

“The Problems and Negative Trends Accompanying the Processes of Liberalization and Privatization of the Communications Sector in Georgia”

**(The Research Performed in the Framework of the Small Project
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1. Summary

The analytical research presented below is an attempt of an unbiased evidence-based (i.e. official materials, publications and facts) description of the developments in the sector of telecommunications (an important strategic field for the country) during the recent decade – the period of transition to the market economy. These developments are highlighted on the background of the negative tendencies of corruption, unfair competition, attempts of money laundering and other trends, regrettably accompanying the processes of de-monopolization and privatization in the sector.

The research reflects the preliminary conditions existing in the sector of communications; the events taking place at the initial and further stages of liberalization and privatization processes. These events had encountered problems, unjustified mistakes and/or deliberate erroneous decisions driven by private interests. In order to better highlight the state of affairs the research explores the infrastructure of the Georgian telecommunication services, its main customer segments and means of regulation. Some vicious practices of the licensing process (those paving the way for corruption) and trends for improvement of the situation are shown. The amazing facts of court decisions concerning litigious considerations between the operators are also publicized. The research also highlights various agreements, notorious cases of privatization and the facts of manipulating with so called “shady traffics”, which cultivate rather corrupt basis in the discussed field of service.

Despite the above-mentioned facts, the positive trends aimed at civilized functioning of the sector still exist. Creation of the Georgian National Communications Commission in particular, assures that with an active support of society operations in this sector of state importance will become transparent and efficient, thus avoiding the pressure of corrupt practices.

The business would definitely benefit from the following human resources strategy: various official institutions and companies should be staffed by straightforward, appropriately qualified young specialists with a new way of thinking, who will be appointed on a fair competitive basis and paid adequately.

(The research consists of 43 pages with 8 figures, 1 table and 15 titles of the used official, archive and informational sources).

Introduction

Presented research was carried out through support by TraCCC of American University, on the sector of strategic importance for the country – **negative trends and problems in the sector of communications** that arose during the implementation stages of the liberalization and privatization processes in Georgia.

The process of liberalization and privatization in the sector of communications has been intensively going on worldwide for the two decades. Lots of top operators (Telecoms) in developed and developing countries were privatized, and a number of various private companies emerged to the communications market. These processes were supported by the collapse of the Soviet Union and the socialist system. In the newly independent states these natural trends resulted in numbers of deviant cases developed on the background of unfair competition and corruption.

Unfortunately, aforementioned negative events took place in Georgia too, even in rather severe forms. These negative issues are discussed in the presented analytical research, since our official duties required being immersed in them.

These negative events were often revealed in the past. They were repeatedly discussed in the mass media and even considered on the floor of the Parliament. But due to the fact that regrettably, corruption rates in Georgia are generally high, the discussions of this type could not bring about dramatic practical changes. Nevertheless, positive trends are observed and they are mentioned below. The importance of the anti-corruption activities is demonstrated by the existence of the Anti-corruption Council in Georgia; besides, a working group for dealing with the problems of money laundering was also created under the President of the Republic in November.

Before we move to the main part of the analytical research, we would like to emphasize the importance of efficient and transparent work of the telecommunications sector (free from any corrupt elements and somebody's detrimental interests, including money laundering), both for provision of the quality services to population and for the image of the country. This is even more important today, when Georgia, owing to its geopolitical environment, is placed in the center of the interests of the World's leading states as a historically significant transit country in the South Caucasus region, which methodically attains its new role in the formation of the energy, transport and telecommunications corridor (Fig. 1 a,b).

3. What predisposed the existing situation in the communications sector?

Answering this question requires a retrospective consideration of the last ten years in Georgia, the short though crucial period of its history, related to the restoration of independence in the country and the collapse of the Soviet Union.

Unfortunately, various subjective and objective reasons of this period instigated vigorous political confrontations, escalation of ethnical conflicts and even the civil war. These events have had a heavy impact on the development of society and have resulted in economic decline and devastation.

It is clear, that the communications sector could not avoid these historical cataclysms. The sector possessed technical potential, corresponding to the level of development of the SU of that period; nevertheless, it experienced some damage, and even robbery (numbers of identified facts require an investigation and punishment, let alone a few exceptions).

On the other hand, the aforementioned sharp political and social confrontation, war and disorders, especially in early 90-ies, paved the way for the accumulation of considerable illegal financial resources and other valuables in the hands of criminal groups, greedy officials and administrative bureaucrats - small but the most uncontrollable groups of the society. This happened by means of various machinations, illegal deals, cheating, deception of population (recall the stories of financial trickeries, so called monetary pyramids, devaluation of vouchers and bank accounts, etc). Some of these criminal groups had close relationships with the similar groups outside Georgia, in Russia and other CIS countries in particular; some of them managed to transfer significant amounts of resources outside Georgia, etc.

Therefore, they faced the urgency (persisting even today), of “laundering” of accumulated criminal “black” money (and other valuables), investing them in legal business and receiving legal profits.

On this background in mid-90-ies Georgia encountered the necessity of consideration of those trends of liberalization and privatization, which had started much earlier in developed countries, as well as in others, including Eastern Europe and CIS.

This objective situation has been efficiently used by the above-mentioned groups and individuals for laundering of those accumulated resources via a promising and rapidly developing telecommunications sector. These activities were ignored by the authorities, but more frequently they had obvious interests in them. Moreover, very often these activities

were performed to the detriment of state-owned companies, through obscure licensing procedures, relocation of their material and technical resources to the private sector, ignoring the principles of fair market competition, etc.

We will try to present an unbiased analysis of the development and succession of these events based on existing evidence and official documents.

4. Initial stage of liberalization and de-monopolization in the communications sector

It is a recognized fact that all branches of the communications sector in the former SU, including Georgia, were subject to centralized management via all-union and republic ministries of post and communications. This practice has been automatically maintained after the collapse of the SU. The state has monopolized all types of communications services under the aegis of indicated ministries.

Transition to the market economy resulted in the initiation of the process of de-monopolization and liberalization in this sector. The first stage of privatization of the communications sector in Georgia was undertaken in 1995-96, based on an agreement with the Ministry of Property Management of Georgia. Facilities of so-called *indirect use* (e.g. enterprise “Sakkavshirmshenproekti”, joint enterprise “Sakkavshirmsheni”, printed media distributing enterprise “Matsne”, etc) were mainly included for privatization at this stage.

During this period, including the first half of the 1998, more than 400 (?) licenses were issued permitting activities in different fields of communication. The methods and rules of licensing, as well as symbolic costs will be discussed later.

The following stage of privatization covered the main telecommunications segment of the communications sector - local, international and long-distance telephone services operator companies in particular.

In early 1998 European Bank of Reconstruction and Development (Eurobank – EBRD) expressed official interest in privatization of these segments of the communications sector. This was the period when the interest towards privatization of the CIS telecommunication companies on the telecommunications market worldwide was rather strong and the environment for privatization – rather beneficial. Nevertheless, since 2000-2001 privatizations of a number of companies and saturation of the market, resulted in a gradual worsening of this environment; the interest of investors to these companies went down, as well as their prices, thus competition between the objects presented for privatization has become tougher.

