

MEDIA OWNERSHIP MONITOR



THE SAMIR KASSIR FOUNDATION

**REPORTERS
WITHOUT BORDERS**
FOR FREEDOM OF INFORMATION



Legal Assessment

Contextualization for the Media Ownership Monitor –

LEBANON 2018

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The **SAMIR KASSIR FOUNDATION** is a Lebanese non-profit organization officially incorporated in Beirut under registry number 30/A.D., founded on February 1, 2006. It is named after Samir Kassir, a Lebanese journalist assassinated in Beirut on June 2, 2005. It aims to spread democratic culture in Lebanon and the Arab world, encourage new talents in journalism, and build the movement for a cultural, democratic, and secular renewal. These are the conditions to lift the Arab populations out of their “state of malaise,” described in Samir Kassir’s book “Being Arab.” The Foundation strives to defend freedom of media and culture through the SKeyes Center for Media and Cultural Freedom that it hosts since 2008, which has become the largest center to monitor violations against journalists and artists in the Arab Levant as well as a reference for research on journalism and for training media professionals and enhancing their skills.

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INTRODUCTION

With a rich print media heritage and the freest press in the Arab region, Lebanon has long prided itself as a haven for freedom of expression. But the last few years have seen journalists attacked, human rights activists detained, and bloggers arrested for defamation. Many of Lebanon's lawmakers and media experts insist the country's media laws need updating.

This legal assessment of the Lebanese media sector provides contextualization for the collected data as it reveals the legal environment and the way regulation is being implemented as structuring element of the media ownership. Central issues of the assessment are the legislation on media concentration and its implementation, the monitoring system and transparency of ownership.

1 LEGAL FRAMEWORK

The Lebanese media sector is formally organized under and legislated through the 1962 Press Law and the 1994 Audiovisual Media Law. However, laws governing media can also be found in the Penal Code, the Electoral Law, the Military Justice Code, the Foreign Press Law, and many others, creating a logistical cobweb of overlapping jurisdictions.

2.1 Regulating the print media

The 1962 Press Law was officially enacted in order to “protect the press from random, abusive interventions” and to shield the State and its citizens from biased campaigns in the press. The 1962 Press Law deals with the organisation of the press, its ownership, the licensing process and the profession of journalist. According to this legislation, the owner and all shareholders of a joint-stock company must be Lebanese citizens. However, in practice the law is often dodged by foreigners who buy stocks under Lebanese names. As a result, a number of Lebanese newspapers depend on foreign funding.

The 1962 law defines a journalist as being at least 21 years of age, having a baccalaureate degree and having apprenticed for at least four years.

The 1962 Press Law also contains criminal provisions in relation with the prosecution of a certain number of offences that could be committed by the press such as libel and defamation, threats to public order, hurting national feeling, disrespect to public morals or incitation to confessional strife; and establishes a special jurisdiction to try those offences, the Publications Court.

Legislative Decree No. 74 of 1953 provides that no new license is to be given to a new political publication as long as Lebanon has more than 25 daily publications and 20 weekly publications¹.

Licensing conditions for the print sector according to the Press Law:

Any press publication needs a license from the **Minister of Information** after getting the approval of **the Press Order**;

The license applicant **must be a Lebanese citizen, residing in Lebanon**, and has civil and political rights, shall not be sentenced with any charge or following any foreign country; political press publication license is granted only to a: (a) journalist

(b) press companies of various types (SAL, SARL, etc.); the nominal shares shall be only owned by Lebanese natural persons or Lebanese companies.

The granting of licenses shall be subject to the following conditions:

- (a) The journalist is free to issue the press publications by his/her means;
- (b) The company’s Capital shall not be less than LBP 500,000 (around USD 333); and
- (c) The owner of the publication must provide a cash or bank guarantee. The Ministry of Information decides the amount after consultation with the Press Order.

Every press publication must have an official director who is responsible before the authorities. The Ministry of Information must be notified in writing of the director’s resignation and wait for the appointment of a new director.

