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MEDIA INFLUENCE MATRIX: ISRAEL

Government, Politics and Regulation

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LEGAL OVERVIEW

Israeli media system is characterized by a multiplicity of regulatory authorities whose activity is governed by specific laws. The general Communications Law regulates mainly the modus operandi of companies licensed for telecommunications services (landline and cellular companies, ISPs, wired infrastructure companies) as well as broadcasting companies (cable and satellite).[1] Implementation of this legal act is supervised and enforced by the Ministry of Communications. (*See Regulatory Authorities in this report*)

Another important area supervised by the Ministry of Communications covers the various services provided wirelessly, mainly airborne radio waves. Regulation of this field is governed by the Telegraph Ordinance (1972), bylaws, government decisions concerning the designation and allocation of frequencies, and licenses granted under the Ordinance.[2]

Other important legal acts refer to the two broadcasting authorities in Israel. One is the Second Authority for Television & Radio Law (adopted in 1990, amended in 2018), which defines the duties and operation of the Second Authority as a regulatory statutory body that should represent the public interest in commercial broadcasting. The second is the Public Broadcasting Law (2014), which defines the operation and duties of the Israeli Public Broadcasting Corporation (IPBC), under

supervision of the Ministry of Communications.

Israel does not have a press law per se. A British Mandate Press Ordinance from 1933 was finally revoked in 2017, making it possible for the first time in Israel's history to publish a newspaper without a government-issued license.[3] Yet, according to legal experts, by discontinuing the ordinance, which was the only source of definition of the terms and essence of "what a newspaper is", a legal vacuum was created.[4]

The written press and online content are an unregulated field, but they are subject to a series of ad-hoc regulations enshrined in the penal and civil codes. Censorship is alive and kicking in Israel,[5] and courts commonly resort to Publication Bans, mostly regarding security and privacy issues. A 2017 law allows police and prosecutors to obtain court orders to block websites found to have published criminal or offensive content.[6] The Israel National Cyber Directorate is a national security and technology agency responsible for defending Israel's national cyberspace from hacking.

Currently, Israel's Defamation Law (1965) categorizes libel and slander as both a civil wrong and a criminal misdemeanor. There is no specific protection of hate speech under

[1] Telecommunications and Broadcasting Law, amended several times since enacted in 1982 (see <https://www.wipo.int/edocs/lexdocs/laws/en/il/il042en.pdf>, accessed on 11 December 2019).

[2] Yizhar Tal, and Dina Ivry-Omer, "The Regulation of electronic communications services in Israel," IDI, Policy paper No. 76, November 2009. (Instructions regarding the use of frequencies for television and radio broadcasting were also put forward by the abolished Broadcasting Authority Law, 1965, and related regulations).

[3] Lahav Harkov, "Ministers approve British Mandate-era Press Ordinance," Jerusalem Post, 1 January 2017, available at <https://www.jpost.com/israel-news/ministers-approve-canceling-british-mandate-era-press-ordinance-477164> (accessed on 25 October 2020).

[4] Lior Harish, "מה הוא עיתון?" (What is a Newspaper?), The Marker, 9 July 2017, available online (in Hebrew) at <https://www.themarker.com/opinion/1.4237680> (accessed on 20 January 2020).

[5] Articles 87, 97 and 100 of the Mandatory Defense (Emergency) Regulations of 1947.

[6] For more see "Israel" in Freedom House, Freedom of the World, 2020, <https://freedomhouse.org/country/israel/freedom-world/2020> (accessed on 20 January 2020).

the Media and Communication Law, however since the media is an amplifier of such misdemeanors, hate speech is protected under the prevention of Sexual Harassment Law (1998)[7] as well as under the Defamation Law (1965) and the Penal Code (1977).[8]

Overall, Israel has a media law framework that is not yet fully compatible with established democratic regimes. Many media experts, jurists and journalists contend that the state's communication regulations are either anachronistic[9] or lacking precise formulations.[10] It is commonly argued that regulations do not keep pace with the challenges posed by the developing technology and market needs.

The common procedure of media regulation starts with the response of the legislature to government bills, usually formulated by three ministries: Finance, Justice and Communications. Members of Knesset (MKs) submit proposed bills but occasionally lack the legal and professional expertise in the field. Parliamentary committees[11], mainly the ones dealing with economic affairs, are also a loci for shaping media regulation.

Israeli law lags behind significant developments of the EU regulatory framework, regarding data protection and

information access. A major progress was registered in 2012 when the Ministry of Justice established the Government Freedom of Information Unit to increase public transparency and the implementation of Freedom of Information Law (1998), in particular.[12]

However, freedom of information enforcement is far from satisfactory. Most of the "secondary" authorities such as local authorities, statutory corporations or trust units still suffer from major compliance issues. They are relatively slow to respond to public and official queries and fail to publish activity reports in due time.[13] Control over regulation compliance through courts does not promise an effective enforcement since few cases of breaching end up in court appeal and when they do, court ruling does not always endorse the principle of public's right to know and the Freedom of Information Act, especially regarding issues of security or foreign affairs.[14] Reporter's Privilege (RP) in Israel is not enshrined in law but is mandated by court ruling alone, rendering source protection and journalist defense far from absolute.

To sum up, the Israeli media sector is vibrant and allegedly free to criticize government policy. Despite the Israeli ethos of free press

[7] On LGBT Hate Speech See Gidron and Abraham, SSNR 2016 (in Hebrew) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2755782 (accessed on 15 October 2020).

[8] Interview with Adv. Elad Man, cit; Article 144 of the Penal Code: "Incitement to Racism and Violence".

[9] Interview by the author with Nati Toker of The Marker, October 2019; See also interview with Yifat Ben Hai Segev, former head of Cable and Satellite Broadcasting Council: Shtarkman and Toker, "שיחת פנים" (Interior Talk), The Marker, 15 September 2017, available online (in Hebrew) at <https://www.themarker.com/markerweek/1.4444334> (accessed on 1 March 2020).

[10] Interview by the author with Adv. Elad Man of The 7th Eye and Hatzlacha NGO (10 April 2020), and Dr. Tehilla Shwartz Altshuler, cit.

[11] The Knesset Committee approved an amendment to the Knesset's rules (25 December 2017), according to which government ministries that promote legislation including any additional regulation will be asked to reach the relevant Knesset committee and present a report on the Regulatory Impact Assessment (RIA), a cost-benefit analysis of the intended regulation. This is part of a comprehensive process, which seeks to reduce the regulatory burden in Israel (see more at https://main.knesset.gov.il/Activity/committees/knesset/News/pages/knesset_25.12.17b.aspx (in Hebrew), accessed on 16 January 2020).

[12] Government Decision no. 2950

About the shortcomings of the 1998 Law see: Rivki Dvash, "חמישה תיקונים שצריך להכניס בחוק חופש המידע" (The 5 Amendments that should be applied in the Freedom of Information Law), The 7th Eye, 26 November 2019, available (in Hebrew) at <https://www.the7eye.org.il/351994> (accessed on 23 March 2020).

[13] Interview with Adv. Elad Man cit.

[14] Interview with Adv. Elad Man cit.

and freedom of expression[15], the inclination of the media and journalists to self-censorship has affected the field lately. While the scope of permissible reporting is generally broad, publishing on security matters is subject to military censorship and courts often approve publication bans. The multiplicity of regulators creates unnecessary duplications, enforcement ambiguity and a waste of public funds.

The media function in a very unstable and highly politicized environment. Due to

Benjamin Netanyahu's dual tenure as both PM and Minister of Communications (2014-2017), conflicts of interest involving the ministry's regulatory performance have been rife. Israel's laws, political practices, civil society groups, and independent media generally ensure a substantial level of governmental transparency, though recent corruption cases alongside an ongoing debate about media regulation and the state's democratic character have illustrated persistent shortcomings.[16]

REGULATORY AUTHORITIES

Broadcast Media and Frequency Spectrum

Cable and Satellite Broadcasting Council (CSBC)

Remit and Tasks

The CSBC is a public council tasked by law to oversee multichannel broadcasting via cable and satellite, as well as the designated channels (the Shopping Channel and the Knesset Channel).

CSBC's main role is to represent, protect and cultivate public interests in multichannel television for subscribers, in both cable and satellite. The Council oversees the regulating and supervising of marketing content in the designated channels, preserving original productions and television content in Israel, supervising broadcasting for infants, children and youth, supervising sports broadcasting and channels. Finally, it is tasked to conduct tenders and issue licenses for cable and satellite broadcasting channels.

Board Composition

CSBC is accountable to the Minister of Communications. As public representatives, its members serve without pay. The only person receiving a salary is the chairman of the board, for whom this is a primary occupation. The chairman is a representative of the Minister of Communications and may sign, on the minister's behalf, rules prescribed, licenses granted, and decisions adopted by the Council. A search committee headed by the Ministry's Director General is in charge of hiring candidates for this highly coveted position.

[15] Interview by the author with Dr. Roy Peled, of COLMAN Israel, and Berkeley Institute For Jewish Law, 25 November 2019, and former CEO of the Movement for Freedom of Information; Freedom House score for early 2020: Free, 76/100 (see <https://freedomhouse.org/country/israel/freedom-world/2020> (accessed on 28 March 2020)).

[16] "Israel," Freedom House, cit.

The Council (which numbers a maximum of 13 members) is appointed by the government upon the recommendation of the Minister of Communications. The Council members include six government representatives who are state employees: one by recommendation of the Minister of Culture, one at the suggestion of the Minister of Finance and three based on a recommendation of the Minister of Communications. Seven other members are representatives of the public: two are endorsed by the Union of Local Authorities; two represent the consumers (according to the Minister of Communication's opinion); one represents the artists and creative writers in Israel (in the minister of communication opinion), and two are representatives of education and culture institutions, by recommendation of the minister of culture.

Due to this appointment protocol, the staffing procedure, especially that of the chairman, has a highly politicized nature.[17] The former Council's Chair, Dr. Yifat Ben-Chai Segev served as a witness for the prosecution in Case 4000 against Netanyahu, but during the police investigation she actually supported Netanyahu's testified version regarding his allegedly corrupted market regulation reforms.[18] Nir Shviki was elected chair over a year ago, but he still awaits the government's validation of his position (*see more on CSBC's Chairperson in Key Decision Makers chapter below*).

The CSBC's members usually have a relevant professional and educational background, but the legal restriction on candidates being active members in a political party is not always enforced. Due to the recent turmoil in Israeli politics, the Ministry of Communications website lists only six Council appointments (including the chair) out of 13.

CSBC members (March 2020)

- Orly Yehezkel (CSBC Public Representative) has a BA in Political Science and an MA in Public Administration. In 2019 she was the (ruling) Likud party candidate to the Knesset in the Coastal Plain county.
- Noemi Ben-Natan Schori, an independent producer and director, is a winner of prestigious international and local prizes. A member of the global INPUT for high-quality and innovative television, she served as its president between 2005-2010. She also served as VP of the Second Authority for TV and Radio. She is known for her political radical left inclination.
- Adv. Lea Rakover has a BA degree in Law and MA in Public Policy, and served in various positions in the civil service. She heads the Legal Bureau in the Ministry of Justice alongside serving as the Ministry Attorney General.
- Adv. Nawaf Shafiq Azam (CSBC Public Representative) has a BA in Law and Mediation, representing probably an affirmative action to include an Arab representative.
- Nati Schubert (The Minister of Communication's representative) has a BA and MA in Electrical Engineering.[19] (*On the contested recruitment of staff tied to the Ministry of Communication, see below in the Frequency Committee under Nati Schubert, and in Key Decision Makers under Asher Biton*).