Unfortunately, the leadership of that period of the Ministry of Post and Communications could not, or rather did not take into account these trends. Moreover, it regarded privatization of operator companies (“Sakartvelos Elektrokavshiri” and “Georgian Telecom” in particular) inexpediently and early. For information: these two companies are the leading operators in local telephone (PSTN) and international and long distance telecommunications (I&LDT) service sectors respectively. State enterprise “Sakartvelos Elektrokavshiri” (“El.Kavshiri” hereafter) is 100 per cent state-owned, while only 51 per cent of the “Georgian Telecom” Ltd (“GT” hereafter) is state-owned.

This opinion, deliberately wrong or prompted by erroneous strategy, has been officially presented to the government of Georgia, i.e. to the State Chancellery and the Ministry of Trade and Foreign Relations. This step actually obstructed initiation of the process of timely privatization of mentioned companies.

Below we are discussing the arguments used to prove the statement that privatization of the state operated companies was early. The documents [1, 2] state (quotes hereinafter are given in Italics and inverted commas):

9. *“Existence of state telecommunication network is one of the important factors for restoration of the territorial integrity of Georgia.*
10. *Public enterprises of the communication sector form unified proprietary complex representing unified operational technological process. Therefore, prior to restoration of the territorial integrity of Georgia initiation of privatization process is unreasonable; moreover, it is absolutely inadmissible.*
11. *Public enterprises of the communication sector are the objects of strategic importance; hence, we think that before completion of the stabilization process in the country, it is essential that the state execute regulatory functions and management of state-owned communications network.*
12. *We think that profitable directions of the sector should stay state-owned; it is completely pointless to sell them, especially to foreign companies.”*

Further developments showed that neither of these, at first sight patriotic and state-devoted approaches was successful, as restoration of the territorial integrity and stabilization are determined by different factors – solving of these problems are subject of political regulation and expression of proper will. Consider the example: separatists from the territories of Georgia, torn away due to ethnical conflicts – Abkhazia and South Osetia (Samachablo) - by means of impudent violation of international regulations and through support of Russia have been for years using international telephone connections through

Russia and its code “7”. The Ministry of Communications and political leadership made a huge effort to operate mentioned services from these territories via Georgia using its international code “995” by “GT” service. Unfortunately, this undoubtedly correct political accomplishment has had a reverse economic effect on the company due to the inability of central authorities to collect service charges from the uncontrolled territories. This means that the separatists utilize communication services free of charge, imposing a heavy burden on 51 per cent state-owned “GT”, while private operators never provide free services.

As for the argument of leaving profitable enterprises to be state-owned – this step is often not justified in a competitive market economy environment. It gives a reverse effect and transforms the issue into a problem; besides, from the mentioned two large operators actually only “GT” was quite profitable. On the background of the highly competitive market environment (private operator companies working on the same service segments emerged on Georgian market and rapidly increased in number in that period) even “GT” encountered difficulties; to be more precise, its operations were purposefully, artificially hampered, often by means of unacceptable methods, that will be discussed below (including complicated mechanisms of administrative bureaucracy and the deeds of the corrupt officials).

We are talking about the practice of the companies’ tariff-setting policy of that period, when private companies were able to efficiently regulate service prices according to their strategy and capacity, while the same policy of state-owned companies depended heavily on multi-stage long-lasting procedures in the ministries of Communications, Economics and Justice. This was supplemented by the necessity of overcoming mentioned bureaucracy and administrative barriers set by “interested” officials.

Thus, private companies, which could execute flexible tariff-setting policy without any restrictions, managed to gain more benefits from redistribution of market shares in some segments of the communications market, to the detriment of the completely or partially state-owned operators. This was a purposeful and gradual process, often based on illegal mechanisms (see below).

Above-mentioned illegal mechanisms primarily include introduction of artificial restrictions, unknown to the international practice, at the expense of abuse of inviolable customer rights, i.e. free choice of an operator on the basis of own will and service parameters offered by companies on telecommunications market, such as prices (tariffs), quality of service and comfort, loyalty to any of the operators, etc.

Regrettably, all these criteria have been roughly violated in Georgia, in particular: “GT” accessibility code “8-10” has been artificially blocked for their own subscribers by the

private companies “GeoCell”, “Akhali Kselebi”, “Akhteli”; uncontrolled redistribution of traffics and changing of their routes; transformation of a code chosen by a customer into another operator’s code and other illegal maneuvers (for information: traffic in telecommunications means summarized telephone calls performed in different routes, i.e. line occupancy).

Several facts of the similar corrupt practices were identified, including identification by means of commissions (through participation of high-ranking officials from different institutions), but neither the antimonopoly service, nor the ministries could, to be more precise, prevent these activities.

Moreover, the Georgian National Communications Commission (“Commission” hereinafter) - a positive happening in communications sector - encountered substantial problems in precluding similar activities. The situation has significantly improved recently, especially because of the inter-connection agreements made between the operators. Nevertheless, existence of the “shady” traffics (even the “Commission” admits their reality of these traffics) points out the fact of these illegal activities still needing to be precluded by legal and technological methods. This would undoubtedly decrease the level of corruption in the sector, weaken the mechanisms of money laundering, withholding of profits from the state and possibilities of tax avoidance.

The supporting argument presented by the leadership of the Ministry of Communications regarding the negative outcomes of the sector privatization in Armenia was also improper, as actually all segments of the telephone services (local, cellular, international and long-distance) in Armenia are monopolized by one foreign - Greek - company (the reasons for this are a subject of a separate discussion). Monopolization of all these services in Armenia resulted in an imposed settlement of tariff-setting policy and other undesirable events.

This comparison is meaningless for Georgia, as for that period private companies in all mentioned fields of services already existed in the country and privatization could not produce a monopolist operator.

And yet, what predetermined such a negative attitude towards privatization of the sector leadership of that period? Simple analysis gives an answer to this question, particularly if we also refer to the materials published in press and the conclusion of 1998 “On Situation Created in Communications Sector” [3, 4, 5] made by Sector Economy Committee of the Parliament of Georgia.

The explanation is the following: as a result of privatization of the entirely (100 per cent) and partly state-owned (51 per cent) main operator companies “Sakartvelos Elektrokavshiri” and “Georgian Telecom” newly created private companies “Akhali Kselebi” Ltd, “Akhteli” Ltd, JSC “Egrisi”, “GeoCell” Ltd (and later - others) could hardly compete on equal terms with these two large, already privatized operators. Above-mentioned statement of the Parliamentary Committee asserts that listed private companies were founded through direct participation of the Ministry leadership of that period. They were interested in setting up greenhouse conditions for these companies, including the use of illegal methods discussed above, to enable them to gain profit from prompt market stock redistribution at the detriment of the state-owned companies. This actually happened.

