory Boards, independence means the situation of not being dependant against obvious guidance and affection of others with regard to execution of activities such as judgement, decision making, cooperation, suggestion, edification and investigation [6].

It is independence the primary feature of Independent Administrative Authorities. However, it is not an aim to be independent for such authorities. In order to be able to establish public interest, independence is a means to use the power better. The independence of Regulatory Boards means the fact that executive authority and other administrative authorities do not have any administrative power or control over the organizations of such boards, the tasks and activities executed with regard to such tasks. That is to say, the independence of such boards means the independence in terms of both organic and functional sense. With this in mind, it will be useful to view independence under such two headings.

Independence in organic sense means equipping of staff members in these organizations and especially the members of decision boards of such organizations with much more assurance than that of other public officials. The most significant assurance of the independence of Regulatory Boards is the establishment type of such organs and status of

members. It is preferable that the method to be followed in the determination of members making up decision making bodies be as closed as possible to political effects [5].

As to the functional independence of Independent Administrative Authorities, independence is ensured by means of not exposing the activities and/or operations of such institutions to the control of executive body in the shape of guardian control or hierarchy. Besides, no organization, authority or person can command, instruct, make suggestions or indoctrinate such boards regarding their tasks. That is to say, functional independency of such councils shall not only mean their independency from government or political institution.

C. Autonomy

Autonomy is the ability for an administrative body to execute some specific tasks by on its own or by means of its own organizations and have the required resources to do so. Autonomous administration has the power to enact on its own the rules to govern its own activities. To put it another way, autonomy is not being dependent upon Administration regarding decisions, activities and operations. A concept developed in order to soften the strict centralized understanding in public management, autonomy is different from independence.

Autonomy is an essential feature of Regulatory Boards as required by their structures. The fact that Regulatory boards using efficient public power do not have autonomy means that they will not fulfil their functions. The Boards execute their activities under functional and technical autonomy and independence of decision making. While "organization autonomy" of the Boards allow them opportunity to take their own decisions regarding the issues such as personnel recruitment, budget and spending, they execute tasks of regulation and supervision in the sensitive fields of life within the frame of "functional autonomy". Especially the sanction imposing power of such Boards requires them to be in an autonomous state outside the realm of sovereign political authority. In order to strengthen their mobility, such boards are further provided with financial autonomy and sources of income proportional to outgoings in order that these boards can fulfil their functions [2].

IV. REGULATORY BOARDS IN RADIO AND TELEVISION BROADCASTING

Main function of independent administrative authorities is to provide pluralism and polyphony in the field of radio and television and guarantee the freedom of expression and the right of public to know. In the most general sense, regulatory supreme councils principally have organizational tasks such as granting broadcasting permission and licence and carrying out frequency allocation. Another assigned position for such councils is to lay down several rules as regards broadcasting and determine the standards of broadcasting. Regulatory supreme councils are also assigned to supervise the compliance of broadcasting either with relevant legislation or the principles determined by them. The boards, while

executing such task, may either impose penal sanction or inform the bodies authorized to do so depending on their own broadcasting impressions or complaints received. Imposing sanctions following the audition is proportional to the power and authority allocated to such boards in accordance with national law of relevant country. In addition to such tasks, these boards further have tasks likely to change from one country to another, such as expressing opinion about the issues in the field of broadcasting, making suggestions, issuing yearly reports and financial statements of broadcasting Corporation, making public opinion research [1].

Pursuant to Recommendation no. 2000/23 by Committee of Ministers of the Council of Europa on the functions and independence of regulatory boards in broadcasting sector of member states, tasks and Powers of such boards are brought together under four headings and discussed in detail and some principles were suggested for these boards while they are fulfilling their tasks. With regard to such recommendation:

A. Authorizations in Relation to Regulation

In accordance with tasks specified clearly by legislator, regulatory boards should have the right to regulate and adopt directory principles as regards broadcasting activities. These boards should also have the power to make in-house regulations provided that such are within the scope of rules.

B. Granting Licences

One of the main tasks of regulatory boards in broadcasting area naturally is to grant broadcasting licences. Basic terms and criteria regulating the granting and renewal of broadcasting licences are to be specified in law.

Regulations on the procedure of issuing broadcasting licences should be clear and explicit, and be applied in a clear, transparent and objective manner. Decisions taken by Regulatory boards regarding this context should be submitted to the attention of public [6].