[17] Li-Or Averbach, "מלחמת העצמאות המדומה" (The fake war of independence), Globes, 10 February 2014, available online (in Hebrew) at https://www.globes.co.il/news/article.aspx?did=1000915782&after_registration (accessed on 10 February 2020).

[18] Eli Zipori, "י"ר מועצת הכבלים והליווינתמכה בעדותה בגרסת נתניהו" (CSBC's Chair supported PM Netanyahu's defense version), News1, 10 November 2019, available (in Hebrew) at <https://www.news1.co.il/Archive/001-D-419440-00.html> (accessed on 1 February 2020).

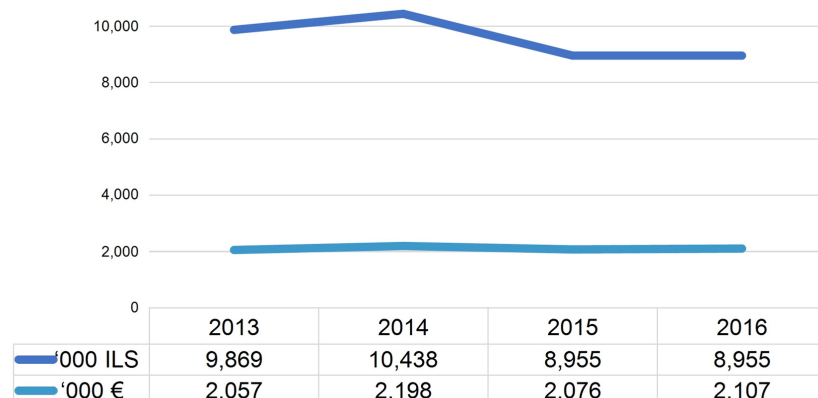
[19] Schubert was lately appointed to Acting Chairman of CSBS: Anat Bein-Leibovitz, "נתי שוברט מונה לנ"מ י"ר מועצת", Globes, 6 September 2020, available (in Hebrew) at <https://www.globes.co.il/news/article.aspx?did=1001341758> (accessed on 6 September 2020).

Budget

The Council and its administration budget has a separate budget line within the Ministry of Communications budget. Strangely enough, the CSBC's annual reports are published with a three-year delay. The report includes an apologetic explanation, along with the specific budget for each reported year.[20]

The regulator's accounts

The CSBC budget



Note: data for 2017 and 2018 not available

Source: Ministry of Communication

The Frequencies Committee

Remit and Tasks

The main function of the Frequencies Committee is to determine the policy for using frequencies, allocate and assign frequencies, and make licensing recommendations. The frequency spectrum is used intensively in Israel, mainly due to the increased demand for civilian communications and the numerous needs of the military and the security system, and to some extent also due to requests coming from the Palestinian Authority. It is a scarce resource, and therefore it is of great importance to manage it with efficiency and fairness, especially when it is used to supply most of the advanced communications services.

The Frequencies Committee cooperates with two other officials: the minister of communications, who has the authority to implement regulations; and the Director of the Spectrum Division within the Ministry of Communications, who chairs the Frequencies Committee and holds the licensing authority for wireless equipment.

[20] Asher Biton, the CSBC's former Chairperson, noted in the 2015 report: "The current multi-annual accounting methodology delays the submission of late reports as the 2016 calculation closure is due in 2019-2020, for when programs that have been designed and applied over the past years, appear on screen. We intend to conduct a comprehensive examination of the change of method and publication of reports in a shorter time, while changing and reducing their content."

Board Composition

The Frequencies Committee has seven members (including its Chair): two representatives from the Ministry of Communications (one of whom is the Director of Radio Frequency Division and serves also as the Committee chair), a representative of the Civil Aviation Authority, two representatives of the military (IDF) Computer and IT Directorate, a representative of Israeli Police and a representative of the General Security Services (Shin Bet). In addition, there is one observer from the Ministry of Finance who has no voting rights but can raise issues for discussion.[21]

The entire Committee consists of representatives of state authorities, the vast majority of members being from the security system. There are no specific professional criteria for selecting these functionaries and their names are not made public.

The Committee's Chair is Nati Schubert, until recently Engineering Administration Deputy Director (Spectrum). Schubert, who was due to retire at the time of writing, was temporarily appointed to the position of director of the division while also given the temporary appointment as head of the CSBC. If no permanent CEO is found, it will be necessary to appoint another deputy at CSBC.[22] In addition, the government appointed a High Frequency Committee (HFC), on top of the regular one, which is supposed to review the decisions made by the former committee and has the right to change or cancel them.[23]

A common criticism about the composition of the Committee is that it has no representation of the industry, other regulatory organizations and the public. Many deficiencies were found by the State Comptroller in the conduct of the two committees.[24] In addition, despite pledges by the former Government to increase transparency and economic efficiency in the field, there is no information about the decisions related to the allocation of frequencies in Israel.[25]

Budget

According to the Workshop for Public Data NGO (aka Hasadna), no specific section is dedicated to the Frequencies Committee within the published state budget. Our request for information about the Committee budget, lodged with the Committee, was not honored. The yearly budget for the Planning and Spectrum Engineering Branch (whose head also chairs the Committee) was set at ILS 150,000 (€35,334), but was subjected to budget changes.

[21] Yizhar Tal, and Dina Ivry-Omer, The Regulation of electronic communications services in Israel, IDI, Policy paper No. 76, November 2009.

[22] See footnote 21.

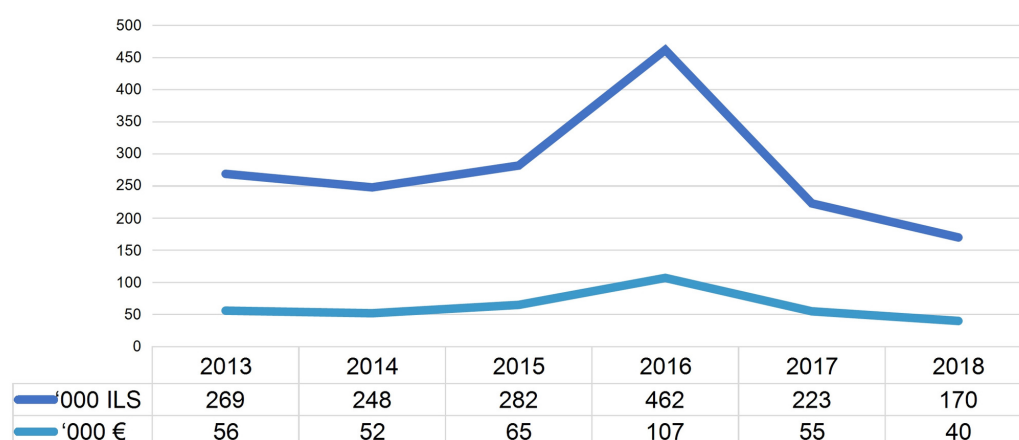
[23] Government Decision 4228, 9 November, 2008.

[24] Comptroller Report 2012, 63C

[25] Asaf Avidan, January 2015 "הועדת תדרים לשימוש במוצרי צריכה, מחשוב ובקרה ללא רשיון", (Frequency allocation for use in unlicensed consumer, computing and control products), Din Udvrim, Haifa University, available online (in Hebrew) at http://law.haifa.ac.il/images/din_udvarim/h2_2.pdf (accessed on 18 October 2020).

The regulator's accounts

Budget of the Planning and Spectrum Engineering Branch, 2013-2018



Source: Hasadna[26]

The Second Authority for Television and Radio

Remit and Tasks

The Second Authority for Television and Radio is a public statutory body in charge of regulating and supervising commercial broadcasting in Israel. The Authority began operations on 1 September 1991 thus ending the monopoly of the Public Broadcasting Authority with its one major channel (the now defunct Channel 1).

The mission of the Authority is to promote high quality original productions while reducing offensive content and implementing ethical standards in broadcasting. Its major task is to serve public interest: protecting minors, making broadcasts accessible to the disabled, encouraging competition in the field, and ensuring a diverse broadcasting framework. Operationally, the Authority organizes tenders for television and commercial radio broadcasts, and grants broadcasting licenses.

Board Composition

The Second Authority is headed by a public council. The Council outlines the policy of the authority and appoints the Director General of the Authority, based on the recommendation of the Minister of Communications and with the approval of the Government. According to the Second Authority Law (1990), the Authority Council's members are appointed by the government, upon recommendation of the Minister of Communications, after he or she consulted with the representative organizations of writers, teachers and artists, institutions of higher education, the Hebrew Language Academy, the Israeli National Academy of Sciences and other public bodies.

[26] Hasadna, Workshop for Public Data, available online (in Hebrew) at <https://next.obudget.org/i/budget/00391104/2019> (accessed on 20 March 2020).

The Council has a maximum of 15 members, including the chair. The Law specifies that the members of the Council shall have the appropriate background, experience and knowledge in their fields of expertise, and should have a proper understanding of the social situation in Israel. The appointed members must not be related to the Knesset, to any political party, or to be state employees. Moreover, if their role in the Council may cause conflicts of interest with other professional or personal affairs, they must not be appointed members. The composition of the Council shall, as far as possible, reflect the diversity of public opinion.

Nevertheless, as stated by Dr. Tehilla Shwartz Altshuler of the Israel Democracy Institute (IDI), a Jerusalem-based research center, some of these appointments are actually “low rank” political appointments. Thus, in recent years right-wing governments have tried to place designated figures into the regulating bodies. While, in principle, the Council members are supposed to exhibit religious and gender diversity, namely, a Druze, an Arab, a significant number of women, none of them are prominent representatives of their communities, Shwartz Altshuler said. The power rests with the chairman and the Authority’s CEO.[27]

The term of office of the Second Authority Council ended on 16 October 2018. However, the political instability in the country and the frequent election campaigns created an unprecedented situation whereby a new council could not be appointed.

The council also reached the deadline of the end of its term with a shortage of 10 members. The implication of the lacking composition is that, in practice, any resignation of a council member would create a legal situation where there is no quorum and the council cannot make decisions. The webpage of the Authority is outdated and there are significant mismatches between its Hebrew and English versions.[28]

Second Authority Council members (April 2020)

- Dr. Michal Shapira (senior lecturer on advertising and media marketing)
- Dr. Dalia Zelikovich (PhD in Economics and internet, college lecturer)
- Yochy Feller, women representative (CEO of WIZO Israel, a leading Zionist women organization)
- Mare Maro Sanbato, Ethiopian representative (MA in Educational Counseling and BA in Informal Education.)
- Suhair Nahas, Arab representative (MA in Communication and Journalism. works in the Arab education system)
- Shafik Abed, Druze representative (MA in Administration and Education Systems, BA in Education and Political Science, teacher and coordinator in school)
- Itzhak Borba (LLM and BA in the humanities and social sciences; managed and worked in the past for various public organizations)
- Dr. Odelya Mins (PhD in Law, college lecturer, the wife of an activist in the ultra-right wing party Zehut)
- Lior Gilboa (LLB, Screenplay writer and producer, a former member of the rightist Likud party)

[27] Interview by the author with Dr. Tehilla Shwartz Altshuler, of the Israeli Democratic Institute (7 March 2020).

[28] Our attempts to contact the spokesperson of the authority for an interview failed.