It is a paradox, but the aforementioned two state companies (“Sakartvelos Elektrokavshiri” and “Georgian Telecom”) participated as shareholders in the creation of private companies (the step dictated by the Ministry). Later, in accordance with the directions from above they “created” their own prospective competitors, provided them with material and technological assistance, took on the role of a financial guarantor, hard to believe, but they even advertised their competitors’ activities, etc. Further, again in accordance with the directions from above, their shares were reduced gradually – they were redistributed to the concerned private participators. All this became possible because of the high levels of corruption and the existing syndrome of impunity.

Therefore, this strategy was absolutely logical and justified for private companies, while it was damaging for state-owned ones.

Prior to moving to the second stage of de-monopolization and privatization of the communications sector and related problems, for more clarity we will make a brief overview of the telecommunications market infrastructure in Georgia and its further transformation.

5. The infrastructure of the telecommunications market of Georgia, its main consumer segments and means of regulation

Three main customer segments and consequently, the operators of the following types were identified on the telecommunications market of Georgia: local telephone networks (PSTN), mobile (cellular) and international/long-distance communication (I&LDT) companies. The top four rows of the diagram (Fig.2) illustrate their coverage area, approximate number of customers, operator-accessibility codes, form of ownership and main founders (owners). The lower rows demonstrate the main Internet-providers (ISP), the

companies with cable TV and optic-fiber cable trunks/networks. Today these companies significantly influence formation of the telecommunications market in Georgia and their role might even increase in the future; moreover, some of them have already obtained licenses for I&LDT and PSTN services.

Fig.3 is a diagram of the course of activities for the aforementioned three operators according to the services rendered in 1998-1999. Payments to the state budget are taken as indicators of their success (or failure). Taking as a reference point an assumption that these companies are fair taxpayers (existence of the “shady” traffics decreases this probability), this indicator gives somewhat approximate information about the success (or failure) of their business.

Fig.4 and 5 represent interconnection schemes between mentioned main operators in 1998 – 2002. With “clouds” are marked the companies, having their own subscribers; the codes of accessibility to international operators are also given, as well as a possible numbers of their own subscribers. The operators under the unified management are marked in double lines. The dynamics of the development of the market are evident. Above all, 100 per cent of “ElKavshiri” and 51 per cent of “GT” remain state-owned.

As it is obvious from the Fig.5, the highest level of competitiveness is observed in the segments of rather profitable (like cellular) international and long-distance telephone services. For the period of May 2001 13 licensed companies operated in these segments, some of them provided this type of service through the Internet network (correspondingly with lower the tariffs and the quality, but these are not indicated on the Fig.5 in order to avoid confusion). Main share of the incoming/called and outgoing/calling international traffics of Georgia was and is still operated by 6 top operator companies, which are actually the “system-formation” operators.

Table #1 indicates the allocation of the market share per income according to the data of the Commission (Georgian National Communications Commission – GNCC), and the corresponding histogram is given on Fig.6. Unfortunately the data in table #1 could not include the shares, which the cellular network companies have from the rather significant traffics (generated from international calls performed by the subscribers of their own networks through the licensed and additional codes), which are not differentiated from the actual mobile traffics (for information: in 2000, 2 per cent share of “Rustavi 2 Online” refers only to its Internet-providing operations).

Title	2000	2001 (1-6 months)	2002 (beginning)
“Georgian Telecom” Ltd	59,28%	45,15%	37,44%
JSC “Egrisi”	18,90%	26,47%	24,77%
Rustavi2 Online” Ltd	2,01%	5,31%	14,06%
JSC “Global One”	5,29%	6,33%	8,21%
“Saktelkomplus” Ltd	4,72%	5,84%	5,92%
“Caucasian Digital Network” Ltd	0,28%	2,43%	3,89%
“Sita” Ltd	2,96%	2,37%	2,23%
“Good Will Communication” Ltd	4,41%	2,40%	1,65%
“Ultracomunications” Ltd	0,56%	0,81%	0,79%
“Lagi” Ltd	0,47%	0,67%	0,54%
“Infotel” Ltd	2,10%	1,65%	0,50%
“Taro Invst” Ltd	0,70%	0,43%	0%
“Macrocom” Ltd	0,32%	0,14%	0%

Table #1

The comments will be made on telecommunications service segment, important for the country, on the basis of the data of the Table #1 and Fig.5; but before doing that, it is worth recalling some events from the past.

In 1991, after restoration of independence of Georgia, the issue was put on the agenda to operate telephone communications of the independent state with other countries directly and not via Russia, as it happened in the USSR period.

The first successful effort was made in the same year by “Georgian Intelcom” Ltd, established in that period, through satellite-isolated lines (via Vienna). American company “Videotel Corp” participated in this project.

After the well-known civil conflicts in Georgia (1993) new leadership of the Ministry of Post and Communications founded another similar company “Egrikomi” Ltd and replaced “Georgian Intelcom” with it. This time communication was operated through isolated satellite links via Germany (Hanover).

This decision, actually pushed (presumably prompted to the leadership of the Ministry by the necessity of hunting for a more advantageous partner), the problem and became the subject of the lawsuit in an international court - American company “Videotel” filed the case. The court levied the Georgian side with a payment of financial compensation. Cited activities marked the start of a forcible, sometimes unsubstantiated (evidenced by the materials of that time), biased decision-making by the communications sector leadership of that period.

Later, as a response to the request of Georgia and the rest of the CIS representatives, International Telephone Union (ITU) assigned these countries individual accessibility codes (“995” to Georgia in particular).

Exactly in this period, on 19 March 1994 “Geocom” was founded, 20 days later it was transformed to “Georgian Telecom” Ltd. (why?) The latter, starting operations the same year, gradually arranged direct satellite links with different top operators worldwide: AT&T, MCI, SPRINT (USA), BT (Britain), FT (France), GT (Germany), OTE (Greece), IT (Italy), TT (Turkey) and naturally, with the telecoms of the CIS countries (Fig.7). Soon after the start of the “GT” operations “Egrikomi” Ltd stopped functioning. At the beginning of 1998 “GT” Ltd was the leading international service operator in the field, it has actually monopolized the field, excluding the insignificant share of the ordering-service long-distance exchange operator “07” (“Georgian Telephone Communications Center” Ltd - GTCC), as well as the roles of the companies ‘Goodwillcom’ and “Saktelcom-plus” - the rightful heir of the governmental communications operator ‘Iskra’ (Fig.4).

It is essential to list the founders of “GT” Ltd along with their shares. These are the Ministry of Post and Communications of Georgia (40 per cent), above-mentioned GTCC (11 per cent) – i.e. actually the state is the holder of the controlling 51 per cent of the interest, American Company “Metromedia Int” (30 per cent) and “Bulcom” (19 per cent). The latter has nothing in common with the Bulgarian “Bulcom”; it is a company registered in an offshore zone of Cyprus as an “unidentified object” (as per materials of the Parliamentary commission of 1998 [3]). It is difficult to identify the real holder of the company. According to some data these are the top power representatives of Georgia, (including the military establishment). The logical assumption arises that a highly profitable company like “GT” was obviously a meaningful target for investing “black” money in successful legal business, for the purpose of its laundering and receiving dividends in the future.