Regulatory boards in broadcasting industry should also be assigned in planning process of footprint of national frequencies allocated to broadcasting services such boards should also have the power to grant permission for broadcasters in order for them to be able to make broadcasting on frequencies allocated to broadcasting. However, such authority shall not affect allocating frequency for the transmission of network operators in accordance with Telecommunication Law.

Following frequency allotment detection, bidding invitations should be announced to public using appropriate means by regulatory boards. Bidding announcements should specify some criteria such as type of the service, minimum time of the programmes, type of cost, licence fee and minimum technical parameters required to be adapted by applicants.

Tender announcements should also specify the content of licence applications and the documents to be supplied by the applicants. Applicants shall identify especially the structure, owners and capitals of their companies as well as the content of programmes they offered [2].

C. Monitoring Whether the Broadcasters Comply with Their Responsibilities and Liabilities

Another important function of regulatory boards is the monitoring of compliance of broadcasters with the conditions specified by laws or the licences granted to them. Regulatory boards should ensure the compliance of broadcasters with European Convention on Trans Frontier Television and especially with basic principles listed under Article no. 7.

Regulatory boards should not execute *a priori* control type (control before working). Monitoring of the programs should be made after the publication of the programmes.

Regulatory boards, when required by their tasks, should have the right to ask for and gain information from broadcasters.

Regulatory boards, within their realm of authority, should have the power to evaluate the complaints about the activities of broadcasters and publish the decisions to be taken regularly.

In the event of non-compliance of a broadcaster with laws or the requirements specified in its licence, regulatory boards should have the power to impose penal sanction in accordance with relevant legislation.

Penalties starting with warning should be specified clearly in law. Penalties should be proportional and it should not be decided which penalty to apply before letting the broadcaster in question to defend itself. Within the scope of national law, all penalties should be subject to inspection of competent judicial authorities.

D. Authorizations Related to Public Service Broadcasters

Regulatory boards may fulfil the tasks assigned to them in relation with the control of public service broadcasting organizations. However, they should respect corporate autonomy and editorial independence of such organizations while carrying out those tasks.

Responsibilities of independent administrative authorities in the field of audio-visual broadcasting as specified in recommendation of the committee is as follows [3]:

- Regulatory boards should be responsible for their operations against public and they should regularly issue reports regarding the activities and operations executed or specific issues.
- Ensuring that they are solely responsible for what they do, such boards should be supervised only about their compliance with laws regarding their operations, their accuracy and transparency of financial transactions in order to protect the independence of such regulatory boards. Respecting the legality of their activities, this supervision type should be *a posteriori* (control after working). Regulations about the responsibilities and audits of regulatory boards should be clearly specified under related legislation in relation with these boards.
- All decisions taken and regulations made by regulatory boards should be;
- justified under National Law,
- remedial in accordance with national rules,
- and submitted for public's information.

As it is seen, regulatory supreme councils having broad powers in many subjects from frequency allocation to detection of principles that broadcaster are required to comply with have an important mission for the presence and permanence of a pluralist and public-minded radio and television industry where there is liberal competition.

V. RADIO TELEVISION SUPREME COUNCIL AS A REGULATORY BOARD

Radio-television broadcasting was executed under state monopoly by TRT (a state governed TV channel) in Turkey up to the beginning of 1990s. However, firstly some private radio broadcasting trials were carried out within the years of 90s, A private TV called Magic Box right after started television broadcasting from abroad aimed at our country. Following that initial attempt, hundreds of private radio and television started to broadcast in a short time and thus there appeared a state of chaos with respect to audio-visual broadcasting. In this period, frequency mess caused by many radio and television started to broadcast paralyzed radio communication, as a result such stations not having any legal grounds were sealed and the facilities were confiscated. That the issue resorted to jurisdiction by private entrepreneurs yielded no result.

Turkish people who got used to polyphonic audio-visual broadcasting in a short period gave an extraordinary reaction to the closure of private radio and televisions. Thereupon, Grand National Assembly of Turkey (TBMM) took action after a painful process and removed state monopoly on radio and television broadcasting in 1993 through amending 1982 Turkish Constitution Article no. 133 as "To establish and run radio and television stations is free under the terms to be regulated by law" and thus paved the way for private enterprise in this sector. However, such amendment in the constitution did not only set free the entrance of private enterprise to the sector but also brought the provision envisaging that the field be regulated by law. In accordance with this provision of the constitution, Law no. 3984 on the Establishment and Broadcasting of Radio and Televisions regulating radio and television broadcasting was accepted by TBMM on 13.4.1994 and entered into force following the publication in Official Gazette dated 20.4.1994. Thanks to the mentioned Law, Radio and Television Supreme Council (RTUK) was established at the same time in order to control and regulate the broadcasts of such organizations. Several amendments took place until 2011 with regard to Law no.3984 and RTUK continued its task to regulate and supervise basing on the same Law. However; the rapid technological developments in the sector and the steps required to be taken by Turkey during European Union harmonization process, it created a need for the complete renewal of the Law no. 3984. Studies for the renewal of the Law finally yielded result and the Law no. 6112 on the Establishment and Broadcasting of Radio and Televisions and Broadcasting Services was accepted by TBMM on 15/02/2011 and entered into force on 03/03/2011. The Law no. 3984 ceased to have effect, following the enactment of Law no. 6112 reregulating radio