Funding

The concession and licensing fees that are paid to the Authority by the franchisees are used to cover its expenditures. The authority's financial reports, despite the fact that the Authority is a public institution, are kept secret. The Authority explained that its financial reports include information that can be classified as trade secrets and hence cannot be disclosed.[29]

In March 2016, Hatzlacha NGO, which works on promoting a proper civil regulation regime, has successfully appealed to disclose the Authority's budget under the Freedom of Information Act. The 2012-2015 budget was then published but this was the last time such information was made public. Any attempts to contact the Authority for an answer remained unsuccessful. The total budget of the Authority was cut from ILS 40m in 2012 to ILS 37m in 2014, and again to ILS 29m in 2015.[30] Tellingly, the only budget item that saw a significant increase was allocated to the advertising and spokesperson department, going up from ILS 736,000 in 2012 to ILS 1.7m in 2015.

Israeli Public Broadcasting Corporation (IPBC)

Remit and Tasks

The IPBC is a statutory body that provides various types of content through visual, audio and written media, on television, on radio and on the Internet. The IPBC's Council handles the corporation's policy and oversees its implementation, including the overall broadcasting policy, approval of the broadcasting programming and the corporation's budget. The Council selects and appoints the Director General, the Auditor of the Corporation and the IPBC's Ombudsman.

In addition, the Council approves the appointments of senior management members. The Council is responsible for formulating the corporation's operation plan, approving the organizational structure, and employment policies. It oversees the implementation of the IPBC's broadcasting tasks which are the following:

- Reflect and document the character of Israel as a Jewish and democratic state, and its values and heritage, and give fair and equitable expression to the wide range of attitudes and opinions prevailing in Israel. Therefore, IPBC provides content that appeals to a variety of populations and segments of Israeli society, including broadcasts in Hebrew, Arabic and in other languages prevalent in the Israeli society (predominantly, Russian and Amharic but also English, French and Spanish).
- Provide diverse content that appeals to children and youth and promote the creation of valuable educational content designated for young audiences.
- Expand education and knowledge; promote cultural programs such as original Israeli arts and music; promote innovation in broadcasting content and distribution of broadcasting technologies; and promote Hebrew language.

[29] Yael Gaoni, "מה מסתתר מאחורי הר השקלים של הרשות השנייה" (What's hiding behind the pile of Shekels of the Second Authority?), Globes, 7 November 2007, available online (in Hebrew) at <https://www.globes.co.il/news/article.aspx?did=1000271804> (accessed on 1 April 2020).

[30] David Wertheim, Walla!, 16 March 2016, "25%-ב נחתך השנייה הרשות" (The Second Authority budget was cut 25%), available online (in Hebrew) at <https://b.walla.co.il/item/2944079> (accessed on 10 April 2020).

Board Composition

The IPBC Council consists of 12 public representatives elected by an independent professional committee chaired by a judge and appointed by the Minister of Communications. The council's composition must include at least six women and at least one member of the Arab-Palestinian minority, including the Druze and Circassian populations, as recommended by the Search Committee.

According to the Public Broadcasting Law, IPBC Council members should not have any political affiliation or any personal or professional relations with ministers or political activity in the five years prior to their membership. The law specifies the professional scope and relevance of the candidates as members of the Council:

- The chair of the council must have an academic degree and have at least five years of experience occupying a senior position in the business management of a corporation.
- Alternatively, the chair must have a record as a senior manager in a significant organization with good standing in the communications field;
- One public representative should have at least five years of experience in a managerial role in a media company operating in broadcasting, print or online news;
- One public representative should have significant experience in print media, broadcast or online, including content editing;
- Two public representatives must have significant experience in the field of television, cinematic or musical work;
- One public representative should have significant technological experience in fields related to the activities of the IPBC;
- One public representative should have significant experience in managing funds of entities with significant business scope;
- One public representative must have accounting and financial expertise;
- One public representative must be a lawyer with significant experience in regulatory practice;
- Two public representatives should have significant experience in education or broadcasting for children and youth;
- One public representative must have a proven record in the field of Israeli heritage.

The four-year mandate of the IPBC council members is yet to be decided as it comes after a long period of serious disagreement between the members and the Chairman on the Councils' authority.[31]

List of IPBC members (April 2020)

- Gil Omer Chair, BA in Psychology and Political Science, CEO of the Children Museum in Holon and a board member in the Jewish People Museum Beit Hatfutsot;
- Hamis Abu'lafya (Arab representative), BA in Humanistic, Social Sciences and Law. Business Man and Publicist;
- Prof. David Alexander BA in Literature and Theatre, PhD in Arts, served as the President of the Wizo Centre for Design and Chaired the Israeli Film Council;
- Orly Gerti Sarusi, BA in Accounting and Economics and an MBA, plus MA in Public Administration, she serves as a director in government and public companies;

[31] "מי בסכנת הדחה?" (Who is in danger of impeachment?), 25 February 2020, available online (in Hebrew) at <http://www.ice.co.il/media/news/article/777708> (accessed on 24 March 2020).

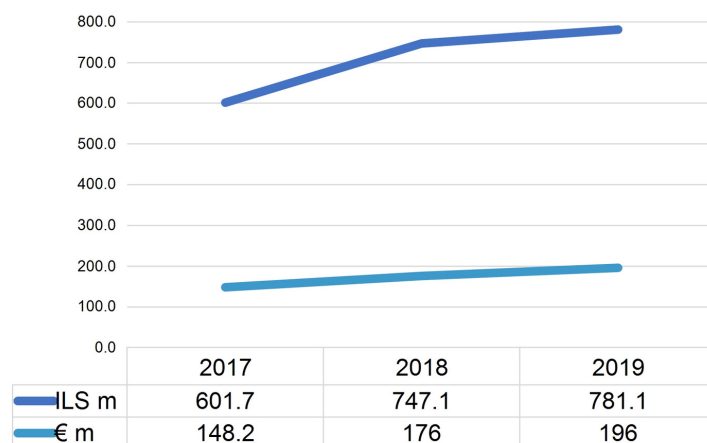
- Dr. Orna Deutch, PhD in law and qualified attorney, lecturer and researcher at Bar Ilan University, previously, she served as the Attorney General's representative in the Ministry of Industry and Trade and as the Attorney General in the Consumer Protection Authority;
- Orit Messilati, BA in Economics and Accounting, she is an independent financial adviser formerly who served as CFO of various companies;
- Ahuva Feinmeser, B.Sc in Mathematics, Statistics and Computer Science and a MA in Business Administration, owns a consulting and project management company in the field of information and technology. Served as the CEO of Israeli Educational TV and as the CEO of MALAM Information Technologies;
- Dalit Stauber, BA in English Literature and Linguistics and an MA in Education, she serves as a lecturer at the Ono Academic College; served as the Director General of the Ministry of Education and as chair of the Committee on promotion of women in the civil service;
- Shlomi Stein, BA and MBA in Business Administration and Economics, worked as journalist, served as the VP of Content for News 10, a Maariv reporter in London and a senior editor in the newspaper, writer and host at GLZ radio, and in the Israeli delegation to the UN.[32]

Funding

The Council is critical to the operation of the corporation as it is an independent, politically unbiased body that is responsible for a budget of ILS 700m a year. (See *Funding Journalism in Media Influence Matrix: Israel*)

The regulator's books

The budget of the Israeli Public Broadcasting Corporation (IPBC), 2017-2019



Note: Income from the Ministry of Transportation, revenues from commercials, archives and other services

Source: IPBC

[32] Nine members currently serve on the council's board, following the retirement of three members. The Search Committee chose another council member, Michal Refaeli Kaduri, who served as the Regulation VP of the institution, but appointments of new council members has not yet been approved due to the election period.

Print Media Regulators

The written press in Israel is a largely unregulated field, but media outlets are subject to a series of regulations nailed down in the penal and civil codes. The ongoing practice of censorship, and the formal arrangement specifically favoring military censorship, are perceived by critical experts as an outdated and anti-democratic arrangement.[33]

According to Dr. Schwartz Altshuler of the IDI, in addition to the military censorship, which prevents expression even before content is released, there are provisions in criminal law that limit the exposure of revealed security secrets that are labeled as “severe espionage.” These instructions serve as post factum punishment after information has already been published.[34]

In addition, there is an overly resort to Orders of Publication Bans, issued by courts. This is especially troubling given the insufficient enforcement on such orders’ violation, and given the ongoing efforts to ban sensitive publications, while the information they disclose is already widely spread via social networks and international press.[35]

Internet Regulators

A problematic regulatory vacuum persists in the online media. This is the main reason why Israeli regulation is still criticized as lagging behind other democracies.[36] Internet regulation is not needed to impose strict legal provisions on content such as the ones that apply to television, but to oversee crucial issues such as consumer protection, accessibility for disabled and original production.

Three major areas are at the focus of this critique. First, unlike the very heavy regulation of the Israeli broadcast channels, their auxiliary digital platforms and websites are not subject to any content regulation whatsoever, a lack of regulatory consistency that can be problematic. Second, other over-the-top (OTT) television providers such as Cellcom TV and Partner TV[37] have no regulatory obligations to produce original content, which again poses problems related to regulatory consistency. The third problematic area addresses the international platforms that supply content to the Israeli audience, especially Netflix and other large platforms like YouTube that are under-regulated compared to players offering similar content.

As to general content regulation, a 2017 law allows police and prosecutors to obtain court orders that require the blocking of websites found to publish criminal or offensive content.[38] This is

[33] Articles 87, 97 and 100 of the Mandatory Defense (Emergency) Regulations of 1947

[34] Interview by the author with Dr. Tehilla Shwartz Altshuler of the Israeli Democratic Institute (7 March 2020). These provisions do not differentiate between levels of severity regarding the revealed data, between different types of informants (e.g. soldier or journalist) and between various types of publishing (e.g. a first-hand publisher or someone who shared an existing publication on a social network).

[35] Eli Hacoen, “בית המשפט מתעלם מהאינטרנט” (The Court ignores the internet), 6 May 2008, available online (in Hebrew) at <https://www.haaretz.co.il/captain/net/1.1322932> (accessed on 15 January 2020).

[36] Interview with Dr. Shwartz Altshuler cit.

[37] OTT (over-the-top) media services such as Cellcom TV or Partner TV are television services provided by telecommunication companies similar to the cable and satellite channels.

[38] The Law for the Prevention of Offenses Via a Website, 2017 focuses on crimes of drugs, pedophilia, prostitution, gambling and terror.

part of an approach titled “alternative enforcement” that put forth a strategy of focusing on the offense rather than on the perpetrator. This strategy includes filtering content, removing prohibited content, blocking access or disconnecting users from the service. Alternative enforcement actions are divided into voluntary agreements with the online service providers and actions taken under binding law provisions.[39]

Freedom of expression advocates warned that this measure could permit the suppression of legitimate speech.[40] Adv. Sahar Ben Meir who appealed in court in three different instances against Facebook with regard to privacy and fake news matters, contends that legally attacking these media conglomerates should come from antitrust laws and not necessarily from media regulation. (*See Civil Society in this study*).[41]

Data Protection Regulators

Privacy Protection Authority

Remit and Tasks

A unit within the Ministry of Justice, subordinated to its CEO, the Privacy Protection Authority is accountable for regulating, supervising and enforcing privacy protection, according to the Privacy Protection Act of 1981 and the Electronic Signature Act of 2001. It is responsible for safeguarding personal information in digital databases and for reinforcing the right to privacy. For this purpose, it applies administrative and criminal sanctions on all entities in Israel, private or public, that hold or process digital personal information. Finally, the Authority is tasked with regulating international press and Israeli press in English, including their compliance with the accepted international standards in the field.