As for another founder, American company “Metromedia International Telecommunications” Inc., it is recognized in the world of telecommunications as a rather large investor with interests in many countries of Eastern Europe and the CIS including Georgia. It started to invest in Georgia in a quite risky period. As far back as in 1993 it established the companies “Ayeti” (100 per cent) and “Paging” (100 per cent), later – the radio station “Fortuna” (100 per cent); it is the co-founder of “GT” (30 per cent), the cellular network company “Magticomi” (30 per cent) and the radio station “Fortuna-Plus”.

Despite these intensive activities of “Metromedia” in Georgia, it had the problems with the leadership of the Ministry of Communications of that period. This is evidenced by the letter of the President of “Metromedia” Richard Sherwin to the Ambassador of Georgia in the US, published in the newspaper “Resonance” on 1 June 1998 [6].

The letter describes the offers of the leadership of the Ministry, the terms due to which “Metromedia” became the co-founder of “GT” and the risks associated with this enterprise. The president talks about the expenses (approximately 330 000 USD) paid for resolving the international lawsuit, filed by “Videotel”, on behalf of the Ministry, where the latter had the position of an awkward defender. The personal deeds of the minister are also mentioned, when the resources of “GT” in the form of dividends taken in advance were used for the needs of the Ministry. Moreover, through his direct participation the private company “Egrisi” was financed at the expense of “GT” (e.g. suspiciously increased rents, lending money, etc). It is worth mentioning that ‘Egrisi’, founded by the Minister and his team, was a direct competitor of “GT”.

The letter also points out that the minister, as a shareholder, was interested in conflict between ‘Magticomi’ and ‘El.Kavshiri’ (through participation of “GT”) in favor of “Geocell” and other facts proving the conflict of interests. Above all, the letter speaks about the fact that “Metromedia” suggested the minister (and the first deputy) implementation of new technologies by means of “GT”, promising considerable reduction of telephone service costs. The Ministry agreed, provided “Egrisi” should operate these services. The agreement was not reached due to obvious reasons and “Metromedia” started implementation of new technologies in Russia and Kazakhstan instead. This was an outcome of placing private interests above the state priorities.

This is a quote from the article published in the newspaper “Resonance” on 3 June 1998 [7]: *“Despite the fact that the Ministry of Communications has control over the company (highly profitable) “GT”, despite the fact of possible personal involvement of the minister via the unrecognized “Bulcom” Ltd (our comment: and involvement of other high officials – for the purpose of money laundering), he is still not satisfied with this situation and tries to replace “GT” with the JSC “Egrisi”. This is proved by the approaching shift to services of “GeoCell” and the attached letter of the President of “Metromedia” Richard Sherwin”.*

The quote (continued): *“To some extent or another, the minister has involved his private company “Egrisi” in business of all sectors of the regulation field: TV and radio (“Iberia TV”), cellular network (“GeoCell” Ltd), local communications (“Akhalı Kslebi” and “Akhteli”) services. This is a clear example of a conflict of interests and a severe violation of the Constitution and other laws.*

All structures of the Ministry of Communications participate in business activities of the fields under their control through relevant Ltd-s: “Sakartvelos Posta” Ltd, “Express

Posta” Ltd (company similar to “DHL”), “Argotour” Ltd, etc. These activities are regarded as a de-monopolization by the leadership of the Ministry, making arrogant statements about having issued more than 400 licenses; to whom? Though, this is a perfect method of a masked monopolization.

The state sector is also controlled by the “Ltd-ized” Ministry: through consent and support of the Ministry “Saktelcomplus” Ltd owns by means of a leasing agreement and employs separated telephone network “Iskra”. Subscribers of the latter are: the Parliament of Georgia, State Chancellery, ministries, departments, etc. throughout the whole territory of Georgia.” (End of the quote).

Thus, since 1998 private JSC “Egrisi”, using abovementioned strategy and methods, purposefully and gradually managed to get control over the significant market share of international and long-distance telephone services segment (see fig. 6 and table 1). These steps were definitely facilitated by organizational and managerial union with the following companies: “Akhali Kselebi”, “Akhteli” and later - “Fopnet” Ltd (the supervisory body of the TAE Project fibro-optic trunk Georgian segment), which had the same general director (the deputy of the ex-minister of communications). The cellular network company “GeoCell” was the part of this conglomerate till 2000. “GeoCell” came out of control of it after losing the court case (in order to clear the liabilities Georgian side was forced to yield its shares) and advent of the Turkish management. Fig.8 represents an attempt to a give graphical illustration of this not easily imaginable telecommunication conglomerate, created through direct participation of the JSC “Egrisi” – actually the private structure parallel to the Ministry of Communications. The Fig.8 also indicates the dates of registration of these well-known organizations (often a few days intervals had separated these dates, and later the chain reaction of establishing each other started!). It also shows the interest bearing shares of the founders. This structure, somewhat chaotic at a first glance, is characterized by the deep internal logic. Individuals – the founders of “Egrisi” or its supervisory board are related to each other, including family/clannish or any other forms of relationships, thus supporting the cohesion of the conglomerate and its management.

It is remarkable, that “GT” officially represented the interests of Georgia in the period of design of the Georgian segment of the TAE (Trans-Asia-Europe telecommunications fibro-optic trunk) project and at its initial stages; but from 1998 on the leadership of the Ministry of Communications has made a decision to replace “GT” with the private company “Fopnet” Ltd, created for these purposes, i.e. one of the constituent parts of the mentioned strategy, according to which biased decisions of higher officials result in private interests

prevailing over the national ones, resulting in losing direct control of the state over the strategic trunk, and consequently – losing related profits.

From the beginning of 1998 other international private operators gradually invaded the market. Table 1 and Fig. 6 describe the dynamics of development of this market segment. Gradual reduction of the share of the state-owned dominant operator “GT” on this market segment, against the increase of the private companies’ shares, is obvious. This means that even in case of its privatization (A process so stretched in time) in a liberalized market, “GT” would practically never become a monopolistic operator. It is worth recalling that the former leadership of the sector seemed to be “sacred” by this possibility, proving fears by the poorly chosen Armenian example.

As for the increase of the total share of small private operators (“Goodwillcom”, “Global One”, “Saktelkomplus”, etc) on the market, we think that this was mainly caused by their relatively favorable agreements with “GT” (provided transit services for them), as well as by the fact that “El.Kavshiri” did not register the traffics (mainly due to the outdated stations and technologies) – the foremost reason of the manipulating through so-called “shady” (unregistered) traffics.

