



TMC Rule 2005/1

Qualifications for a Broadcast License

1. **Purpose:** The purpose of this rule is to define the minimum qualifications which applicants for new licenses and new owners of existing licensees shall be required to meet. More stringent criteria for the award of a TMC license may be applied in evaluating applications submitted in response to a competitive tender of license.
2. **Policy Goals:** UNMIK Regulation 2000/36 Section 2.3 requires the TMC to take the public interest into account in awarding broadcast licenses. The TMC defines the public interest in this context to mean that licensing should encourage democratic values, greater professionalism, diversity of program content and financial sustainability of broadcast media; to protect freedom of expression by ensuring transparency of media ownership; and to stimulate a market economy through commercial advertising.
3. **Authority:** Section 1.1 of UNMIK Regulation 2000/36 requires the TMC to establish a temporary regulatory regime. Section 2.2 authorizes TMC to promulgate procedures for the application and award of broadcast licenses.
4. **Applicability:** These qualifications for a TMC license shall apply to all licenses granted by the TMC.
5. **Definitions:**
 - A. **License:** A license is a conditional, contractual grant of permission by the TMC for the use of one or more specific frequencies for radio or television broadcasting. By accepting a TMC license, the licensee agrees to comply with all relevant laws, UNMIK regulations, TMC rules and administrative instructions and the general and specific technical terms of the license.
 - B. **Licensee:** A licensee is a legal personality to which the TMC awards a license. A licensee may be:
 1. An individual who is a legal habitual resident of Kosovo;

2. A registered private company including but not limited to a personal business enterprise, a general partnership, a limited partnership, a joint stock or a limited liability company, or a Publicly Owned or Socially Owned Enterprise;
 3. A legally registered Non-Governmental Organization.
- C. Ownership:** The holding by a physical or legal person or more than 10 percent of the share capital of a broadcast organization or its equipment.
- D. Applicant:** An Applicant is any legal personality that requests the award of a new TMC license at a time when TMC has opened a competition for licenses, or who requests approval for the transfer of an existing license or approval of the acquisition of an ownership share in an existing licensee.
- E. Agent:** An Agent is an individual representing and implementing the instructions of a third party, including but not limited to political organizations.
- 6. Qualifications for a License:** An Applicant shall certify in writing compliance with the following qualifications:
- A. Legal Presence in Kosovo:**
1. An individual must be a legal habitual resident of Kosovo in possession of a valid and recognized personal identification document;
 2. A non-profit organization or a commercial licensee must be physically present in Kosovo and legally registered in accordance with the relevant laws in Kosovo.
- B. Professional Qualifications:**
1. An applicant for a license shall demonstrate a commitment and ability to operate a broadcast station in full compliance with TMC regulations including the Broadcast Code of Conduct, the terms and conditions of TMC licenses and technical standards;
 2. Applicants shall demonstrate a commitment and ability to acquire commercial programming by legal means;
 3. Applicants shall demonstrate a commitment and ability to operate a radio or television station as a business, whether as a for-profit or non-profit entity.

C. Tax Status:

An applicant must be in compliance with relevant tax laws in Kosovo. A finding of tax violation by a duly authorized court may serve as a basis for denial of a broadcast license.

D. Applicability to Owners of Other Media in Kosovo:

It is TMC policy to encourage diversity and competition in Kosovo media markets on a local, regional and Kosovo-wide scale. Qualifications for a new or existing license may be governed by a separate Rule on media concentration.

E. Applicability to Foreign Ownership:

Foreign ownership of a broadcast license is permitted only in the case of commercial companies with a legally registered presence in Kosovo in conformance with applicable law.

7. Reasons for Disqualification for License:

- A. Government entities:** It is the policy of the TMC not to award broadcast Licenses to the agencies of government or to enterprises or other entities in which government has a controlling interest.
- B. Individuals Who Hold Elective or Appointed Office:** No license shall be awarded to an individual who holds elective or appointive public office; nor shall a license be awarded to an NGO whose president, vice-president or executive director hold elected or appointive office; nor shall a license be awarded to a company in which a majority ownership share is held by a person who holds elective or appointive office, unless such person has formally withdrawn from management of the broadcast entity. This provision shall not apply to individuals employed by the Kosovo Civil Service.
- C. Individuals Who Hold a Leadership Position in a Political Party:** The provisions of Section 7B shall apply equally to any individual who holds an elective or appointive leadership position within a political party.
- D. Organizations and Companies Associated with Political Parties:** No license shall be awarded to an NGO or commercial organization that is demonstrably devoted to the support of a political party.
- E. Previous Non-Compliance with TMC regulations:** Serious or repeated violations of TMC regulations by a media organization which an applicant owned, managed or financed may constitute a basis for denial of a new or transferred TMC license or approval of acquisition of an ownership share. Such violations may be taken as evidence of an inability or unwillingness to operate a professional broadcast station in compliance with TMC regulations.

- F. Association with Ethnic or Religious Prejudice:** No license or ownership share of a licensee shall be awarded to any individual, organization or commercial enterprise that has demonstrably been associated with the dissemination of materials that encourage hatred or discrimination or that denigrate persons on the grounds of ethnicity, national origin, religion, gender, sexual orientation or physical disability.
- G. Criminal status:** No individual who has been convicted of a violent crime or a crime of dishonesty or theft shall be awarded a broadcast license or the transfer of a license or acquisition of an ownership share in a licensee; nor shall a license be awarded to any organization or company in which such a person serves as an officer or senior manager.
- 8. Agents of Potential Licensees:** The provisions of this Rule shall apply fully and equally to any individual, organization or company acting as an agent of a potential licensee.
- 9. Application under False Pretenses:** Failure by an applicant or licensee to disclose information which would have led TMC to deny a License, or to deny approval for the modification or transfer of a license or ownership share of a licensee, under the terms of this Rule may result in subsequent penalties including disqualification for or revocation of a license.
- 10. Change in Circumstances of a Licensee:** Any change in the status of individuals, officers of NGOs or owners of companies that hold a TMC license or ownership share that results in their disqualification for a license shall be reported to the TMC with five (5) working days of the change in status. A disqualified individual must dissociate himself/herself from the licensee within 30 days of becoming disqualified unless TMC permits a longer period of adjustment. TMC shall seek in such cases to minimize the risk of disruption of operations of the broadcaster.
- 11. Appeal of Denial:** Any applicant who is denied the award of a license or who is denied approval of an ownership share of a licensee may appeal this decision to the Media Appeals Board within 30 days of such denial by the TMC.
- 12. Transitional Provisions:** This Rule shall apply immediately to new applicants for a TMC license. It shall apply to all licenses granted heretofore by the TMC as of a date to be determined by the Temporary Media Commissioner.

[Adopted: 25 April 2005]