To issue a press publication the following details are required:

- (a) Name, nationality, place of birth, and age of the applicant;
- (b) Residence and address;
- (c) Name of the publication;
- (d) Publication type: political or non-political;
- (e) Dates of publication: daily, weekly, monthly, etc.;
- (f) Place of issuance, editing and printing;
- (g) The language in which it is issued;
- (h) Publication director’s name, nationality, place of birth, age, academic degree, place of residence, address, and authorization;
- (i) The printing house’s name and address;
- (j) Name and address of the manager of the printing house;
- (k) Statement with a certified copy of the director’s degrees and a copy of his/her legal record. (B) A certificate from the Press Order confirming the approval of the designated publication director. C) Cash or bank guarantee mentioned above.
- (l) The said statement must include how the publication was owned: by license, inheritance, transfer from others, purchase or gift.
- (m) When the publication is owned by a company or an association, the following provisions shall apply: The required statement must be signed by the authorized director of the institution. This statement shall also include the names, nationality, place of residence and address of the members

¹ <http://www.medialawinternational.com/page148.html>

of the Board of Directors, and shall attach a copy of the institution's by-laws to the declaration.

2.2 Regulating the broadcast media

The Audiovisual Media Law No. 382 of 1994 organizes the ownership and licensing of audiovisual media channels and creates two basic licensing categories for radio and television: one category for media seeking to broadcast political content, and another one for non-political broadcasting. To prevent audiovisual media monopolies, this law prohibits any person or entity from owning, directly or indirectly, more than 10% of the total shareholding of a single audiovisual media station. The print press is excluded from this provision, where one person can fully own a newspaper (article 31 of the Press Law).

The Audiovisual Media Law, on the one hand, abolished the State broadcasting monopoly; whilst, on the other hand, it forced dozens of TV and radio stations that had opened during the civil war – and had since operated outside the scope of any legal framework – to close, thus favoring the emergence of a few powerful, local and regional tycoons at the expense of pluralism and freedom of expression.

According to the Audiovisual Media Law, "audiovisual media is free. However, the freedom of media shall be exercised in accordance with the constitution and the applicable laws." The law also provides for criminal offences that can be committed by the media by referencing the provisions of the Press Law in this regard, which means that cases of libel, slander, and defamation on TV or on radio are prosecuted before the Publications Court.

Monopolistic practices are regulated by the Lebanese Commercial Legislation which contains general articles, such as the Consumer Protection Law NO. 659 of 2005. However, none of them deals specifically with the media concentration.

There are no legal limits to cross-media ownership across media sectors; one can own as many outlets as they want as long as the same person does not own more than one TV station or more than one radio station. However, monopoly in the Lebanese media field is hard to find in practice thanks to the open media environment and the diversity of actors in this industry.

2.3 Regulating online media

Lebanon does not have any express legislation related to online media. However, for the past three years, bloggers and users of social media have been prosecuted by Lebanese authorities on the grounds of violation of public order and violation of certain laws (the Press Law, the Military Justice Code, etc.) pertaining to libel, slander, defamation, and incitement of sectarian strife. SKeyes has recorded 25 cases of online activists, bloggers and social media users summoned on charges related to the Press Law since the beginning of 2018.

Yet, formally, a website does not need to register with the authorities, nor is there any rule preventing a person from owning a news website without formally creating a company that would administer it. There are no requirements whatsoever regarding declaration of revenues and benefits, except for the revenues that would fall under the scope of the income tax.

2.4 Regulating foreign publications

Law No. 152 of 1999 allows international, non-Arabic language periodicals that are in circulation outside Lebanon to be printed in the country by virtue of a decree adopted by the Council of Ministers, under the following conditions:

- The publication has to be authorized in its country, and it has to be international, and issued in a foreign language;
- It has to have a representative office in Lebanon;
- The company name should be shown on every publication and issue;
- It cannot publish any advertising that could compete with the Lebanese publications; and
- The print house shall inform the Ministry of Information of every change regarding the number of printed issues.

The foreign international publication issued in language other than Arabic and, licensed to be printed in accordance with the above provisions, is not subject to the Press Law. However, in case it is also to be distributed in Lebanon, then it is a subject to the Press Law's provisions.

The foreign or local company issuing an international publication must pay an annual fee to the Ministry of Information of:

- The equivalent of USD 5,000 in Lebanese pounds when the license is granted.
- The equivalent of USD 2,000 in Lebanese pounds in the first month of each year.

2.5 New media laws in preparation

The development of digital technologies and the emergence of new online media actors have had a strong impact on the traditional broadcasting and print publication system, requiring new regulations. In 2010, then-Minister of Information Tarek Mitri launched a series of consultations with journalists, media owners, advocacy groups, and politicians to identify priorities and guidelines for a new comprehensive legal framework.