The question arises: why did “GT” initially make with these companies the agreements, less favorable for itself; did confusion, pressure or any other reason play a role here? The reality was that since the 3rd quarter of 2000 the negotiations of “GT” with the mentioned operators in order to regulate the terms of agreement, and the attempt of raising accessibility tariffs to Georgia on the international market, reached a deadlock despite the number of alternatives offered by “GT”. (It should be added here that often mentioned accessibility tariffs were artificially dumping, sometimes 5-6 cents and less. These companies refused to make certain agreements and preferred to delay the answers, as the terms of the existing agreements were favorable for them. Simultaneously, some of them were having negotiations with other companies (“Egrisi” in particular) on the issues of re-addressing traffics and making transit communications by-passing “GT”, i.e. again to the detriment of the state.

Here we would like to emphasize a huge success, achieved in a short period, by the new operator “Rustavi 2 Online”, which emerged on the market relatively late – in 2001. According to its share, today this company is actually the third operator, preceded by “GT” and “Egrisi” (Table 1, fig.6). Despite the modest initial technical capacities the success of the company was predisposed by the following reasons: firstly, an unlimited (actually free) advertisement via the private TV Company “Rustavi 2,” which in fact owns this operator.

The advertisement, quite aggressive, was (and still continuous to be) instructive (opposite to the existing Law on Advertising Activities, though observance of this law is ignored). This method of advertising confuses an uninformed customer, who thinks that the code of this company “8-07” should be used. Also, different governmental and legislative structures are lobbying “Rustavi 2 Online” (probably avoiding complications in relationships with TV). Here is the case, when “GT”, refraining from signing an unfavorable contract with “Rustavi 2 Online”, has eventually been forced to give in, with pressure from the authorities. That is to say, even the authorities ignored the interests of the state-owned company. The signs of corruption are obvious.

Situation has gradually improved after the creation of the Georgian National Communications Commission. Considering international practice, the Commission developed the thesis of the Interconnection Agreement, obligatory for all operators. Registration of these agreements started in May 2000 and should be finished by the end of this year.

For example, absolutely unjustified distribution of profit shares between the operators (they had no methods of calculation of these shares and distribution was based on subjective deals) is replaced by strictly regulated tariffs on call termination and call initiation in networks (6 and 22 Tetri in local and cellular networks respectively), as well as transit transmission of calls. Moreover, these tariffs are cost-oriented and are agreed with the “Commission” (see the thesis on the Interconnection Agreement of communication networks [8]).

We completely agree with the thesis of the annual report of the “Commission”, stating that *“Interconnection between the operators defines the system of financial, economic and technical relationships, which generally guarantees the prerequisites for the competitive, liberalized, non-discriminative and transparent environment in telecommunication services”*.

Recently the “Commission” has made a positive step by imposing separated limited tariffs for international calls from fixed and mobile phones according to their directions [9]. This will definitely put capabilities of international operators on a par with cellular network companies (due to shortsightedness or any other reasons additional licenses of international operators were issued to cellular network companies) and will financially differentiate these two types of services.

This was another step forward made by the “Commission” since the period of imposing limited tariffs (22 May 2001, Regulation #5[10]). Necessity of this step, justified

by the “Commission”, was associated with unpredictable trends born in international telephone services in the middle of 2000. In particular: in order to maintain competitiveness, and transfer traffics, certain operators initiated dramatic reduction of retail prices, sometimes even below net costs.

The mentioned regulation also controls such an important element of an international telephone communication service, as the tariff of termination of an international call in Georgia, transferring this call to a customer-addressee on its territory. The lower limit for this tariff was set up as 14 Tetri in a fixed network and 25 Tetri in a cellular network [9].

These tariffs, which in some way defend interests of Georgia on the international telecommunications market, are hardly perceived (that is to say, without enthusiasm) by our partners, used to low, actually dumping prices for the calls terminated in Georgia, set up through the corrupt deals of some of our operators.

The situation has been extremely strained with the Russian side, which traditionally was used to asymmetric tariffs on traffic transmission with Georgia, when tariffs for outbound traffics from Russia were greater than tariffs for inbound traffics from Georgia (Russia explains this by the large size of its territory, while USA, China or other countries never do the same).

We have approached one of the rather important issues of international telephone communications in Georgia, i.e. telephone communications with Russia, since inbound and outbound traffics of this country with Georgia constitute more than a half of the total similar international traffics of Georgia. This means that terms and conditions of transmission of these traffics are very important strategically.

It should be mentioned that during several years it has been impossible to operate traffics through Russia on the basis of a direct agreement made with its major operators, e.g. “Rostelecom”. “GT” “Rostelecom” explains this by the existence of unarranged debt issues. Therefore, the contacts of this kind are made via the Russian intermediary company “Skotko”, registered in Switzerland. “GT” has made huge efforts to achieve an agreement on acceptable terms with this company - this gradual process was rather complex. It is also worth mentioning, that using disagreements and absence of strategic view of the local international operators, “Skotko” manages to offer different tariffs for traffic transmitting via Russia, overall to the detriment of the operators and the state.

Prior to moving to the analysis of the situation at the second stage of the process of de-monopolization and privatization, we should talk about the rather complicated and extraordinary situation in the local telephone service segment. This was the result of a biased

policy of the leadership of the sector, when private local operators (“Akhali Kselebi”, “Akhteli”, “CGC” Ltd – the company licensed as a Rustavi zone telephone network operator) were created to the detriment of interests of the state-owned “El.Kavshiri”, often by means of using and relocating its resources. Please, consider: the company “CGC”, i.e. “Central Communications Corporation” has been established by the same “Egrisi” (!) together with the Greece “Generis” Ltd, as in the case of “Akhali Kselebi”, “Akhteli”. This is one more example of conflict of interests.

Described situation strains relationships between the companies, becoming the subject of controversy because of the mistakes made in the past; above all, it prevents making interconnection agreements between the companies, affecting negatively international and long-distance communications sectors as well.

6. About the second stage of privatization and de-monopolization in the sector of communications

After the rather careful overview of development of the telecommunications market of Georgia and the evidence-based analysis of the problems and negative trends existing in the sector, we are moving to the second stage of the process of privatization and de-monopolization.

This period actually started in early 1999, when in summer 1998 Sector Committees of the Parliament of Georgia initiated special considerations of the state of affairs in the communications sector. This issue has already been discussed and highlighted by the newspapers “Resonance” and “7 Dge” (7 days), magazine “Profile”, as well as by the NGOs “Liberty Institute”, “International Center of Civil Development”, “Association Women for Democracy”, etc.

These organizations and media had put in joint declaration to the Parliament requesting consideration of the situation in communications sector, presenting the materials of independent investigations. Presented facts about commercial activities of the leadership of the Ministry of Post and Communications and other violations were verified by further Parliamentary listening and considerations. As a result, the minister and some of his deputies had to resign and the new leadership of the Ministry was appointed in 1998.

This was the start of the second stage of de-monopolization process in communications sector – the start of privatization of operator companies.