Board Composition

The Privacy Protection Authority’s Chairperson is supposed to be elected based on a Search Committee recommendation. Nevertheless, Adv. Yoram Hacoen, former chairperson of the Authority mentions that since the departure of Adv. Alon Bachar, his successor, no such committee was established due to the three consecutive Knesset election periods.[42] Since 2019, Dr. Shlomit Wagman has been a temporary appointment as an acting chair. In case the newly elected government decides to nominate a candidate for the job, it will have to set up a Search Committee subordinated to the Ministry’s Director General.

[39] Interview by the author with Dr. Chaim Wismonski, Director of the Cyber Department at the State Attorney’s Office, 7 April 2020.

[40] See “Israel” in Freedom House, available online at <https://freedomhouse.org/country/israel/freedom-world/2020> (accessed on 20 January 2020). For more analysis related to concerns regarding this law see the Israel Internet Association official opinion (in Hebrew) at <https://www.isoc.org.il/freedom-of-internet/internet-laws/the-blocking-bill> (accessed on 2 April 2020).

[41] Interview of the author with Adv. Shahar Ben Meir, 7 April 2020.

[42] Interview of the author with Adv. Yoram Hacoen, former head of the Israeli Law, Information and Technology Authority (before it changed its name to the Privacy Protection Authority in 2017), June 2020. During election period there is a general tendency to not appoint senior officials in the Civil Service

Other Authority appointments are made through regular civil service tenders (internal governmental tender), and, if those fail, through a call for candidates from the general public. The Authority encompasses about 50 employees across four departments (Legal, Enforcement, Government and Communication Relations, and Innovation). The names of the department heads are not published online unlike in the past.[43]

Apart from the Privacy Protection Authority, the Ministry of Justice operates a Privacy Protection Council, which is supposed to advise the Minister of Justice on privacy-related issues. It should act as an oversight board, but its powers in this regard are not fully defined.[44]

List of IPBC members (April 2020)

- Adv. Orit Podemsky, Chairperson – Retired Director of the Department of Labor Law at the State Attorney's Office
- Adv. Avner Pinchuk – Civil Rights Association
- Adv. Eyal Zandberg – Head of Public Law, Counseling and Legislation Department - Ministry of Justice
- Dr. Erez Waisbard – Researcher in Computer Science
- Adv. Dan Or-Hof – Technologies and Intellectual Property
- Prof. Tal Zarsky – Faculty of Law, Haifa University
- Sima Nadler – IBM, Senior Program Manager Privacy
- Dr. Anat Ben David – Department for Sociology, Political Science and Communications, Open University
- Dr. Toch Eran – Engineering Department, Tel Aviv University

Funding

The Authority is given a yearly state subsidy of around ILS 18m (€4.6m).[45]

Other Institutions With Regulatory Powers

Ministerial Committee for Legislation

The Ministerial Committee for Legislation has become a political power center where the fate of individual parliament members' bills is decided and much of the political and public agenda is determined. The growing scope of the Ministerial Committee resolutions over the years is a derivative of the significant increase in individual legislative initiatives emerging from the Knesset. The high rate of resolutions in this committee, out of the general government decisions' rate (around 40% in the 32nd and 33rd governments), demonstrates that private legislation in

[43] Interview with Adv. Yoram Hacoen, cit

[44] Interview with Adv. Yoram Hacoen, cit.

[45] Refaella Goichman, "בזבוז של 50 עובדים ו-18 מיליון שקל: פרשת אלקטור מגחיכה את הרשות להגנת הפרטיות" (Waste of 50 employees and ILS 18m: Elector affair ridicules Privacy Protection Authority), The Marker, 23 February 2020, available (in Hebrew) at: <https://www.themarker.com/technation/.premium-1.8564942> (accessed on 11 April 2020).

Israel, which is already at an unusual high rate compared to other countries, affects an increasing share of the ministerial committees' agenda and the entire government.[46]

The Ministerial Committee's relevance to the media market lies in its highly political nature (given that no members of the opposition are included) complete with its operative contested features. (*See Transparency of Decision-Making in this report*) A legal amendment initiated by the MK Sharren Haskel (Likud Party) provides an important example.[47] The law was proposed to convert dedicated channels (in language or topic) into commercial ones, mainly for the purpose of securing the financial feasibility of the right-wing Channel 20, which is PM Netanyahu's favorite outlet.[48] The Committee has 14 members including its chairman, the Minister of Justice Avi Nissenkorn (as of 17 May 2020). The attorney General or his representative are regularly invited to take part in the deliberations.

Parliamentary Committees

Parliamentary committees hold frequent and focused discussions and hearings about legislation. In this framework, Knesset members address issues on the agenda or submit grievances and complaints to government agencies. In this context, it is in the authority of the committee members to convene relevant government agencies, to investigate them, to obtain data, and to demand explanation for policymaking decisions that influence the legislation processes.

Three relevant parliamentary committees potentially have influence on Israeli media:

Economic Affairs Committee

The Economic Committee is one of the permanent Knesset committees. It promotes primary and secondary legislation in all areas, organizes tours and discusses a wide range of current economic issues. Some of its responsibilities, which include the approval of specific aspects in regulation implementation, are anchored in the Communication Law of 1982. The Committee has 13 members including its present Chairman MK Yaakov Margi, from Shas Sephardic Orthodox party.

Parliamentary Finance Committee

The Finance Committee is one of the permanent Knesset committees, and is considered one of the most important and influential institutions. The committee discusses the state budget and the Arrangements Law[49] and prepares them for a second and third reading of the Knesset plenum. Thus, it can have a far-reaching impact on the budget structure, including the transfer of financial support to various sectors and bodies.

[46] See Citizens' Empowerment Center in Israel, A Decay of Ministerial Committees – Comparative Study (in Hebrew), January 2016, <https://www.cec.org.il/sites/citizens/UserContent/files/knowledge/govfunction/MinisterCommittees.pdf>

[47] The Second Authority for Television and Radio Law (Amendment 44)

[48] Lahav Harkov, "Law Saving Channel 20 passes final vote," Jerusalem Post, 20 February 2018, available online at <https://www.jpost.com/israel-news/law-saving-channel-20-passes-final-vote-543144> (accessed on 11 April 2020).

[49] The Arrangements Law (aka. Economic Policy Law) is a government-sponsored bill presented to the Knesset each year alongside the State Budget Law. It incorporates government bills and legislative amendments that are needed in order for the government to fulfill its economic policy.

The Finance Committee's relevance to the media market becomes evident when considering the Bezeq telecommunication services and its royalties, price fixing, and other financial mechanisms that yield income for the state, which are derived from the Communication Law (1982). The Committee has 16 members including the Chairman MK Moshe Gafni of the United Torah Judaism Party.

Parliamentary Committee of Inquiry into the Financial System's Conduct in Credit Agreements with Large Business Borrowers

The committee, chaired by outgoing MK Eitan Cabel, was formed with the purpose of examining the almost unlimited loans granted by banks to large borrowers (which is why it is also known as the Tycoon Committee).

The relevance of the committee to the media market stems from the participation of the businesses under investigation in diverse sectors of the Israeli economy that are affected by government policy, in particular communications and real estate.

At the end of May 2017, the combined volume of debts owed by large borrowers to the banks amounted to ILS 22bn (in addition to the billions of shekels in debt of major borrowers that banks have underwritten in recent years). These numbers have a huge impact on the trust level of the general public following a series of debt-related scandals. Media tycoons scrutinized and targeted by this committee included the Fishman group (Yedioth Ahronoth, Hot Cable TV, Globes, among others), Nohi Dankner of IDB Groups (Maariv), and Shaul Elovitch (Eurocom, Bezeq Teleco and Walla!).

The committee produced a harshly critical report and some practical recommendations.[50] Among others, it suggested to amend the Knesset Law and establish a parliamentary committee to oversee the financial supervisory authorities and discuss the implementation of legislation regarding the financial system.[51]

Israel Competition Authority (ICA)

The Competition Authority[52] is a governmental authority founded to maintain the principles of competitiveness in Israel's market. ICA was established in 1994 and operates under the Economic Competition Law (1988).

ICA oversees restrictive arrangements, monopolies and mergers, and acts against the formation of cartels in the economy. There may be a constitutional market failure in which a small circle of controlling shareholders dictate and shape the market for ideas. The technical methods used to prevent such cases of centralization may vary, ranging from the provision of media licensing under certain conditions to specific antitrust laws with regard to media.[53]

[50] See report's highlights (in Hebrew): <https://main.knesset.gov.il/News/PressReleases/pages/press160419.aspx>

[51] For the Committee's reports see (in Hebrew):

<https://main.knesset.gov.il/Activity/committees/Credit/Pages/CommitteeReports.aspx>

[52] In 2019, the Authority's name was changed by law from Antitrust Authority to the Competition Authority.

[53] See discussion on competition and antitrust regulation: Yizhar Tal, and Dina Ivry-Omer, The Regulation of electronic communications services in Israel, IDI, Policy paper No. 76, November 2009

One famous involvement of the ICA in the media was back in 1995 when it declared Yedioth Ahronoth newspaper a monopoly as it provided over half of the total supply to news media market, a position Yedioth has defended for 15 years. The Authority revoked the monopoly status in 2010 when Yedioth's owners argued that Israel Hayom, a new entrant to the market, had significantly reduced Yedioth's market share (*see Funding Journalism in Media Influence Matrix: Israel*). The decision allowed Yedioth to resume a series of marketing activities that were banned during monopoly years.[54]

A recent case of ICA intervention in the media market was recorded after the approval of the merger between the television channels Reshet (Channel 13) and Channel 10 in August 2018 (*see Funding Journalism in Media Influence Matrix: Israel*). The merger created a storm in the television industry, raising concerns about the benefits (or rather lack of benefits) to public interest. Hatzlacha NGO and Israeli Democratic Institute have filed an appeal against the merger, arguing that it was likely to significantly harm competition, particularly in the area of news broadcasting, because the ICA did not impose any requirements on the broadcaster to guarantee news independence or prevention of political or business intervention. The appeal was not accepted eventually and the merger went through.[55]

Lately, the indictments against PM Netanyahu in the 2000 and 4000 cases revolved around, among other things, the degree of involvement and the actual ability of the Competition Authority to withstand political pressures and lack of transparency.[56] In both these cases the power to disrupt the marketplace of ideas by promoting the interests of content producers or their associates, was based on the premise of an extremely centralized media market, saturated with economic interests.[57]

Israel National Cyber Directorate

The Israel National Cyber Directorate is a support unit in the Prime Minister's Office, directly subordinated to PM Netanyahu. It is a national security and technology agency responsible for defending Israel's national cyberspace and for advancing its cyber power.

The Directorate operates at the national level to defend organizations and citizens, to prevent and handle cyberattacks and to strengthen emergency response capabilities. As part of its roles, the Directorate advances policies and regulations in the national and international arenas and develops its cyber manpower.

In recent years, attempts have been made to centralize the cyber decision-making process in the entire Israeli economy. It was PM Netanyahu who pushed to initiate a Cyber Law that would

[54] Ofir Bar Zohar, "רשות ההגבלים העסקיים: 'ידיעות אחרונות' אינו מונופול יותר; 'ישראל היום' שחק את נתח השוק של מוזס" (Antitrust Authority: Yedioth Ahronoth is no longer a monopoly; Israel Today eroded Moses' market share), The Marker, 3 October 2010, available (in Hebrew) at: <https://www.themarker.com/advertising/1.560150> (accessed on 1 November 2020).