and television broadcasting and envisaging some changes within the structure of RTUK.

VI. DUTIES AND AUTHORIZATIONS OF RTUK

RTUK's duties and authorizations were specified in Article no. 37 of the Law no. 6112. When it is compared the duties and authorizations assigned to RTUK by the Law no. 3984 with those of new Law, it is seen that there is a substantial increase as regards the duties law-maker assigns to RTUK and the authorizations therewith. While Article no. 8 in the Law no. 3984 specifying the duties and authorizations of RTUK comprises of 15 subparagraphs, article no. 37 in the Law no. 6112 that specifies the tasks and authorizations of RTUK consists of 27 subparagraphs. As it is seen, many new tasks are assigned to RTUK. Among such new tasks, it is "the task of ensuring the freedom of expression and information" in the field of broadcasting services that solely increases the burden laid on RTUK.

However, the duties and authorizations charged to RTUK were listed under Article no. 37, it will be beneficial to analyse separately the basic characteristics of regulatory boards such as regulation, permission and enforcement powers.

A. Regulation Power of RTUK

One of the main features of Regulatory bodies is to have power of regulation with regard to the field they are engaged. Regulatory Boards uses such authorization by issuing secondary legislation provided that such is not against top norm. Regulatory Boards uses such authorization in practice through documents issued under the name of processes such as regulation, decision, notification, announcement etc. Regulation power is a secondary authorization executed under laws. It is primarily Article no. 124 of the Constitution that forms the source of the regulation power of RTUK. With respect to Article no. 124 of the Constitution "*Provided that such are not against laws, prime ministry, ministries and public entities may make regulations in order to ensure the implementation of laws and regulations within the realm of duties.*" Therefore RTUK is authorized to make regulations within the realm of its duties, since it is a public entity. It is essential to review the Law no. 6112 in order to understand which areas are covered by the regulation power of RTUK and the limitations of such authorization therewith.

It is seen that RTUK is assigned with broad authorizations to regulate audio-visual communication area with Law no. 6112. "*Radio and Television Supreme Council was established in order to regulate and control radio, television and voluntary broadcasting services sector*" in accordance with first clause of Article no. 34 of Law no. 6112. Thanks to such provision, RTUK is authorized to make a general regulation considering audio-visual communication area. However, the law-maker, not being contented with that provision, further assigned RTUK with the task of "making secondary regulations with regard to issues falling into its area of responsibility" according to subparagraph (m) of article no. 37 of the Law. Although power of RTUK to make regulation regarding some issues to be specified below is clearly defined,

it is possible to say that RTUK also has power to make regulations concerning the issues for which RTUK is not clearly authorized to make regulations pursuant to provisions specified above [1].

Some issues for which RTUK is barely authorized in Law no. 6112 is as follows:

- While it is stated in Article no. 4 titled "Retransmission" of Law no. 6112 that retransmission is free, it is remarked in the last paragraph of the article that procedures and principles of retransmission are regulated by Supreme Council with regulations.
- However; it is essential to execute broadcasting services in Turkish in accordance with Article no. 5 of the Law, it is possible to broadcast in languages and dialects other than Turkish. Broadcasts are to be made in accordance with the rules of language selected. Procedures and principles with regard to such broadcasts are specified via regulation by Supreme Council.
- It is ensured with article no. 17 of Law no. 6112 to broadcast free-to-air and free of charge all over the country the national and international important events having great importance for public. It is further stated that procedures and principles about the access of public to important events are regulated via regulations by Supreme Council.
- One of the significant regulation powers granted to Supreme Board is to determine the procedures and principles with respect to the application of frequency allotment and the bidding for transition to terrestrial digital broadcasting and sequencing.

