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The freedom of contract is one of the main principles governing the Romanian civil law. According to Art. 1169 of the Civil Code, the parties are free to enter into any contracts and to establish their content, within the limits imposed by law, public order and accepted principles of morality.

The activity of the media agencies was governed by the freedom of contract principle, without particular legal restrictions, until April 2013 when the Romanian Government approved the Government Emergency Ordinance No. 25/2013 (“GEO 25/2013”) amending the Audiovisual Law No. 504/2002 (“Audiovisual Law”) and introducing new rules applicable to the purchasing of TV advertising.

The preamble of GEO 25/2013 justified the legal intervention on the need to fight the corruption in the advertising market (kick-backs and other forms of bribery), as well as the non-transparent and anti-competitive systems in this field, which affect the activity of TV broadcasters and the “right of the public to correct and quality information”. Furthermore, the Government indicated some of the media agencies involved in the financial circuits between TV broadcasters and advertisers are bad payers to the state budget.

GEO 25/2013 has added the following main restrictions:

- Any acquisition of TV advertising space can be made only by the advertisers directly; in case an intermediary is involved, the intermediary can only act as an agent, in the name and on behalf of the advertisers (i.e. the final beneficiary of the TV advertising);
- Any tariff offers presented by intermediaries to advertisers shall have to be priory confirmed in writing by the TV broadcasters and the intermediaries shall have to submit the written powers of attorney issued by the advertisers;
- The invoices shall be issued by the TV broadcasters directly to the advertisers and the payments shall be made directly from the advertisers to the TV broadcasters;
- Any rebate or tariff benefit, irrespective of its nature, granted by the TV broadcasters must be disclosed on the invoice issued to the advertiser;
- Intermediaries cannot receive any payment or consideration from the TV broadcasters; the intermediaries can receive payments or considerations only from the advertisers;
- Any legal act concluded in breach of the above-mentioned provisions is void.

For further details, please download the attached .pdf