Since then, two draft laws have been submitted to the Parliament:

- **A comprehensive "Media Law"** was registered by MP Ghassan Moukheiber in Parliament in November 2010 (under No 441) and is still under review. [It was prepared in cooperation with Maharat Foundation.](#)
- **A draft law aiming to amend two articles of the Press Law** (Art. 28 and Art. 9) was registered by MP George Okais in Parliament in September 2018, in order, on the one hand, to eliminate all risks of prison sentences and pre-trial detention in all matters related to broadcast and publication, offline and online; and, on the other hand, significantly increase financial penalties for people convicted with libel, slander, and defamation.

Both draft laws contain articles intended to address the lack of clarity surrounding online blogging, social media and protections for online activists in the existing media laws.

The debate that was taking place around the Moukheiber draft law stopped when the Saad Hariri's first national unity government collapsed in January 2011, and then stalled by the ensued political paralysis until the Information and Telecommunications parliamentary committee resumed discussions around it, and approved it weeks before the end of the previous parliament's term. The text has since been transferred to the Administration and Justice committee, where it is actually on the agenda.

2 IMPLEMENTATION : CONTROL AND MONITORING OF MEDIA CONCENTRATION

The institutions involved in the governance of the media sector are:

3.1 The Ministry of Information

The Ministry of Information, which consists of the General Directorate of Information and several other directorates and departments, including: the Directorate of Lebanese Studies and Publications; the National News Agency; the Lebanese Broadcasting Directorate, among others. It was organized by Legislative Decree No. 6830 of 1961.

The Ministry of Information issues annual press cards to practicing journalists. While they do not require certification, those with a degree in journalism must register with the Lebanese Press Editors Syndicate (LPES).

3.2 The National Media Council (NMC)

The National Media Council (NMC) established by Law 382 of 1994. The NMC is composed of ten members; five of whom are elected by the Parliament and five designated by Council of Ministers government. The NMC's role is to monitor the performance of the media bodies, to submit to the Ministry of Information reports on the TV and radio programs and news content, to submit recommendations to the Council of Ministers, to work on the development of new laws and regulations, and to conduct studies on licensing requests.

In case a company applying for licensing does not comply with the provisions of the law, including articles related to the number of shares that an individual or a corporate can own, the NMC would issue a negative opinion and recommends the Council of Ministers not to issue the license. But the NMC's role is purely consultative in subsequent steps.

There is no governing body controlling print media rules, in particular with regard to media concentration.

3.3 The Telecommunication Regulatory Authority

One can also take into account the role of the **Telecommunication Regulatory Authority (TRA)**, established by the Telecommunications Law No. 431 of 2002. This Authority started to operate in 2007. An independent public institution, it is in charge to liberalize, regulate, and develop telecommunications in Lebanon. As such, the TRA issues licenses, regulations, and decisions. It manages the telecommunications spectrum and monitors the market for any abuse of dominant market position and anti-competitive practices. However, because of political interference and different interpretations of the law, the TRA's work has

been suspended since a 2011 ruling by the State Shoura Council and a 2015 decision by then-Minister of Telecommunications Boutros Harb.

3 TRANSPARENCY OF MEDIA OWNERSHIP

Whenever a media outlet is established as a corporation, the entity must be registered at the Commercial Register (<http://cr.justice.gov.lb/>), which is under the authority of the Ministry of Justice. And this file is made public. Lebanese corporations are also required to register their minutes of meetings at the Commercial Register. This is mandatory mainly regarding meetings approving annual accounts or approving raise and decrease of capital. Companies that do not register their minutes are fined for each month and/or year of delay by the Ministry of Finance and the Commercial Register. However, when it comes to transfer of shares, i.e. to associate a new member, registration is not immediately required, making it difficult to track changes regarding the partners and shareholders. When there is a change in the management of the company (director, board of directors, chairman, etc.), companies are not fined if registration is missing. However, they shall not be able to conduct any other procedure requiring registration before they get the minutes of the meeting related to the change in the management registered.

4.1 The Law 382/1994

Law 382 of 1994 requires radio and TV broadcast corporations to submit their financial accounts to the Ministry of Information every six months. These accounts include the amounts or revenues arising from the corporation's activity. Directors who refrain from submitting the company's said reports are liable to prosecution (three to six month prison sentence and/or LBP 10 to 30 million fine - about USD 6,500 to 20,000).

If it appears that the company got a gain that could not be justified as obtained by legitimate ways and means, the Minister of Information is entitled to ask the Publications Court to order the company to stop broadcasting or transmission for a three to six month period. The court might also fine the company an amount about double the unjustified sum. Moreover, if it appears that the amount was gained for a cause against the public interest, or the political system, the Court may order a six-month to two-year prison sentence in addition to a LBP 50 to 100 million LBP fine - from USD 33,000 to 66,000. The company might also be ordered to suspend broadcasting or transmission for a six-month to two-year period as well. Its license might also be taken away (article 45 of Law 382/1994).