B. RTUK's Power of Permission

As to the freedom of establishing and running audio-visual organization which is the first aspect of audio-visual communication, it is subject to permission regime due to some social, technical and economic reasons. RTUK's power of permission steps in this point. Technical reason of dependency of the freedom of audio-visual communication to the administrative permission regime is the limited available frequencies for radio and television broadcasts. Economical reason is the necessity of a specific economic power to make investment in radio and television area. As to the sociological reason of the dependency of the freedom of audio-visual communication to the administrative permission regime, it is the effectiveness power of radio and television on society. After it is stated in the first clause of Article no. 26 of the Constitution that everybody has the right of the freedom of thought and information, it is also clearly stated that such freedom shall not prevent the broadcasts by means of radio, television, cinema and similar ways be subject to permission regime [6].

In accordance with sub-clause (c) of Article no. 37 of the Law no. 6112, the task of "*Specifying required administrative, financial and technical terms in order for the Media service provider organizations to be able to make broadcasting licence claims and granting such licenses to such organizations actualizing the conditions among the others,*

supervising and cancelling those licences when required” is assigned to RTUK.

Pursuant to article no. 19 of the Law no. 6112 “Broadcasting licence is granted to corporations exclusively established in accordance with Turkish Trade Law in order to render provide broadcasting services. No broadcasting licence is granted to political parties, unions, professional entities, cooperatives, associations, societies, foundations, local administrations and companies established by them to which they are directly or indirectly a partner, and capital market board and real and legal entities which are directly or indirectly a partner to them. Such organizations shall not be a partner directly or indirectly to the institutions providing media service.

Broadcasting licence period is ten (10) years according to law. Any organization granted terrestrial broadcasting licence by Supreme council shall not transfer such rights. Provided that there is no contradiction within company structure to the provisions specified in Law, it is possible by law to turn over completely any corporation granted broadcasting licence, to transfer some part of its shares or to merge with other companies. It is stated in subparagraphs no. 5, 6, and 7 of Article no. 32 of the Law no. 6112 under which conditions broadcasting permissions of organizations took broadcasting permission from Supreme Council shall be cancelled. Taking this into consideration; it is decided to cancel broadcasting of media service providing organization up to ten (10) days, in the event of the repetitive broadcasting in a year in breach of principles specified in sub-clauses (a) and (b) of the first clause of article no. 8 titled “ Broadcasting Service Principles” of the Law, and in the event of second repetition, it is decided to cancel broadcasting licence of such organization. *In case of loss of any conditions required by Law to be able to grant broadcasting licence, It is given a period of 30 days to relevant media service providing organization to fulfil such condition. Broadcasts of any organization not fulfilling the condition within the given period are suspended for three months. In the event that the condition is still not fulfilled within such three-month period, channel or frequency usage of the organization is terminated by cancelling the licence of relevant organization. Broadcasting licence of any organizations which are detected to have obtained fraudulently the compliance of required terms for granting broadcasting license is cancelled. It is not refunded the cost of broadcasting licence and annual cost of channel and frequency usage taken from the organization of which broadcasting licence is cancelled.*

C. RTUK's Control Power

As it is specified in the first paragraph of article no. 34 of the Law no. 6112, RTUK is an organization founded basically to regulate and control radio and television broadcasts. When Law no. 6112 is reviewed, it will be seen that RTUK is assigned with control power in two fields as content control and technical control. Duties and authorizations of RTUK as regards content control in accordance with Law no. 6112 is as follows:

To monitor and control the compliance of broadcasting services of media service providers located within the territory of Turkish Republic in terms of the provisions of this Law and international agreements for which Turkish Republic is a party.

To supervise the compliance of broadcasting services of media providers not located within the territory of the Republic of Turkey, however, under the jurisdiction of the Republic of Turkey in terms of the provisions of this Act and the international agreements to which Republic of Turkey is a party, and cooperate when required with authorized organizations and institutions of other states.

To watch, supervise and evaluate in accordance with the decisions of Supreme Election council, the broadcasts in electoral periods of media service providers.

Execution of above mentioned duties of RTUK with regard to content control is assigned to Head of Department of Monitoring and Evaluation as specified in article no. 7 of Regulation on Organization, Establishment and Duties of Radio Television Supreme Council still standing. Head of Department of Monitoring and Evaluation uses such controlling authority assigned to itself by means of the experts employed within the supreme council [4].