[55] Anat Bein-Leibovitz, "עמותת הצלחה עתרה לבית הדין להגבלים עסקיים נגד מיזוג קשת וערוץ 10" (Hatzlacha NGO appealed to the Antitrust Court against Channel 10 and Reshet merger), Globes, 16 September 2018, available (in Hebrew) at <https://www.globes.co.il/news/article.aspx?did=1001253597> (accessed on 10 November 2020).

[56] Asaf Wiener & Tehila Shwartz Altshuler, "ריכוזיות בשוק התוכן העיתונאי-חדשותי" (Concentration of ownership in the news content market), IDI Policy Paper 138, January 2020, available (in Hebrew) at <https://www.idi.org.il/media/14030/concentration-of-ownership-in-the-news-content-market.pdf> (accessed on 2 November 2020).

[57] A trial is underway in both cases. It focuses on coordinating moves that allegedly led to sympathetic coverage of PM Netanyahu in exchange for promoting economic interests of powerful media moguls, at the expense of the public interest or the common good.

regulate the Cyber Authority under his office, while conferring him with almost unlimited decision-making power, without the participation or consent of any other party. In June 2018, a first Law memorandum was published, sparking great concerns among security and cyber experts who warned that it significantly weakens the control and supervision mechanisms, arguing that there are problematic sections that give the cyber system liberties that may infringe human rights, without judicial approval.[58]

The centralization attempts have not created a systematic and orderly process for identifying the potential damage that cyberattacks could cause to national security, but they carry threats to democratic values, mainly because the system is totally dependent on the PM.[59]

Thus in 2019, upon launching the first national election campaign of that year (out of three consecutive rounds), political activist Adv. Eldad Yaniv, a key opposing figure to Netanyahu, had posted on Facebook a call against the PM to temporarily dismiss himself from the Cyber Minister position. The call came after the latter ignored (for his own electoral sake) a warning of the Head of General Security Services (GSS) of possible foreign interference in the elections, probably Russian, via “bots” and fake cyber profiles.[60]

Given earlier inappropriate conduct (in 2012) by PM Netanyahu and his Likud party that were found of having paid for Facebook “likes” and followers abroad, the call did not come out of thin air.[61] Adv. Yaniv’s concerns were proved right when in the first two election rounds the Bibi-bot (as Netanyahu’s Facebook chat-bot was known) showed unethical tendencies while targeting and collecting personal information of potential voters, spreading a hate-inciting discourse against Arabs and left-wingers, and illegally publishing polls and statistics ahead of election results.[62] Journalists and public pressure pushed Facebook to suspend the Bot function for 24 hours. The Central Election Committee also ordered the Likud and Facebook to remove any infringing content following a petition filed by Adv. Shachar Ben-Meir.[63]

Finally, a disturbing cyber fiasco was leaked to the press, in a dramatic timing for Netanyahu’s campaign. The report informed about Iranian hacking into the cellular device of Benny Gantz, Netanyahu’s main political rival, who also served as the former IDF Chief of Staff.[64]

The information raised concerns about two possible negative scenarios. One is that Head of Cyber Authority was not briefed by the GSS about such hacking, which allegedly might point to

[58] Yaniv Kubovich, “גורמים מקצועיים: חוק הסייבר צפוי להקנות לנתניהו כוח ללא כל בקרה” (Professional Experts: The cyber law is expected to give Netanyahu power without any control), Haaretz, 19, March 2019, available (in Hebrew) at <https://www.haaretz.co.il/news/politics/.premium-1.7039157> (accessed on 25 October 2020).

[59] Gabi Siboni, Ido Sivan Sevilla, “Regulation in Cyberspace”, INSS, Memorandum No. 190, April 2019, available at <https://www.inss.org.il/publication/regulation-in-cyberspace/> (accessed on 25 October 2020).

[60] Amitay Ziv, “האם ראוי שנתניהו יכהן כממונה על מערך הסייבר הלאומי בתקופת בחירות?” (Should Netanyahu serve as head of the National Cyber Authority during the election period?), Haaretz, 13 January 2019, available (in Hebrew) at <https://www.themarker.com/technation/.premium-1.6830927> (accessed on 10 November 2020).

[61] This affair was under scrutiny by the opposition as Netanyahu’s Facebook page, in Hebrew, was the most popular in Israel with only 48% Israeli followers and the rest signed in from abroad (from countries such as Indonesia, Mexico, Colombia and Tunisia).

[62] Dr. Anat Ben David, “כיצד גרמנו לפייסבוק להשעות את הביי-בוט ולמה זה חשוב” (How we made Facebook suspend Bibi-bot and why it matters), The 7th Eye, 17 October 2019, available online (in Hebrew) at <https://www.the7eye.org.il/347858> (accessed 25 October 2020).

[63] Oren Persico, “הביי-בוט חזר לחיים” (The “Bibi-bot” came back to life), The 7th Eye, 17 September 2019, available online (in Hebrew) at <https://www.the7eye.org.il/345072> (accessed on 26 October 2020).

[64] Haaretz Editorial, “Israel Says Iran Hacked Ex-general Gantz’s Phone Ahead of Election,” Haaretz, 14 March 2019, available online at <https://www.haaretz.com/israel-news/elections/benny-gantz-s-cellphone-hacked-by-iranian-intelligence-1.7022269> (accessed on 25 October 2020).

the redundancy and uselessness of the Authority in the chain of national defense and security. Another is that an alleged cyber hacking into Gantz's cellphone was being illegally used by Netanyahu's group to taint Gantz's public image by implying that there was further "sensitive" information about the candidate, in a way which served the PM electorally.[65]

In March 2020 the investigative journalist Baruch Kra revealed that a mysterious person named Raffi Weitzman, responsible for information security in the PM's Office, is the person linked to information searches and leakages about Benny Gantz. Weitzman had been working from the office of Adv. Amit Hadad, one of the leading lawyers in Netanyahu's cases. Hadad rejects any relations to Weitzman.[66]

DECISION-MAKING PROCESS

Key Decision-Makers in Regulation & Policymaking

The Israeli media system is characterized by a multiplicity of regulatory authorities that operate under fragmented communications laws. The parallel existence of several regulators involved in regulating the same field creates unnecessary duplications, enforcement ambiguity and a waste of public funds.[67] The regulatory bodies are range from commercial broadcasting (Second Authority) to a state-run authority (CSBC) to a public broadcasting authority that operates as a statutory body (IPBC).

The traditional process of media regulation starts with the response of the legislature to government bills, usually formulated by three ministries: Finance, Justice and Communications. At times, as can be seen in communications legislation in recent years, some MPs, who are not government ministers, are delegated by specific ministries to initiate a bill so that the government can "take a ride" on it later.[68] This is one of PM Netanyahu's methods to promote a desired regulation. Such tactical maneuvers appear when a reform is complicated to promote, due to coalition or professional constraints, thus making it is easier and more accepted publicly if a "coalition outsider" initiates it.[69]

In addition, parliamentary committees,[70] mainly the ones dealing with economic affairs, are also a loci for shaping media regulation. Many issues which could have been solved by the regulating authorities, are eventually rolled to the Knesset Economics Affairs Committee, because of a "dirty tango" that is going on between politicians and those controlling the

[65] Yossi Levi, "נתניהו, מערך הסייבר והנייד של גנץ: מה לא מספרים לנו?" (Netanyahu, the Cyber Authority and Gantz's cell phone: What are we not being told?), News 13, 17 March 2019, available online (in Hebrew) at <https://13news.co.il/10news/online/183443> (accessed 28 October 2020).

[66] "אין מנוס מפתיחת חקירה פלילית בגין הפריצה לטלפון של בני גנץ" (There is no escape from opening a criminal investigation for the phone break-in of Benny Gantz), Maariv Online, 5 March 2020, available online (in Hebrew) at <https://www.maariv.co.il/elections2020/news/Article-752260> (accessed on 26 October 2020).

[67] Interview with Dr. Tehilla Schwartz Altshuler, cit.

[68] Interview with Adv. Elad Man cit.

[69] See the MK Sharren Haskel case of promoting the Designated channels re-regulations for Netanyahu's interests: Nati Toker, "נתניהו לא רק צעק" (Netanyahu not only shouted), The Marker, 8 September 2019, available online (in Hebrew) at <https://www.themarker.com/advertising/premium-1.7807836> (accessed on 28 March 2020).

[70] See footnote 11.

television market.[71] In these debates, the franchisees acknowledge that they rather put pressure on the opportunistic politicians than appeal to the regulator, a professional body, for decisions.[72]

Associations of journalists and civil society groups usually react in court to already ratified laws and policies (*see Civil Society in this report*). There are a few civil society organizations that deal with media regulation and their effectiveness is questionable, but some of them are very engaged in the stage of policy design (e.g. the Israel Democracy Institute) and others relentlessly appeal to court in an attempt to influence already existing regulation (mainly Hatzlacha movement).

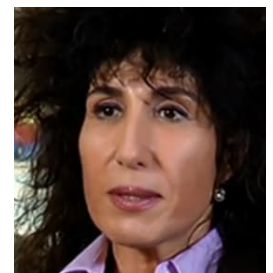
The Israeli media field is highly politicized and saturated with financial and ideological interests. According to a recent comptroller report,[73] since Netanyahu's tenure as the Minister of Communications in 2014, followed by his successor MK Ayoob Kara, regulation was used as a malleable framework to conceal political profit or assist misdeeds.[74]

Lastly, the Israeli political system is historically very unstable. Out of 34 governments since 1948, only one government completed a full four-year term. The average tenure of a government in Israel is 24 months. This instability has a damaging effect on the work of ministers and some of the regulators who do not have the time to master their field of expertise.[75]

CSBC

The Council's appointment protocol, especially that of the chairman, is highly politicized.[76] The recent chaos in the aftermath of three election rounds within one year, switched the chairing position between the following personnel:

Dr. Yifat Ben-Chai Segev is the last powerful chairperson selected by tender according to civil service regulations.[77] She holds a doctorate degree in communications with a specialization in television and audience research from University of Michigan, and in the past served as a spokeswoman for the Ministry of Health and the municipality of Holon. Prior to chairing CSBC she served as the CEO of the Israeli Audience Research Board.



Source: Screen Capture / Channel 13

[71] Interview with Dr. Tehilla Shwartz Altshuler cit.

[72] Interview with Dr. Tehilla Shwartz Altshuler, cit.

[73] Itamar Baz, "חבלה כפולה של המערכת הפוליטית בפקיח על הקשורת המסחרית" (Double Sabotage of the Political System on the Commercial Broadcasting Regulators), *The 7th Eye*, 4 May 2020, available online (in Hebrew) at <https://www.the7eye.org.il/371214> (accessed on 15 October 2020).

[74] Netanyahu was forced to resign the position of Minister of Communications in light of the police investigations into his alleged attempts to arrange favorable coverage by certain private media outlets. His consecutive replacements were both considered close allies.

[75] Assaf Nativ, "חוסר היציבות השלטונית: רק 1 מתוך 34 ממשלות סיימה כהונה מלאה. פרויקט ויזואלי מיוחד" (Government instability: Only 1 in 34 governments has completed a full term. A special visual project), *Shkifut*, 11 August 2019, available online (in Hebrew) at <https://shkifut.info/2019/08/termslong/> (accessed on 1 November 2020).

