

WHY GRA SHOULD COLLECT TV LICENCE FEES AND NOT GBC

By:

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The payment of Television License was introduced in Ghana in 1966 with the passage of the Television Licensing Act, 1966 (N.C.L.D. 89). The then sole-broadcaster of television content – Ghana Broadcasting Corporation (GBC) was named in the law as the licensing authority with the responsibility of collecting the licenses. The enforcement of this law since its passage has been largely ineffective. The licensing authority had to suspend the enforcement of this law and embark on public education in a bid to improve payment of the license by the public.

The ineffective implementation of this law can also be attributed to the ineffectiveness of the programming and content broadcast by the licensing authority which happens also to be the State broadcaster.

The reintroduce the collection of TV License fee, after putting it on hold due to non-payments, has been revived with the Honourable Chief Justice creating Special TV License Courts for the trial of recalcitrant TV owners and dealers who fail to pay the fee. The courts, numbering eleven (11), are located across all the regions of the country and are to sit every Thursday with effect from 4th January 2018. According to the letter from the Judicial Secretary to the Director-General of the GBC, the setting up of the Special TV License Courts was a request of the Director-General of the state broadcaster to the Honorable Chief Justice. The aim of this piece is not to address the propriety of the License fee but to question the mode of its collection and to suggest that the Ghana Revenue Authority (GRA) in conjunction with the Ghana Standards Authority and not the GBC are the appropriate state agencies for collecting the License Fee.

The TV licensing Act 1966 (NLCD 89). NLCD 89, in effect, creates three types of Licenses:

1. Domestic License for households or individuals authorizing the use of TV set(s) at the user's registered residential premises only (Section 1 of NLCD 89);

2. Commercial License, for entities using TV sets in their business/commercial activities or on premises occupied for business purposes including Hotels, Restaurants, Video Theatres and Video Rentals (Section 1 of NLCD 89); and
- Dealers' License, for businesses selling or hiring TV receiving equipment; and for repairers of television receiving sets (Section 2 of NLCD 89)

Failure to comply with the law comes with punitive consequences. Section 1 (a) of **NLCD 89 states that:**

any person who contravenes any provision of this law or regulation shall be guilty of an offence and shall be liable on conviction to a fine or to imprisonment for a term not exceeding one year.

As provided expressly in law but misleadingly communicated by the GBC, the TV License is merely for installing and using or dealing in **(a) Television receiving set(s)** and not for content or programmes of the state broadcaster. NRC 89 does not also say in any of its 13 sections that the funds collected from the license would be used to support the State broadcaster. It is the linking of the collection of the fees to the GBC that has created this seeming confusion in the minds of the broadcaster on the use of the funds from the license and the paying public. The TV License Fee, by its nature, is a form of tax as it is compulsory, levied by the state and purportedly for public purposes. Since it is a tax, its effectiveness must be measured against the principles of taxation. One of these principles is that the payment of a tax must be convenient. This means that the tax should be levied at the time and the manner which is most convenient for the contributor to pay it. For instance, if the tax on agricultural land is collected in installments after the crop is harvested, it will be very convenient for the agriculturists to pay it. Similarly, property tax, house tax, income tax, etc., etc., should be realized at a time when the taxpayer is expected to receive income. The manner of payment of tax should also be convenient.

AAs noted earlier, NLCD 89 permits the State to appoint other statutory corporations, other than GBC, as the licensing authority. Section 13 of NLCD 89 states:

“licensing authority” means the Ghana Broadcasting Corporation or any other statutory corporation appointed by the National Liberation Council by legislative instrument and any such

corporation shall have the functions conferred on the licensing authority under this Decree notwithstanding anything in the enactment under which it exists”

With the restructuring of Ghana Revenue Authority by the Ghana Revenue Authority (GRA) Act, 2009 (Act 791) and the enactment of the Revenue Administration Act, 2016 (Act 915) both with the overarching aim to streamline and improve the effectiveness and efficiency of tax administration in the country and considering the improved resourcefulness and facilities of the GRA, GRA is better placed to collect the TV License fee.

Again, collection of the License Fee by the GRA will give clarity to the purpose of the fee that is to raise revenue for the state and not a payment for content or programmes of the state broadcaster. This may disabuse the public of the wrong perception that the License fee is a payment for the services of the GBC and may deal with the excuse, which may be valid, that the content or programmes of the state broadcaster are very unsatisfactory. This will ease the concerns some Ghanaians have with respect to the utilization of the revenue collected.

Furthermore, the amount of the License Fee payable, should not be arbitrarily determined as GBC seeks to do but should be standardized and benchmarked against parameters such as the electricity consumption of the TV set, whether its new or a second-hand and other environmental hazards. The standards for License Fee payable can be rightfully done by the Ghana Standards Authority (GSA). The GSA has authority under Rule 3 of Ghana Standards Board (Food, Drugs and Other Goods) General Labelling Rules, 1992 (LI 1541) in relation to the offer for sale, sell, distribute, import or otherwise dispose of the goods such television sets and refrigerators without the proper labeling. With these labeling requirements in rule, the Standard Authority will be able to set standards and we will have a scientific and more informed basis for fixing the fees payable.

In the short term, Government should, therefore, exercise the power given under Section 13 of NLCD 89, strip GBC as the licensing authority and appoint the GRA as the licensing authority to use standards by the Ghana Standards Authority to license and collect License Fees because this will improve the legitimacy of License and enhance the effectiveness and efficiency in its collection.

In the long term, Government should take steps to revise NLCD 89 to accord with developments in technology and the broadcasting industry in Ghana. GBC is no longer the sole broadcaster and revenue other private broadcasting entities are sharing the space.