Thus, those so-called arguments (mentioned above), which the former leadership used for the blocking of the timely start of the privatization process, were neglected and the process started in 1999, in particular:

- February 1999 – the government made the decision about privatization of “Sakartvelos Elektrokavshiri” and “Georgian Telecom”;
- March 1999 – the tender was announced to select an investment bank;
- April 1999 – first stage, 6 investment banks were selected out of 35 candidates;
- October 1999 – second stage, 2 of the mentioned 6 candidates were elected: CCF (France) and Commerce Bank (Germany);
- February 2000 – third stage, priority was given to the Commerce Bank;
- June-September 2000 – this bank has been developing the documents for the tender through participation of the Transport and Communications, Public Administration and Regulation Commission (GNCC);
- 30 January 2001 – the tender was officially announced for total privatization of the two companies - 100 per cent of “El.Kavshiri” and 51 per cent of “GT” state-owned shares respectively.

This multistage procedure lasted almost 2 years, but in 2001 the privatization climate on the international telecommunications market was not advantageous any longer (the reasons of these benefits were discussed above). The opportunity has been missed; besides, from our point of view, the activities and initiatives of the Commerce Bank were not energetic enough. By the reason of all these facts announced privatization could not reach desirable outcomes and a real investor was not found. The situation remains unchanged even at present. Because of the failure to complete privatization state budget has lost considerable financial resources (presumably tens of million of dollars). The government hoped to get this money even in 2001 and has included it into the budget; later this money was pointed out as a reason of a significant budgetary gap.

Thus, blockage of the start of the timely privatization, because of clannish interests in particular, damaged state interests – the budget of the country has lost considerable amount of resources.

It should also be noted that the worsened background of privatization is even aggravated by worsened financial characteristics of the companies presented for privatization, in particular their high indebtedness (including creditors’ debts) – unfortunately, traditional for the last period.

Main reasons of this are the numerous facts, when various governmental structures usually did not pay in due time, or even at all, for the services rendered by the two main state-owned operators (especially “GT”). These governmental structures are the Parliament, State Chancellery, ministries and various departments, even total regions – Adjara for example, let alone uncontrolled territories of Abkhazia and South Ossetia. Among the non-payers are the other operators and individuals as well.

In accordance with the existing legislation company has to pay to state budget VAT even if it could not manage to collect money for provided services (this is another paradox). Unfortunately, management of operator companies does not or cannot disconnect these steady non-payers (although disconnection is easily practicable), as the operators are state-owned. This is explained by insufficient courage of operators; illegal pressure and dictate of state officials also play role here, whilst this tactics is useless with private operators. At the same time resources of the mentioned state institutions, budgeted for telecommunications needs, are spent for different purposes, because of carelessness and purposeful (including corrupt) deeds of those officials. Private operators do not practice disconnection of non-payers because of different reasons, which are attributable to private relationships and collective nature characteristic for Georgia, although unofficial alliances (deals) could not be excluded in some cases.

E.g. according to the data of 2000 “GT” summary debt of different organizations, companies, departments and regions, accumulated during years reaches about 12 million GEL, resulting in indebtedness of “GT” in an amount of approximately 9 GEL. It is logical that a company with such liabilities would hardly attract any investors for privatization.

We would like to emphasize that privatizing is not an end in itself. It is reasonable if it is purposeful, transparent, is not influenced by clannish interests and dubious deals and pursues state interests. We would like to present two facts that caused public concern recently:

First fact: Scandalous privatization of 100 per cent state-owned information and data transmission center, the Internet provider “Infocom” in summer 2000 was widely publicized in mass media and still continues to attract public interest [10.11]. We think, it is a real example of money laundering in the communications sector, when a company is purchased at a low price (approximately 350.000 US Dollars) by the investment company “Center Invest”. B. Patarkatsishvili, one of the key figures of the Russian oligarch Berezowski group is officially regarded as an owner of the investment center (Patarkatsishvili is wanted by

Russian government as accused in cash machinations of especially large amounts and other criminal activities).

Materials published in press (an interview with the Deputy minister of transport and communications G. Karbelashvili, newspaper “Kviris Palitra” of August 2002 [10]) and the web-page [11,12] of “Navigator” state: the Ministry of Property Management camouflaged the situation around the privatization process of the mentioned company, it did not fulfill necessary provisions of the President’s order regarding the necessity of an international tender for privatization of the company, as well as widely publicizing it in mass media, etc.

As an outcome the company was sold at a scanty price. The quote from the interview: *“I am sure the Ministry of Property Management (I mean its higher officials) did not even now what kind of company it was. This was a secret deal. Otherwise it was impossible privatization price to be less than the price of only an actual space of “Infociom”.* No comments. An insignificant amount of money was transferred to the State treasury as a result (!).

We would like to add, that the promise of the new owner of “Infocom”, “Center Invest”, regarding substantial investments to improve company’s operations is not accomplished so far. The investor is not in a hurry, observing the course of events.

Second fact: regrinding “Sakartvelos lektrokavshiri”, not less outspoken and dubious. About in that period (summer 2002 [11,12]) it turned out that the Norwegian company “Telenor”, well known on the World’s telecommunications market, had to develop business plan for “El. Kavshiri” (this fact in itself should be welcome), but “El. Kavshiri” did not have 200.000 US Dollars necessary for this and a Virginian company of an unexplained origin “Selford” was involved in the process. At the same time in an interview to the TV channel “Rustavi 2” the representative of “Telenor” declared that the latter has not recommended “Selford”, that it has no information about this company and that the Ministry of Property Management was the advocate of “Selford”. Then “Telenor” has changed this position and its representatives announced about joint projects with “Selford” in a number of countries. This was the reason for advising Georgian side to choose “Selford” as a financial guarantor, though they did not specify the details of these joint projects for confidentiality reasons (?).

Later the president of “Selford” came into sight (the person migrated from Russian to the US). At the press conference held in Tbilisi “Marriott” hotel he gave general information about his company, without giving the details of the specific joint projects, but also added

that the company has good business relationships with the above-mentioned Mr. Patarkatsishvili (we do not comment on this).

After publicizing of this almost secret agreement, seen only by the former director of “El. Kavshiri” (even the supervisory board was not familiar with its terms), it turned out that according to its 3.4 paragraph: “Selford” would transfer to “Telenor” 200.000 US Dollars (charging interests as well) for developing a business plan for “El. Kavshiri”. Should “El.Kavshiri” not pay back all money generated as its liabilities to “Selford”, the latter would have the right to implement in any way the recommendations of the business plan, developed by “Telenor”; i.e. there is a risk that an absolutely anonymous company can take over the management of “El.Kavshiri” (the largest telecommunications operator in Georgia).

These issues were not ordinary, therefore, special commission was created in the State Chancellery for clarification of the shady situation, as according to the State Minister: *“Mistakes accompany the process of privatization in Georgia quite often; this requires detailed investigation of the issue to avoid any mistakes during making an agreement, though the very fact of cooperation of “Telenor” with Georgia is undoubtedly important”*.