[76] Li-Or Averbach, "מלחמת העצמאות המדומה" (The fake war of independence), *Globes*, 10 February 2014, available online (in Hebrew) at https://www.globes.co.il/news/article.aspx?did=1000915782&after_registration (accessed on 10 February 2020).

[77] Civil Service Regulation referred to as 'Takshir' is a collection of regulations and orders applicable to the public service sector which also stems from the National Civil Service Law.



Source: LinkedIn

Asher Biton, a most controversial political appointment, is an electronics engineer and has an MA degree in law. He served as the head of the IDF spectrum management branch and as chairman of the IDF frequency committee. Biton was directly appointed to Chair as Ben-Chai Segev's temporal successor by the former Minister of Communications Ayoob Kara while serving as CSBC's member.[78] His appointment is part of an awkward "pilot program" for staffing temporary workers (without a call or tender application, and thus without necessarily having the professional skills), from within the Civil Service Commission system.[79] Biton's entry is also assumed to be linked personally and politically to his colleague Nati

Cohen, the former Director of the Ministry of Communications who, like Biton, is a senior veteran of the IDF communications corps. The two had served together in military-related jobs in the past and they have also gained their professional experience in linked trajectories.[80] Biton has been recently appointed CEO of the newly founded (June 2020) National Digital Ministry, which was established to appease the distress caused by allocation of government bodies between the parties in the thirty-fifth Government.

Nir Shviki is the newly elected chair for over a year now but still awaits government approval for his position. He came recommended by the Ministry of Communication. He served for the past six years as acting director general of the Second Authority and previously served as deputy director of finance at the authority. Hatzlacha movement appealed three times to the Supreme Court demanding to effectuate his position. Shviki's educational background remains undisclosed.



Source: PR

IPBC

Eldad Kovlantz, the CEO of the IPBC has an MA in Public Policy from Harvard University. Since 1995 he held a number of senior positions in Broadcast Media (radio and television). In spite of a capable and functioning council, Kovlantz is the man of power who runs a one-man show behind the scenes. Allegedly the council should be able to supervise the broadcasting agenda he created, but in practice he can act as an editor-in-chief with absolute freedom.[81] In April 2020 he said that he saw himself as the future minister of culture.[82]



Source: Wikimedia Commons

[78] Kara was PM Netanyahu's successor, following his forced resignation from the ministry, in the wake of allegations about his contrasting interests in the media market.

[79] The full document about the Pilot Plan is available here:

https://www.gov.il/BlobFolder/policy/guide_line_111/he/guideline111.pdf

[80] Yoav Stoller, "אשר ביטון מונה לממלא מקום יו"ר מועצת הכבלים והלוויין" (Asher Biton appointed acting Chair of CSBC), Calcalist, 8 August 2018, available online (in Hebrew) at <https://www.calcalist.co.il/marketing/articles/0,7340,L-3743954,00.html> (accessed on 25 January 2020).

[81] Anat Bein-Leibovitz, "החוק הגן על התאגיד מפוליטיקאים אבל לא מפני מגלומנים" (The law protected the corporation from politicians but not from megalomaniacs), Globes, 18 June 2020, available online (in Hebrew) at <https://www.globes.co.il/news/article.aspx?did=1001332793> (accessed on 6 September 2020).

[822] Itay Stern, "אלדד קובלנץ: אני רואה את עצמי בתפקיד שר התרבות" (Kovlantz: I see myself as the next Minister of Culture), Haaretz, 27 April 2020, available online (in Hebrew) at <https://www.haaretz.co.il/gallery/media/premium-MAGAZINE-1.8799723> (accessed on 27 April 2020).

The Second Authority for Television and Radio

The chairman of the Council is **Yulia Shamalov Berkovich**. She holds a BA in Sociology and Anthropology and an MBA. She is a strategic consultant in media marketing. From 1992 to 2001, she served as CEO of Vesti, a newspaper in Israel popular among the Russian-speaking public. Her appointment is considered highly political.[83] Prior to her appointment she was politically involved in three central-right wing parties: Kadima, Kalkala and the Likud, and her conservative views were oftentimes recorded. Despite many scandals related to her performance, she still holds the position due to the stagnation experienced by the political situation in Israel following three rounds of government elections in one year and delays in having a fully functioning new coalition due to Covid-19 and national budget law that has not been passed yet.



Source: Facebook

Transparency of Decision-Making in Media Regulation

There are several mechanisms designed to enable a transparent regulatory environment in which journalists, organizations and sometimes public representatives can access decision-makers. The ministerial and Knesset committees publish meeting protocols, and some of them invite professionals and public representatives to hearings and consultations.

Within the Ministerial Committee for Legislation there are real accountability issues in regard to the committee's reasoning and the transparency of its debates and decisions. The meetings are conducted behind closed doors, not just to the common public but also to other MPs or public service professionals. The Committee does not provide any grounds for rejecting a bill. It only releases its final decision without further explanations. Shakuf media organization and its founder, the investigative journalist Tomer Avital, have tried for about a decade to provide media coverage of this Ministerial Committee while challenging the ban on the attendance of journalists who are also denied access to the committee's protocols.[84]

Citizens' access to the work of the parliamentary (Knesset) committees has improved greatly in recent decades. This improvement is reflected in public hearings, exposure to the media, the public's ability to review meetings' protocols, and the active participation of citizens in important discussions.[85] However, it is unclear whether this improvement has indeed contributed to better citizen representation and to the oversight by the legislative authority over the executive branch.[86] There is a downside, though, to the free access of citizens to Knesset

[83] Nati Toker, "פוליטיזציה של התקשורת" (Politicization of the Media), The Marker, 26 October 2017, available online (in Hebrew) at <https://www.themarker.com/advertising/1.4549657> (accessed on 25 March 2020).

[84] See Shakuf (reads transparent in Hebrew) full "shadow cover" (in Hebrew): <https://shkifut.info/2018/11/vaada-12/> (accessed 10 April 2020). Avital reports that PM Netanyahu refuses to let the media in because decisions can pass without justification. As a result, decisions that promote narrow interests are passed. Each discussion on a bill lasts about a minute and a half and is mainly influenced by political pressure rather than professional positions.

[85] Parliamentary Committees' Meetings will be undisclosed under three conditions:

(a). When the committee decides;
(b). Meetings of the Foreign Affairs and Defense Committee or its subcommittees (unless otherwise decided by the committee);

(c). When the original reason for transferring the debate to a committee or subcommittee risks the State's security, its foreign relations or confidential international economic activities.

[86] Dr. Assaf Shapira, "אזרחים בוועדות הכנסת" (Citizens in Knesset Committees), Parliament Vol. 66, 15 September 2010, available online (in Hebrew) at <https://www.idi.org.il/parliaments/11110/11125> (accessed on 15 April 2020).

committees, as their presence may lead to populist and shallow discussions in front of the media. Opening up these committees also opens the door for commercial lobbyists' interventions, which may discriminate against ordinary citizens in favor of influential men of means.[87]

In other regulatory authorities there are mechanisms that enable access of the public and media to information about the regulators, yet this access is partial or unsatisfactory. In principle, the protocols should be available upon Freedom of Information requests but are not always given freely and in a timely fashion. In the Second Authority for Television and Radio, full protocols remain undisclosed with the argument of preventing exposure to trade secrets.[88] Similarly in the Cable and Satellite Broadcasting Council, a recent request to expose protocols, entailed an appeal of the Movement for Quality Government in Israel.[89]

Furthermore, a former decision to establish an open repository for public scrutiny consisting of the Frequencies Committee's decisions, protocols, and the allotments of frequencies, was overturned.[90] Yet, a few months later another government resolution was adopted to indeed establish such a data repository within the Ministry of Communications, but the accessibility to the repository is limited to government officials only.[91]

Lastly, most media regulatory authorities anchor the professional role of a Public Inquiry Commissioner (aka. Ombudsman) who lodges public appeals and handles complaints regarding media activity. These officials do not always seem to function well or transparently enough, which causes major delays in the response given to citizens' inquiries.

Impact of Regulators on News Media and Journalism

The Freedom of Information Law is an extremely important tool for any investigative journalist who seeks to obtain reliable information from public authorities. Although it was enacted over 22 years ago, it seems that only in recent years the press adopted it as a commonly used tool as they internalize the notion that the information accumulated in public authorities indeed belongs to the public.[92]

With the help of groundbreaking rulings and changes in perception within the various authorities, what was once a narrow and limited right has greatly expanded. However, many journalists still grapple with the Government's unwillingness to act according to the freedom of information principle. Some public NGOs focusing on regulation and run by jurists have stepped in and paved the way to serious journalistic work. Consequentially, over the past years these efforts have yielded the exposure of many working schedules of government ministers and other officials in the local and general public authorities, in addition to statements about

[87] More on Knesset Committees oversight on Government disadvantages (in Hebrew) at <https://hashiloach.org.il/%D7%AA%D7%A0%D7%95-%D7%9C%D7%9B%D7%A0%D7%A1%D7%AA-%D7%9C%D7%A4%D7%A7%D7%97/> (accessed on 15 April 2020).

[88] Oren Persico, "ומה עם היושרה שלנו?" (And what about our integrity?), The Seventh Eye, 23 September 2013, available online (in Hebrew) at <https://www.the7eye.org.il/78813> (accessed on 15 April 2020).

[89] Erez Raviv, "תהליך האישור נחשף" (The approval process has been exposed), Davar, 23 January 2019, available online (in Hebrew) at <https://www.davar1.co.il/170454/> (accessed on 10 February 2020).

[89] Government Resolution No. 2187, 12.8.2007 was overturned.

[89] Government Resolution No. 2536 of 4.11.2007

[92] Racheli Edri and Guy Zomer, "איך לנצל את חופש המידע כדי להפיק סיקור עיתונאי איכותי" (How to use Freedom of Information Law to produce quality journalistic coverage), The 7th Eye, 5 December 2019, available online (in Hebrew) at <https://www.the7eye.org.il/353321> (accessed on 26 April 2020).

politicians' personal financial worth.[93] Yet, the more authorities are demanded to maintain transparency, the more they provide complex explanations for their refusal to disclose information (within the 120 maximum allowed days). While some agencies have adopted transparency as a policy, other entities are still faltering in the twilight zone of foggy information.[94]

In 2012 Israel joined the Open Government Partnership (OGP), a global initiative that brings together government reformers and civil society leaders to improve government inclusiveness, responsiveness and accountability. Israel has since implemented three action plans. The Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Nevertheless, due to the low levels of motivation to adhere to the commitments, the results in changing government practice were mostly marginal. Some commitments that could have improved public and media access to information, such as proactively disclosing information under the Freedom of Information Law and increasing access to information held by local governments, were ultimately not implemented.[95]

Reporter's Privilege (RP) in Israel is not enshrined in law but is mandated by court ruling, rendering the protection far from absolute. In the past, several legislative proposals have been put forward to regulate the field but have not matured into laws. While the Journalism Ethical Code religiously protects the confidentiality of the source's identity, including "whistleblowing offenses", the gap between the legislation and the journalistic ethics may lead to a situation in which the court removes the source's confidentiality, thus creating a conflict between the legal duty of the journalist to testify and the rules of journalistic ethics.[96]

One of the main problems of the RP doctrine is in the practice of approving means of investigation and search against journalists, both by law enforcement agencies and by the courts. The problem is that judges issue orders to use investigative measures against journalists, especially orders to obtain media data and wiretapping that are too loosely based on a set of facts unsatisfactorily presented by the police. Hence in recent years, RP has been at the center of several cases and journalistic fiascos that have demonstrated the need to establish a regulatory framework to strengthen the freedom of the press and improve the functioning of the democratic procedure.[97]

The written press and online content are a largely unregulated field, but they are subject to a series of local regulations protected in the penal and civil codes, that also include the issue of military censorship. Although censorship is not automatically applied to sensitive topics, the formal arrangement that enables it is considered to be outdated and anti-democratic.[98] In

[93] This process was led mainly by the Movement for Freedom of Information, Hatzlacha movement, Adv. Shahar Ben Meir and Shakuf public journalism movement. Not all politicians and authorities have fully complied yet.

