# Shareholding Structures of Media Companies under the New RTUK Law

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As of March 3, 2011, the new "Law on the Establishment and Broadcasting Services of Radios and Televisions" numbered 6112 (referred to as "Former Law" in this document) was in effect by getting published in the Official Gazette. The new law –which is referred to as RTUK and is given the new number 27863, served the main purpose of setting forth the rules and principles regarding broadcastings of televisions and radios as well as the restrictions in terms of shareholding structures of media companies. RTUK Law applies to all radio and television services rendered through electromagnetic waves or other means under whatsoever name in the jurisdiction of the Republic of Turkey.

## Restrictions Regarding Foreign Shareholding in a Media Company

RTUK Law has brought significant changes to the shareholding structure regime of media companies in terms of contribution of foreign capital.

Under RTUK Law, the ratio of the total foreign direct capital in a media company can amount to 50% of the total paid in share capital, as compared to only 25% in the former legislation. Note that according to the law's definition of real persons, shares that belong to their spouses and relatives by blood and marriage up to and including the level of third-degree are considered as belonging to the same person.

Furthermore, as per RTUK Law, a foreign natural or legal person can be a direct shareholder in a maximum of two media companies. Accordingly, 50% of the shares of a media company can be directly owned by foreign natural and/or legal persons and such foreign shareholders may become direct shareholders to one other media company as well.

In the meantime, the new structure foreseen under RTUK Law with regard to indirect foreign ownership constitutes the key difference between the Former Law and RTUK Law. RTUK Law states that in case foreign naturals or legal persons participate in companies which are shareholders of a media company and become indirect shareholders of a media company as a result of such participation, the share-capital of the media company can be 100% foreign capital, provided that the respective legal requirements are satisfied. Those requirements are briefly the following: (i) majority of the votes in the general assembly, (ii) chairman of the board of directors, (iii) deputy chairman of the board of directors, (iv) majority of the board of directors and (v) general manager of the media company shall be or shall consist of citizens of the Republic of Turkey and/or companies incorporated in Turkey in line with Turkish law.

## Restrictions Regarding License Ownership and Shareholding to more than One Media Company

Under RTUK Law, there are mainly three broadcasting licenses that a media company can possess and these licenses are namely; (i) terrestrial broadcasting license, (ii) cable broadcasting license and (iii) satellite broadcasting license. Currently no media company possesses any terrestrial broadcasting license in Turkey and it is not possible to obtain a terrestrial broadcasting license by making an application to the Radio and Television Supreme Council ("RTUK"). However, certain media companies which have been granted -by RTUK- the right to broadcast through the terrestrial medium are exercising their rights and this is called the "terrestrial frequency usage right". Although granting of this right is not equal to granting of a terrestrial broadcasting license, the media companies which have been granted this right exercise the right to use a frequency enabling them to broadcast through the terrestrial medium.

Media companies intending to broadcast through cable, satellite or other mediums shall obtain separate broadcasting licenses for each medium. The duration of a broadcasting license is ten (10) years as per RTUK Law.

Restrictions regarding shareholding to more than one media company are set forth in detail under "Regulation Regarding Shareholding to More Than One Media Company" which was published in the Official Gazette on December 16, 2011 and numbered 2814 (the **"Regulation"**). Pursuant to the Regulation, a legal or natural person can be a shareholder, either directly or indirectly, in a maximum of four (4) media companies which possess terrestrial broadcasting license. However, as mentioned above, according to the new legislation, foreign legal and natural persons cannot be a direct shareholder to more than two (2) media companies, regardless of the type of broadcasting license.

## 30% Market Share Threshold

According to RTUK Law, the total annual commercial communication income of media companies to which the same legal /natural person is a shareholder to cannot exceed 30% of the total commercial communication income of Turkish media sector within the respective year. In case the 30% threshold is exceeded, the legal /natural person who is the shareholder in the two (2) or more media companies whose total commercial communication income is in excess of the threshold will be obliged to transfer all extra shares within a ninety (90) days period that is granted by RTUK Law. A monthly administrative fine is to be applied by RTUK in case the share transfer is not completed within that specific transfer period.

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