According to the Deputy Minister of transport and communications, G. Karbelashvili [11] – *“Communications sector has a huge importance for the state and the issues similar to this should be solved at the Security Council level. The sector requires particular attention and creation of a shadowy environment around it is inadmissible.”*

Much to surprise, officials (including the officials from the Ministry of Property Management) had repeatedly informed the public that previously inefficient “El.Kavshiri” has recently become a profitable company, gaining 2.5 million GEL profits for the last 6 months. If so, why the company could not pay 200.000 GEL directly to “Telenor” for developing of a business plan, without involvement of an unknown “Selford”? At the same time materials about inspection of “El.Kavshiri” by the Ministry of Security Council, in press, state that the company has transferred greater amount of sum in accordance agreements, quite blurry from security point of view. The situation is definitely paradoxical.

We would like to raise again the issue of so called “shady traffics”, discussed not only in mass media, but in governmental institutions, in the “Commission” and even with the State Minister [11,13]. Not only are the representatives of the telecommunications sector talking about existence of the like traffics. It has repeatedly been declared that telecommunications operators conceal from the state and from each other certain part of traffic, actually increasing (illegally) their sources of income. No official documentary evidence proving this

is available and neither of organizations has until summer 2002 seriously researched this issue, let alone its eradication.

On July 26 of this year communications sector operators created a monitoring group in the “Commission”, with the main goal of “shady traffics” identification. The Head of the technical services of the “Commission”: *“Shady traffics” is a reality, existing worldwide. The difference is only in its volume. As a rule, these violations are program-based, hence activities for their identification are specific and labor-intensive, though identification is quite possible*”. The representatives of the companies declare that probability of “shady traffics” existence in Georgia is high and the work of the group will be efficient, should there be a proper will.

Here is an interesting publication from the newspaper “Alia” (August 2002, # 103 [14]) with a headline *“Why did “Online” and daily newspaper “24 Saati” get involved in a scandal, telephone market, unregistered minutes and “black millions”*. The article dealt about a large amount of an unregistered “black money” in communications market, mainly due to outdated equipment of “El.Kavshiri”, incapable to register incoming/outgoing calls (i.e. traffics). In the same article an assumption was made, that after the possible take over of the “El.Kavshiri” management by foreign companies (already mentioned above) and solving of these technical problems the international operator “Georgia Online” would lose a source of income from “shady traffics”. Because of this there started a noise around the take over of “El.Kavshiri” by a foreign management in the newspaper “24 Saati”. Moreover (continues newspaper “Alia”) exactly this kind of income was used by TV company “Rustavi 2” to found the newspaper “24 Saati”, and to launder this money “Rustavi 2” claimed that it had received a foreign grant, thus preventing the interest of the Ministry of Security and other institutions towards TV company and the operator “Georgia Online”. The situation is quite messed up; conflict of the interests and accompanying events are evident.

At the end of the presented analytical review we would like to touch two more issues: **the practice of licensing and some examples of lawsuits between the operators.**

7. The practice of issuance of licenses and permits in post and communications sectors

Before the creation of the “Commission,” (GNCC) a legislative basis for the perfect accomplishment of a licensing process did not exist in the communications sector. Initially licenses were issued in accordance with the paragraph #19 of the Georgian Law “On Communications” of 1994, which stated that licenses should have been issued according to the rules established by the Ministry of Post and Communications. Mentioned rule was further developed into the statute, representing a standard act, even not registered in the Ministry of Justice in accordance with the existing regulation. In spite of this, before its registration (in April 1988) licenses were issued on the basis of the mentioned statute.

The first annual report of the “Commission” states: *“Communication and Post have issued the licenses under various and ambiguous titles. Some of the issued licenses covered almost all spectrum of the sector activity. Besides, terms of licensing did not specify the territory and even the region of its coverage. Periods of validity were not identified as well; in number of cases the same types of licenses were issued for different periods of time and under different titles, etc. Licenses were issued almost for free of charge – fee for licensing was 30 GEL (!) Moreover, this sum was charged without any legal documentary basis. The Ministry did not keep a licensing list for registration of issued licenses according to established order.*

Due to mentioned circumstances the environment for licensing was not transparent and overcoming of corrupt barriers was difficult”(the end of the quote).

Imagine the temptation of an unfair, usually underpaid employee or an official of the sector whilst issuing actually free (priced symbolic 30 GEL) license (e.g. for an activity of cellular network or an international operator), who could have possibly earned much higher unofficial dividends from license-seekers refusing to issue a license by means of bureaucratic delay or other methods.

In July 1999 Law of Georgia “On Communications and Post” was adopted, which identified the types of licensing activities. Nevertheless, the Ministry had not even issued a single license based on this law, as in accordance with it has already been determined creation of the mentioned “Commission” (GNCC) - designated as a licensing body, and this was actually accomplished after the “Commission” was created in 2000.

It is worth mentioning that after transferring licensing procedures to the “Commission” the situation has improved significantly, becoming transparent. In particular, the amendments regarding licensing process were introduced to the Law of Georgia “On Communication and Post” in December 2000. Actual rates of licensing fees were identified; commercial competition-based licensing procedures were set up and were implemented practically. E.g. in September 2001 this method was used to issue a license for an international telephone communication service via the code “8-64” to “CGC” Ltd, which had won the tender paying 73.000 Gel (initial price was 9.300 GEL).

These amendments were also used to regulate one-time permit issuance procedure, which refers to the following technological matters: use of numeric resources, importing and selling of radio-electronic equipment, etc.

On this positive background it is necessary to recall from the past 2 examples of the corrupt licensing projects, which the author of the present analysis was directly concerned with:

In the first case Georgian Technical University requested from the Ministry of Communications in 1996 to allocate for the Department of Communications unoccupied frequency for radio broadcasting in ultra-short range which would serve Technical University and other higher schools. Special application of the panel of rectors has been filed. Despite all this (let alone collective nature) the Ministry spent more than a year (!) for consideration of presented perfect documentation (the Ministry was not able to find arguments against it), justifying delay with various unlikely reasons (overwork, frequent business trips abroad of the head of the “Commission” – the first deputy minister). During this one year another seeker of the similar license appeared – the newspaper “Resonance”. The Ministry made a decision to organize a tender, which had never ever taken place before for issuance of similar licenses (and had never taken place later). Eventually after the newspaper publications appropriate frequencies were allocated to the both candidates, which suffered from the delays for an year and a half (!) No comments.

Another fact refers to the tender organized by the Ministry of Post and Communications in 1999 to issue license for 1.800 mega-Hz frequency rate cellular telephone service. Several candidates expressed willingness to participate, including ‘Georgian Telecom’. After presenting documents and financial proposals to the tender commission it turned out that “GT” had the best financial liabilities compared to others. Despite this fact “GT”’s business plan has been rejected because of the fabricated reason (the fact not of the key importance in such tender), while priority was awarded to a less known

company “Ibercom”, whose financial guarantor was an unknown bank registered in an offshore zone of Virgin Islands. The tender ‘held’ in this way had an appropriate international resonance – the letter of protest of Richard Sherwin, the president of “Metromedia” - co-founder of “GT”, to the minister of Communications. Mr. Sherwin argued the illogicality of the tender held in this way and requested its revision, though in vain.