[94] Maya Krol, "סרבן שקיפות: השר אלקין מתעלם מהמבקר ומסתיר מידע מהציבור" (Transparency objector: Minister Elkin ignores the comptroller and hides information from the public), Shakuf, 4 May 2020, available online at <https://shkifut.info/tag/%D7%90%D7%99%D7%9A-%D7%9C%D7%94%D7%A9%D7%A7%D7%99%D7%A3-%D7%99%D7%95%D7%9E%D7%9F-%D7%A9%D7%9C-%D7%A0%D7%91%D7%97%D7%A8-%D7%A6%D7%99%D7%91%D7%95%D7%A8/> (accessed on 20 May 2020).

[95] Interview by the author with Dr. Roy Peled, of COLLMAN Israel, and Berkeley Institute For Jewish Law and a researcher for the Open Government Partnership, 3rd Action Plan reporter. See 2020 report:

<https://www.opengovpartnership.org/documents/israel-implementation-report-2017-2019/> (accessed on 2 September 2020).

[96] Altshuler Schwartz and Karni-Yaroslavsky, "Regulating Confidentiality of Journalistic Sources in Israel", IDI, Policy paper 104, June 2015. See report (Hebrew and English synopsis) at

https://www.idi.org.il/media/3410/confidentiality_of_journalistic_sources.pdf (accessed on 6 September 2020).

[97] Altshuler Schwartz and Karni-Yaroslavsky, "Regulating Confidentiality...", cit.

[98] Articles 87, 97 and 100 of the Mandatory Defense (Emergency) Regulations of 1947

addition, the courts are overly using the right to issue publication bans that are yet to have a proper legal basis.[99] A 2017 law allows police and prosecutors to obtain court orders that require the blocking of websites found to publish criminal or offensive content. Freedom of expression advocates warn that this measure would further suppress legitimate speech.[100]

Currently, Israel Defamation Law (1965) categorizes libel and slander as both a civil wrong and a criminal misdemeanor. As of 2011, it became possible to sue a newspaper for libel in Israel. This legal change also increased the maximum damages payable in libel claim without proof of special damages from ILS 50,000 (€12,500) to ILS 300,000 (€74,000).[101] Israeli legislature and Supreme Court are ideologically divided with respect to the appropriate balance between the competing interests embodied in the defamation law. The jurisprudential choices regarding defamation stem from their perceived suitability to the complexity and dynamic nature of Israeli society.[102] There is no specific protection of Hate Speech under Media and Communication law, but since the media is an amplifier of such misdemeanors, hate speech is protected under the prevention of Sexual Harassment Law (1998)[103], the Defamation Law (1965) and the Penal Code (1977).[104]

The 2020 Press Freedom Index by 'Reporters Without Borders' (RSF) rated Israel 88 out of 180 countries.[105] The reason for this rather low rating is that despite having independent media, journalists in Israel are exposed to open hostility from members of the government. Smear campaigns have been waged against media outlets and journalists by politicians and their supporters, exposing the targets to harassment and intimidating anonymous messages, and thus forcing them to seek personal protection.[106] Journalists are susceptible to physical injuries when reporting cases of political uprising or voicing criticism against the regime (mainly from the Occupied Territories in the West Bank).[107]

In recent years, Strategic Lawsuit Against Public Participation (SLAPP) that targets mainly journalists, has become a thriving phenomenon in Israel. This practice misuses legal means to prevent criticism and public debate.[108] In Israel, there is no specific mechanism for rejecting and preventing "muting lawsuits," but the courts are authorized to reject them outright and even annul nuisance lawsuits, and can decide to cast high legal costs against the plaintiff. Nevertheless, courts are less inclined to opt for this practice.[109]

A powerful threat to the freedom of the press was acknowledged in the last decade as coming from within the media circles themselves: the owners and funders of the media. These actors use

[99] Altshuler and Luria, "צנזורה וסודות בטחוניים בעולם הדיגיטלי" (Censorship and security secrets in the digital age), IDI, 2016, available to download (in Hebrew) at <https://www.idi.org.il/books/1108> (accessed on 10 February 2020).

[100] <https://freedomhouse.org/country/israel/freedom-world/2020> retrieved 20 January, 2020

[101] See: <https://kellywarnerlaw.com/israel-defamation-laws/>

[102] While the legislator is inclined to emphasize the right to reputation, the Supreme Court gives preference to the freedom of speech. For more on the sociological analysis of Defamation in Israel see Elad Peled, 2012, SSNR, The Israeli Law of Defamation: A Comparative Perspective and a Sociological Analysis, available online at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2008616 (accessed on 20 February 2020).

[103] On LGBT Hate Speech See Gidron and Abraham, SSNR 2016 (in Hebrew) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2755782

[104] Interview with Adv. Elad Man, cit.; Article 144 of the Penal Code, "Incitement to Racism and Violence."

[105] Heading Hungary but under Mongolia, Georgia, Kyrgyzstan or Ivory Coast, for example.

[106] See Israel in RSF: <https://rsf.org/en/israel> (accessed on 6 September 2020).

[107] Israel, RSF, cit.

[108] Redas in Hebrew: "silencing lawsuits". See: Pring George (1989), 'SLAPPs: Strategic Lawsuits against Public Participation', Pace Environmental Law Review, vol. 7, issue 1

[109] Bini Askenazi, "מחקר של הכנסת: מערכת המשפט בישראל אינה מסוגלת להתמודד עם תביעות השתקה" (Knesset study: The Israeli legal system is unable to deal with silencing lawsuits), The Marker, 23 June 2020, available online (in Hebrew) at <https://www.themarker.com/law/1.8941386> (accessed on 11 September 2020).

their power to restrict access to the media platforms under their control and also to content published against them. They use this power to censor, distort or disguise information and opinions that are not to their liking, or that may harm their financial or ideological interests.^[110] All the above gives rise to a dangerous tendency of self-censorship among journalists, which undermines the very essence of pluralism and democracy.

INFLUENCERS

Local Influencers

Industry

Industry players in Israel have had little direct impact on media policy and regulation, but since the Israeli market is concentrated in very few hands, they always had quite a strong link with policymakers. However, in the last decade, with the weakening of print media and the rising of digital media, these power relations became extremely bold and unruly. Two main figures should be mentioned in regard to regulation impact (*see Competition Authority in this report as well as the report Funding Journalism in Media Influence Matrix: Israel*).



Source: PR

Shaul Elovitz was involved in a complicated bribery and fraud affair, which exposed the secret relationship he had with PM Netanyahu. Elovitz is a businessman in the field of communications, the controlling owner of the Eurocom Group, one of the largest private holding groups in Israel through which he controlled several public companies, including the Bezeq Teleco Group. Elovich served as chairman of Bezeq's board of directors, as well as in other companies in the Bezeq Group, including the popular Walla! internet portal. The findings published in the 4000 case investigation show that the PM Netanyahu acted to advance Elovitz's interests in the field of regulation, including the Bezeq-Yes merger, while

conditioning the promotion of Elovitz's business affairs with the supportive coverage of the PM and his wife, on Walla! pages. In October 2020, the ownership of Walla! website was transferred to the Jerusalem Post controlled by Eli Azour, who bought it from Bezeq.

Arnon (Noni) Moses is the controlling owner and chairman of the board of the Yedioth Ahronoth Group. He is the publisher and editor-in-chief of the group's daily newspaper, which also owns the Ynet popular website.

In January 2017 he was called for a police interrogation about his meetings with PM Benjamin Netanyahu as part of an investigation titled the 2000 case. Based on seized recordings, it was reported that Moses suggested a quid pro quo: supportive coverage of Netanyahu and negative coverage of one of his political rivals. The deal also included appointment of reporters



Source: Twitter

[110] Negbi Moshe, "חופש העיתונאי" (The Journalist Freedom), The 7th Eye, 14 July, 2011, available online (in Hebrew) at <https://www.the7eye.org.il/49183> (accessed on 12 April 2020).

based on Netanyahu's choice. In return, Netanyahu was to act to impose regulatory restrictions on Israel Hayom newspaper. Moses was suspected of pushing for and designing the Israel Today Law that passed in the Knesset in 2014 in a preliminary hearing, but that has not since advanced. The law was designed to prevent the free distribution of Israel Hayom. PM Netanyahu, who opposed the law due to his ties to the newspaper's owner Sheldon Adelson, dismissed the Knesset less than two years after it was formed and proceeded with elections for the next Knesset.[111]

Even today, with a battered image and a sharp drop in revenue, the Moses family's communications group is an empire that holds enormous power, especially in shaping the Israeli public opinion.



Source: Wikipedia / Ronen Goldman

Yitzhak Mirilashvili, owner of Channel 20, is the son of the Israeli-Georgian businessman Michael Mirilashvili, who owns energy, diamonds, real estate and technology businesses, as well as a start-up company called Watergen. Channel 20 is considered a failed and faltering channel.

The connection between the Netanyahu family and the Mirilashvili family has a similar pattern to those that emerge from his criminal files: Netanyahu promotes the Mirilashvili family's business, advance the Watergen businesses during his diplomatic exchanges and fights to provide the channel with beneficial regulations, all in exchange for supportive

coverage on Mirilashvili's media.

Recordings of conversations between PM Netanyahu and former Minister of Communications Ayoob Kara revealed that Netanyahu personally put pressure on Kara to allow the channel to broadcast news programs. Netanyahu then suggested that the minister would call for the annulment of the Cable and Satellite Council, which raised obstacles to the channel's news license. Netanyahu said that he supported the Channel 20 Law because it is the only television channel that gives expression to right-wing positions. The law adopted to help Channel 20 affected de facto three other television channels.[112]

Channel 20 devoted long hours to Deep State theories, which contended that the State Attorney's Office was trumping up Netanyahu's cases and did so because the country's executives, a group of lawyers and senior media people who scheme behind the scenes, just feel challenged by the Prime Minister's power.

Civil Society

NGOs

Israel boasts a rich and active arena of civil society organizations, but in fact the State's Third Sector is much smaller than is reported by government agencies.[113] Adv. Elad Man, legal

[111] Zvi Zarhya, "20-הכנסת לבחירות - חוק ישראל היום" (The quarrelsome newspaper: Israel Hayom Law - the reason for the early elections to the 20th Knesset), The Marker, 9 January 2017, available online (in Hebrew) at <https://www.themarker.com/news/1.3222848> (accessed on 7 November 2020).

[112] The law released the channels from almost any commitment regarding content provision and requirements for minimal financial investments.