In the event the company is facing a deficit exceeding the three quarters of its equity, the Minister of Information is entitled to refer the

company to the competent court, which decides whether to suspend or not broadcasting or transmission. This suspension should not exceed one year (article 44 of Law 382/1994).

4.2 The Law of the Right to Information

More recently, on February 16, 2017, the Law of the Right to Information was published in the official gazette under No. 28. Implementation decrees are still pending. The enactment of Law No. 28 of 2017 was motivated by two main objectives:

- Encouraging the access to public archives (in order to enhance transparency of State actions); and
- Facilitate people's participation in public decision-making processes.

The Law enables anyone, being an individual or an entity, to obtain information and documents held by the government services. The scope of the law excludes private life and military secret matters, and judicial decisions related to minors and personal status. It works as follow:

- One can submit an inquiry to a government administration, which is required to respond within one month; in the event of refusal (written and motivated), applicants can appeal within two months.
- Government bodies are required to publish their circulars, notes, internal regulations, etc. in the official gazette; government bodies are also required to publish their balance sheets on their website. Moreover, the memorandum of each law should be published in the official gazette.

Once the Right to Information Law becomes truly effective, transparency about media ownership might increase if media companies submit their owners' and financial records according to legal requirements.

4 OTHER STATE INFLUENCE ON MEDIA ORGANIZATIONS

State funding is almost non-existent in the media sector. There is no regulation requiring the state to distribute subsidies to media outlets. The state does not impose prohibitive taxes or levies on media organizations. The state tax policy and practice does not discriminate against or favor specific private media outlets over others. The taxes levied on media organizations are exactly the same as the ones levied on any other corporation in Lebanon.

Regulations linked to the advertising sector are quite diverse and non-homogeneous. **Officially, there are no specific agencies monitoring advertisements (private or public).** However, all advertisements must be submitted to the Ministry of Economy and Trade (Consumer Protection Department) for approval, and to the General Directorate of General Security's censorship bureau.

Television and Radio Advertising is also regulated by **Law No. 382 of 1994.**

In TV advertising matters, all advertisements that may mislead the consumer or may harm public health and morals are prohibited. Advertising related to programs with sensitive content, including thrillers and programs containing sexuality, may not be broadcast before 9:30 pm. The advertising of events is subject to permission. TV newscasters or political program presenter are prohibited from appearing in advertisements (Decree No. 7997 of 1996).

Newspaper advertising is regulated by Decree No. 8861 of 1996 which applies to all types of advertising platforms, including digital media advertising. Periodical advertising is regulated by the Publication Code, Decree No. 1 of 1977. Article 12 prohibits any publication that goes against public morals.

There are no specific restrictions or regulations related to social media advertising.

In addition, the Parliamentary **Election Law No. 44 of 2017** introduces regulation for electoral campaigning and paid media advertising.

There are no rules neither protecting nor contradicting the net neutrality principle under Lebanese law.

The only legislation that in some way is connected to net neutrality is the Telecommunications Law No. 431 of 2002, which aims to provide a greater access to the Internet throughout the country. In particular, Article 25 and 26 require public telecom services to comply with universal service obligations and to guarantee certain minimum standards of quality, such as call completion rates and dial tone delays, as well as minimum levels of comprehensive geographic coverage.

The Lebanese State monopolizes the Internet's backbone, as well as the fixed and cellular telephone sector which allows it to exercise a strict control over Internet Service Providers (ISPs).

There is no evidence confirming that the Lebanese government blocks or filters internet content, related to political and social issues.

One reason for the lack of blocking and filtering pertains to the highly-politicized landscape of traditional and new media in Lebanon. Government officials are arguably hesitant to engage in such actions out of fear that the moves could be seen as unfairly targeting one political/sectarian group. Taboo subjects that would normally be absent from traditional media are freely available online such as pornography, content supporting Israel, and sectarian speech. Lebanese users have access to a wide variety of local and international information sources. The only sites that are blocked by default are gambling sites, in order to maintain the monopoly of the National Lottery and Casino du Liban.

Most importantly, there is no evidence of violations of net neutrality or of restrictions on who can acquire local or international domains and server space. And, Lebanese law does have any restrictions for online anonymity or the use of encryption software.

5. NET NEUTRALITY