As a result the winner was unable to launch its activities for the period even longer than considered by the tender and after creation of the “Commission” its license has been withdrawn, i.e. the time has been wasted inefficiently. What was the reason of such an “objective” tender – haste decision, carelessness, inexperience, more reliance on an unknown investor than on the own state-owned successful operator ”GT” or any other reasons – it is not clear even today. Though the fact, that some of the Ministry representatives unofficially advised “GT” not to participate in the tender, is rather meaningful.

8. Consideration of the lawsuits between the operators

Judicial reform that has already started in Georgia is an actual necessity and should be welcome. The fact that operators use a civilized method of applying to court for clarification of controversies is a natural process and should be likewise welcome, especially in a country like ours, gradually getting used to civilized activities in a tough competitive market environment. In an atmosphere of centralized economy and management of the recent past similar cases occurred rarely. They were regulated from the top by the Communist Party and governmental bureaucracy, while courts took into account directions from above (let alone corrupt judicial practices). It was naïve to think that this negative tradition, deeply penetrated into mentality, would change overnight. Apart from the reforms, we should rather rely on new generation of lawyers, provided with appropriate salaries and guarantees.

We think, two facts presented below are the examples of biased decision-making in old traditions, which supported transfer of state funds to the private sector.

The first is a lawsuit between the cellular network company “Magticom” and local network operator “El.Kavshiri”, involving “GT” (this is pointed out in the letter of R. Sherwin, the president of “Metromedia”[6]). The main point of the lawsuit was following: at the beginning of 1998, in accordance with the direct order of the minister of Post and Communications “El.Kavshiri” suspended (restricted) services to “Magticom”, explaining this by the fact that the latter had not had signed the interrelationship agreement with “El.Kavshiri”. Though “Magticom” had signed the agreement with “GT”, according to

which the latter agreed to provide local and international services to “Magticom” (in return for payment). At the same time “El.Kavshiri” claimed that “GT” was not authorized to represent them in negotiations with “Magticom” with regards to connection to their services.

As an outcome of these complicated relationships “Magticom” has experienced material loss, in total amounted up to 2.4 million USD, together with a moral loss. Initially, after the series of court hearings “El.Kavshiri”, the logical reason of the loss (i.e. connection-restrictor), was imposed to compensate “Magticom”, but after the reconsideration of the case in the Supreme Court in 2000, “GT”, the “scapegoat”, was obliged to pay back the damages (for information: the Ministry already had a new leadership at that time).

The explanation of making this decision is following: “El.kavshiri”, unprofitable at that time, was actually insolvent, while collecting money from profitable “GT” was manageable, and it was managed. This was supplemented by approximately 1.6 million USD, direct indebtedness of “GT” to “Magticom”, generated from the terms of agreement, artificially detrimental for “GT”. New leadership of the Ministry advised (to be more precise, ordered) “GT” not to fulfill these terms.

Why has “GT” signed this agreement, whether this was a result of a deception, or a pressure, is not clear. The fact is that a few days later after signing the agreement the request of “GT” to revise its several paragraphs were rejected. “Magticom” was admitting that these paragraphs were beneficial for it, but refused to revised signed agreement. Eventually “GT” was obliged to compensate “Magticom” (rather was forced to finance it) significant amount – 4 million USD in total. Thus, biased, private interest-driven and forced decisions, made previously by the leadership of the Ministry, worked against “GT” and as a result finances of a state-owned operator have been legally transformed into the private sector. As for the co-owner of the both companies (“Magticom” ad “GT”), American “Metromedia”, it has not experienced any loss, taking money from one pocket and putting into another.

This extraordinary situation caused surprise and protest among the specialists. It was widely publicized in mass media, by the TV channel “Rustavi 2” in particular, which emphasized clannish and family interests associated with the supreme power in the program “60 minutes”.

Second fact is a lawsuit between the operator “GT” and the local telephone network company “Akhali Kselebi”. The latter, supported by the leadership of the Ministry of that period (1997-98), performed change over from so called connecting lines of “El.Kavshiri”, to its own systems (as “El.Kavshiri” claims, forcedly, without an agreement). Later “Akhali Kselebi” requested from “GT” fee for these services, however it had no claims while

performing the process of change-over (though “GT” could use earlier existing connecting lines of “El.Kavshiri”). Total amount of these fees in accordance with the Supreme Court decision of July 2002 was 748 thousand GEL, imposed to state-owned “GT” in favor of the private company ‘Akhali Kselebi’, i.e. as a result of forced change-over 51 per cent state-owned operator has experienced loss in favor of the private operator.

Another case between the cellular network companies “Magticom” and “Megacom”. The latter claimed about the illegal decision of the Ministry, which had handed over “Magticom” a part of a frequency line, allocated for “Megacom”. Consequently, “Megacom” was unable to use the equipment purchased and imported in the transferred frequency line. This unpredicted loss to “Megacom” was caused by the influence of the very powerful company “Megticom” and its main owner, well-known businessman G. Jokhtaberidze. Court has to take a decision about presence of bias and corruption in this situation.

The fact is that due to described situation, “Megacom” demonstratively refuses to pay “Commission,” (GNCC) the designated 1 per cent from the income (envisaged by legislation).

It has been already mentioned above that telecommunications sector of Georgia was involved in the international court hearings on the basis of the case filed by Videotel Corp. Similar situation could be easily repeated, taking into account the letter of the representatives of “Metromedia” and “Bulcom”, co-founders of “GT”, addressed to the state Minister, the ministers of Property Management, and Transport and Communications. The facts are presented in this letter, which should become the subject of the Stockholm International Arbitrary Court consideration. These are the facts regarding the deliberate violation of the “GT” service regulations by the leadership of the Ministry of Communications to the detriment of the company and their interests.

Finally, let us discuss the important types of population and postal services. In 2000 Dutch grant in the amount of 600.000 Guldens has been allocated purposefully for the development of the Georgian post in 2000. The grant was mainly assigned for countrywide computerization of the sector and improvement of communication and transportation among the post departments. According to the information of the present leadership of the Georgian Post, unfortunately, only 1/6 of the mentioned amount has been spent purposefully. Is this not a fact of corruption?

From the point of view of the same present leadership of the Georgian Post the Ministry of Property Management makes every unjustified attempt to speed up privatization of

premises belonging to the Georgian Post, motivating this by the lack of financial resources for their maintenance. Especially absurd is the attempt of an illegal privatization of the central cargo operations section located on the territory of Tbilisi Airport (clannish private interests are apparent), without consent of the Supervisory Board of the Georgian Post. This will significantly worsen operations of the Georgian Post and turn into a case, unprecedented in the international practice, when the National Post operator is deprived of an appropriate service in the main airport of the country.

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