[113] Gil Kalian, "המגזר השלישי בישראל קטן משחשבתם, בהרבה" (Third Sector in Israel is smaller than you thought, big time), Calcalist, 16 March 2016, available online at <https://www.calcalist.co.il/local/articles/0,7340,L-3683649,00.html> (accessed on 25 March 2020).

advisor of Hatzlacha Movement, contends that the field of media-related NGOs relies on a scarce number of active organizations, yet some of these have a major impact on media regulation.[114] Whether through discussions with the legislature and regulatory bodies, whether in discussions with professional committees of the Ministry of Communications or other parliamentary or public committees, whether through court petitions, or High Court appeals, administrative proceedings, or appeals to the Competition Court, NGOs make a difference.[115]

Prominent organizations include Hatzlacha NGO, one of the most active organizations resorting to the aforementioned methods and the Movement for Freedom of Information of The Union of Journalists in Israel, which has been involved in several important campaign in recent years, among them the contribution to preventing the attempt to split IPBC into News and non-News departments.[116] The Movement for Quality Government in Israel, and Israel's Media Watch are important players; nevertheless the impact of both is more marginal.

Israel Democracy Institute (IDI) for Research and Action is an esteemed NGO that is engaged in media policymaking and that is occasionally called to participate in regulatory think tanks to express its experts' opinions.[117] The professional and theoretical knowledge that its members produce is widely appreciated and allegedly influential, although their past involvement in public committees to amend media regulations was yet to bear fruit, due to strong political and financial forces that dominate the market.[118] In addition, IDI does not usually take the litigation route.[119] Some independent media NGOs, like The Seventh Eye and Shakuf movement, which operate as media monitoring and investigative journalistic projects, are considered notable civil society group. Their importance is undoubted, but their impact on regulation is most definitely indirect.

Adv. Sahar Ben Meir, a one-man political actor, is an engaged citizen who is not affiliated with any political party and specializes in filing class action lawsuits. In this capacity he rocks the boat for politicians and major media conglomerates in order to trigger court rulings for the sake of a democratic media.[120] Apart from addressing issues such as Prime Minister Netanyahu's inflated expenses budget abroad, and the Bibi-bot, the local Likud party's version of Cambridge Analytica on the eve of the April 2019 elections, Ben Meir appealed in court in three different cases against Facebook. In these cases, he targeted Facebook's breach of privacy when it created a biometric database of photos.[121]

[114] Interview with Adv. Elad Man, cit

[115] Interview with Adv. Elad Man, cit

[116] The initiative to split IPBC was promoted by PM Netanyahu in order to gain better control of news content produced by the Corporation and to neutralize the relatively independently appointed superiors of IPBC. This initiative was blocked by the Supreme Court thanks to the Union's appeal together with Hatzlaha NGO (as Amicus Curiae). For further information see: Nati Toker, "בג"ץ קבע: עד להחלטה נוספת - תאגיד השידור לא יפוצל" (The Supreme Court decision: Until further notice, IPBC won't be split), The Marker, 15 May 2017, available (online) at <https://www.themarker.com/advertising/1.4091346> (accessed on 10 March 2020).

[117] Interview with Dr. Tehilla Shwartz Altshuler, cit.

[118] See for example Dr. Altchullar, IDI member, at the Prof. Schejter Committee for Television industry, whose recommendations were never adopted by the government: Nati Toker, "Panel Recommends Independent Media Regulator for Israel," Haaretz, 18 September 2015, available online at <https://www.haaretz.com/israel-news/business/.premium-panel-recommends-independent-media-regulator-1.5400082> (accessed on 12 March 2020).

[119] IDI usually connects with Hatzlaha for submitting court appeals.

[120] Bini Ashkenazi, "עו"ד שחר בן מאיר: 100 המשפיעים 2020" (Adv. Shahar Ben Meir, 100 Influencers), The Marker, 1 September 2020, available online (in Hebrew) at <https://www.themarker.com/magazine/EXT-INTERACTIVE-1.9111918> (accessed on 10 September 2020).

[121] Interview with Adv. Shahar Ben Meir, cit.

Professional organizations

The Israeli Press Council (IPC) is a voluntary body and tribunal, jointly established in 1963 by the press (publishers, editors and journalists) and public representatives. The Council's main objectives are to uphold the values of free and quality journalism. In 1996 the Council published the Journalism Ethical Code to which Israeli press and journalists must subscribe. IPC is still responsible for enforcing the Code as well as for safeguarding the rights and obligations of journalists and the public's right to know. In 2008 the Israel Internet Association (ISOC) also joined in as a member. Nevertheless, experts claim that the Council is toothless and has no significant impact on regulation.[122] The fact that many major media outlets have left the council over the years undermined its legitimacy as former members do not always feel committed to its Code anymore. Currently, it is hardly active in taking strong stances in resolving ethical issues.[123]

Alongside IPC's tribunal, several associations of journalists operate in Israel as representative bodies whose work is aimed to protect journalists' labor rights and professional standards.[124] Among the key associations, The Union of Journalists in Israel is the largest and most powerful professional organization. Since it was founded in 2012, it has been relatively successful in improving journalists' employment status, providing professional tools and bolstering the public trust in the media. The organization has about 3,500 members (all journalists) across the entire political spectrum and from most media outlets. Since its establishment, it operated in the framework of the New Histadrut union, but following organizational upheavals that damaged its institutional stability, it went on its own in January 2020.[125] In July 2012, the association had also become a member of IPC.

Other interest groups such as the Writers' Guild, the Israeli Producers Association (IPAC) or the Israeli Union of Performing Artists (EMI) have managed to protect their rights and negotiate the limitation of overseas productions and keep a lion's share of original productions close to home. They are invited to participate in relevant parliamentary committees to discuss their realms of interest or the designated audience they represent.[126]

External Influencers

The state of Israel wishes to set itself apart culturally and economically from the conflictual geographical-national context in which it exists. Thus, it constantly pursues recognition of international allies across the northern Mediterranean and beyond. Looking up to the Global North policy and regulation standards, Israel strives to adapt them to gain recognition, which in turn also translates into financial benefits.[127]

[122] Interview with Adv. Elad Man, and with Dr. Roy Peled, cit.

[123] Oren Persico, "מי לנו אם לא מועצת העיתונות" (Who to trust if not the Press Council), The 7th Eye, 1 October 2015, available online (in Hebrew) at <https://www.the7eye.org.il/175083> (accessed on 20 January 2020).

[124] Workers' organization is legally entitled to represent the whole, even if only a third of the organization employees are its members. Representative organizations are legally capable of signing special or general collective agreements.

[125] Histadrut is the General Organization of Workers in Israel, representing the majority of national trade unionists in the state. The Histadrut remains a powerful force in Israeli society and the economy, since it was established in 1920.

[126] Interview with Dr. Tehilla Shwartz Altshuler, cit.

[127] Tomer Avital, "ישראל משלמת 243 מיליון שקל בשנה לארגונים בינלאומיים" (Israel pays ILS 243 million a year to international organizations), Calcalist, 12 November 2012, available online at <https://www.calcalist.co.il/local/articles/0,7340,L-3587408,00.html> (accessed on 9 April 2020).

First is the EU with its General Data Protection Regulation (GDPR), which indirectly but significantly influenced data protection practices and the regulatory approach in Israel.[128] Israeli Protection of Privacy Regulations came into force around the time the GDPR was introduced in 2017. The state adopted requirements that resembled the European regulation, mainly in the realm of data security and data processing management. GDPR's global effect had also an indirect institutional impact on the regulatory approach and enforcement agenda of the Israeli Data Protection Authority (IDPA). It also enhanced collaboration with EU-based DPR authorities to enforce EU regulations on Israel-based companies that are subject to GDPR's territorial or extraterritorial reach.[129]

Israel has been recognized by the European Commission as an adequate jurisdiction for processing personal information, which allows a straightforward movement of personal data between controllers and processors in both jurisdictions. Although this recognition was adopted in accordance with the previous data protection regime in the EU, and while it continues to apply under the current regime, there are public discussions among regulators and scholars regarding the possibility of losing this important recognition when it is reviewed again by the EU, considering the significant developments in the regulatory environment in the EU, which Israeli law has not fully caught up with.[130]

Secondly, some external influence pushed the former Israel National Cyber Authority (now Directorate) to draft a Corporate Defense Methodology (2017), which provides every organization in Israel (altogether thousands of them) with tools to manage and improve the protection from cyber threats.[131] This Methodology directives are synchronized with existing global standards such as those of the International Standards Organization (ISO) and the American National Institute of Standards and Technology (NIST). In addition Israel was one of the first countries in the world to join the American Department of Homeland Security (DHS) and its Automated Indicator Sharing initiative. This automated platform between governments and companies seeks to share fast and effective information that facilitates the prevention or handling of cyberattacks.[132]

A third influencer on Israeli general perspective of regulation is the OECD and its Regulation Impact Analysis (RIA) methods. Upon becoming a member, Israel undertook to act in favor of developing tools for evaluating all state regulation processes, which naturally also effects those that are related to media and communication specifically. By then, the OECD countries had already acknowledged that introducing new regulations entail many social and economic costs that are not quantifiable in terms of the state budget. Therefore, they developed mechanisms to assess the effects of regulation to examine and increase effectiveness for both the wellbeing and economic-growth, for the governmental authorities, the regulated sectors and the general public alike.[133]

[128] Israel is an associated state of the European Union. The relationship is defined in the European Neighbourhood Policy (ENP), the Euro-Mediterranean Partnership, and the Union for the Mediterranean.

[129] Adv. Ariel Yosefi, "Israel-The impact of the GDPR outside the EU", *Ius Laboris: International Employment Law*, 26 September 2019, available online at <https://www.lexology.com/library/detail.aspx?g=4c4b8c3f-2c0a-414e-8a1f-927de8a223d2> (accessed on 26 March 2020).

[130] Adv. Ariel Yosefi, "Israel- The impact of the GDPR," cit.

[131] See more here: https://www.gov.il/en/Departments/policies/cyber_security_methodology_for_organizations

[132] Ora Koren, "ישראל וארה"ב יחליפו מידע בתחום הגנת הסייבר" (Israel and the US will exchange cyber defense information), *The Marker*, 22 June 2016, available online (in Hebrew) at <https://www.themarker.com/news/1.2983398> (accessed on 20 March 2020).

[133] See more at <http://www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm>

In 2014 the Government of Israel adopted a decision regarding the reduction of the regulatory burden. Accordingly, the process of preparing or updating a new regulation would have to include a new assessment procedure of its impact (RIA).[134] The multitude of perspectives required for pre-regulatory evaluation forced authorities to strengthen the dialogue with experts, stakeholders and the public, similar to what is done in many countries around the world, and publish full reports about the deliberation and decision processes.[135] It is not clear how effective the RIA process is and whether it radically improved the means and ends of media regulation. According to the Israeli Democracy Institute the main problem in Israel is not analysis, drawing conclusions, formulating recommendations or making government decisions, but the de facto implementation of those decisions.[136]

[134] "מדרוך ממשלתי הערכת השפעות רגולציה" (Governmental Guide: Regulatory Impact Analysis), available online (in Hebrew) at http://regulation.gov.il/uploads/reports/7/RIAGUIDE_opt.pdf (accessed on 5 April 2020).

[135] A list of RIA assessment reports of new regulations within the ministry of communication (among other ministries) is to be found here (in Hebrew): http://regulation.gov.il/RIA_REP (accessed 5 April, 2020)

[136] See the Improving Regulation IDI online (in Hebrew) at <https://www.idi.org.il/media/8857/streamlining-regulation-in-israel-and-easing-the-bureaucratic-burden-proposal-for-a-multi-year-program-the-complete-study.pdf> accessed 5 September 2020 (accessed on 19 October 2020).



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