



საქართველოს კომუნიკაციების ეროვნული კომისია
GEORGIAN NATIONAL COMMUNICATIONS COMMISSION

GYLA CALLS ON THE NATIONAL COMMUNICATIONS COMMISSION NOT TO EXCEED THE SCOPE OF ITS AUTHORITY

The National Communications Commission [responded](#) to [GYLA's statement](#), which assessed the letters sent to the broadcasters concerning the removal of political advertising.

As the administrative body declares, „If the broadcaster is found guilty in violating the legislation, the commission will discuss the issue on the grounds of rules established by legislation and will take a decision. □□ However, it is worth to be noted that in letters sent to the broadcasters on September 25 of the current year, the Commission has already discussed the concrete clips and although it does not consider the letter noted as a legal act, certain directives were sent to the broadcasters. Namely:

The letter was not on the general requirements of the legislation, but about the content of political advertising. Such approaches create threats of restricting freedom of expression. Besides, we believe that the Commission goes beyond its competence in assessing these issues and contradicts the Georgian legislation for the following circumstances:

The Commission is not authorized to examine the content of political advertising.

We would like to note once again that according to Article 63 of the Law on Broadcasting, „Broadcaster is not accountable for the content of pre-election and social advertisements. Responsibility for the content of pre-election and social advertisements lies with the relevant advertising consumer, according to rules established by legislation. **Correspondingly, the Commission cannot evaluate the content of the political advertisement (including in terms of unethicity and inappropriateness), since the subjects of its regulation are not responsible for the content.**

In case of violation paragraph 4 of Article 56 of the Law of Georgia on Broadcasting, the Commission have no authority to study the issue.

As we have already defined, **if this norm is violated, a person is entitled to address the self-regulatory body or court (and not only the elf-regulatory authority as set out in the Commission`s [response](#)), and the Commission is not authorized to examine the placement of dignity and fundamental rights infringement program or advertisement, which contains indecency.**

The „Law of Georgia on Broadcasting [\[1\]](#) directly entails addressing the Broadcasting self-regulatory body on this issue. The same law prescribes the prohibition on applying to the Commission or court by interested party, if Article 56 is violated.

On November 10, 2009, the case [\[2\]](#) citizens Giorgi Khipiani and Avtandil Ungiadze against the Parliament of Georgia [\[3\]](#) became the ground for the Constitutional Court, to recognize the norm of banning the person from the right to apply to the court, if paragraph 4 of Article 56 of the Law of Georgia on broadcasting is breached by broadcaster, as unconstitutional.

The constitutional Court **ruled** by the Resolution Part that: „The terms of paragraph 2 of Article 14 of Law of Georgia on Broadcasting „Except the norms prescribed by Articles 52, 54, 56 of the law [\[4\]](#) should be recognized as unconstitutional in the part, which refers to words of paragraph 4 of Article 56 „Placing the dignity and fundamental rights infringement program or advertisement, which contains indecency, [\[5\]](#) in respect of the first paragraph of Article 42 of the Constitution of Georgia.”

According to the first paragraph of Article 42, „Everyone has the right to appeal the

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Court to protect their rights and freedoms. □ □ **The right of appealing the Commission is not guaranteed by Article 42 (1) of the constitution, neither the applicants disputed on the case, nor the Constitutional Court discussed the issue. Consequently, the prohibition for the National Communications Commission not to discuss the issue of dignity right violation, by placing such a program or advertisement, which contains obscenity, is still in force today.**

On the grounds of all above noted, we call on the National Communications Commission not to exceed the limits of its authority, to fully get to know with the decisions of the Constitutional Court regarding the norms of the „Law of Georgia on Broadcasting” and act as prescribed by law.