D. RTUK's Enforcement Effect

RTUK is one of the institutions authorized to impose administrative sanctions within the scope of the Constitution. Whereas it is envisaged the sanctions of suspending or withdrawing the permission for private broadcasters in the first version of Law no. 3984, it is also added in addition to such sanctions with the amendment in Law no. 3984 by Law no 4756 dated 15/05/2002, the sanctions such as warning, apologizing, suspending broadcast and financial punishment. With this amendment; it was moved to gradual punishment system where warning, programme suspension and financial punishment is applied respectively. With Law no. 6112 entered into force on 03/03/2011, enforcement effect of RTUK is regulated once more.

While it is generally protected in Law no. 6112 the sanction types envisaged in Law no. 3984, it is seen that discretion power assigned to RTUK is substantially increased. One of the major changes introduced by the law is the transition to application of sanctions in proportion to extent of violation. The “Principles of Broadcasting Services” are divided into two categories under the new legislation and the sanctions to be imposed on broadcasting organizations in violation are differentiated. In accordance with first paragraph of article no. 32 titled administrative sanctions of the Law, considering the extent of violation and media environment and area, it is ensured to impose administrative punishment up to 2% to 5 % of gross commercial communication income in the month preceding the month in which the violation is determined to the media service providing organizations making broadcasts in breach of broadcasting principles specified in sub-clauses (a), (b), (d), (g), (n), (s) and (s) of first clause of Article no. 8 of the Law. Pursuant to same clause, it is further specified that broadcasting of the program subject to violation may be

decided to cease broadcasting up to five (5) times and as regards voluntary broadcasting services it may be decided to remove the programme subject to violation from the catalogue as an administrative measure. Taking into consideration the nature of violation in accordance with such clause, it is stated that it may be decided to impose administrative punishment together with administrative measurement or administrative punishment or administrative measure decisions may be given solely.

The most significant change introduced by the above-mentioned paragraph is the authorization granted to RTÜK to be able to impose sanctions of fine and programme pause without granting warning punishment. It can also be seen that justice and deterrence is attempted to be ensured by bringing the fine system in proportional to the income of the channel which changes depending on the extent of the violation. As to second paragraph of article no. 32 of the Law no. 6112, it is seen that mild sanctions are envisaged relatively. It is envisaged to warn principally the media service providing organizations broadcasting in breach of the Principles of Broadcasting Services listed in this paragraph and principles, liabilities and prohibitions specified in other provisions of the Law; it is further ensured considering the extent of violation and media environment and area, to impose administrative punishment in the case of repeated violation up to 1% to 3 % of gross commercial communication income of the media service providing organizations making broadcasts in breach of broadcasting principles in the month preceding the month in which the violation is determined [5].

In accordance with sub-clause no. 5 of article no. 32, much more severe sanctions are envisaged to broadcasting organizations repetitively in violation of the principles in sub-clauses (a) and (b) of first article of the Law no. 8. Accordingly, *“It is decided to pause the broadcasts of media service providing organizations up to ten (10) days, in the event of repetition of same violation in a year as per the notification of sanction decision to be given following the execution of broadcasts in breach of principles specified under sub-clauses (a) and (b) of first clause of Article no. 8 of the Law; in the event of second repetition broadcasting licence of such organizations is decided to be cancelled.”*

VII. CONCLUSION

As a means of media, radio and television provides the information which cannot be gained by individuals on their own, and informs them about the developments in the country and around the world through bringing them up to date. In addition to such benefit of radio and television which can be deemed to be the basic contribution for the individual; it also has adverse effects such as misleading the audience, directing them in the desired direction; rendering service for specific political and commercial interest group and creating a virtual world. Audio-visual communication area is subject to control and restrictions due to both fort he mentioned social reasons and technical and economic some other reasons.

It is the new management mentality took shape as a result of the changes experienced after 1980 in economic and

political area that revealed the independent administrative authorities as responsible actors to regulate and supervise broadcasting area. Today, a great majority of the European countries mainly handed over the regulations in radio and television area to independent administrative authorities. Main characteristics of such administrative structures are regulation, independence and autonomy which in this regard differentiate them from traditional administrative mentality.

Broadcasting which started as a public activity in Turkey varied after 1990 with the de facto commencement of commercial broadcasting. A recent development took place in broadcasting area in our country and there appeared private organizations beside state-owned institutions in broadcasting area. In order to regulate and control this area, Radio and Television Supreme Council was established as in the sample countries by law-maker as a supreme authority in 1994.

The board is equipped with strong powers of regulation, supervision, permission and sanction. The duties and authorizations are regulated both in Constitutional and legal framework and required control mechanisms are established.

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