

INDEPENDENT BROADCASTING AUTHORITY ACT

Act 29 of 2000 – 1 January 2001

Amended 9/15 (cio 14/5/15); GN 153/16 (cio 1/5/16); 21/16 (P56/16 – cio 15/12/16); GN 87/18 (cio 1/10/10); 13/19 (cio 25/7/19)

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

1. Short title
2. Interpretation

PART II – THE AUTHORITY

3. Establishment of Authority
4. Objects of Authority
5. Powers of Authority
6. Constitution of Authority
7. Disqualification
8. Meetings of Authority
9. Term of office
10. Remuneration
11. Director
12. Appointment of staff

PART III – FINANCE

13. General Fund
14. Revenue and expenditure
15. Raising of loans
16. Auditor
17. Annual report

PART IV – LICENSING

18. Prohibition against broadcasting
19. Application for licence
20. Consideration of application
21. Grant or refusal of licence
22. Duration of licence
23. Transfer and surrender of licence
24. Variation and revocation of licence
25. Suspension of licence
26. Register of licences
27. Derogation in respect of, and restrictions on, broadcasting by Corporation
28. Broadcasting transmission company

PART V – CONTENTS OF PROGRAMMES

29. Standards and ethics
30. Complaints Committee

PART VI – MISCELLANEOUS

31. Oath of office
32. Conflict of interest
33. Confidentiality
34. Reception apparatus

- 35. Exemptions
 - 36. Protection from liability
 - 37. Offences
 - 38. Regulations
 - 39. – 41. —
- First Schedule
Second Schedule
Third Schedule

INDEPENDENT BROADCASTING AUTHORITY ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Independent Broadcasting Authority Act.

2. Interpretation

In this Act—

“access agreement” means an agreement made under section 18 between the Company and a licensee, which sets out the terms and conditions upon which the Company shall broadcast through transmission stations operated by the Company;

“Authority” means the Independent Broadcasting Authority established under section 3;

“broadcast” means emit sound or images by means of Hertzian waves, satellite or a wired electromagnetic system for reception by the public—

- (a) otherwise than within a self-contained building; and
- (b) extending to or connecting at least 2 buildings;

“Chairperson” means the Chairperson of the Authority;

“Company” means the company known as MultiCarrier (Mauritius) Ltd and referred to in section 28;

“Complaints Committee” means the committee set up under section 30;

“Conditional Access System” means any technical measure or arrangement whereby access to protected radio or television broadcasting service in unencrypted form is made conditional on subscription or any other form of prior individual authorisation;

[Inserted 9/15 (14/5/15).]

“Corporation” has the same meaning as in the Mauritius Broadcasting Corporation Act;

“digital broadcasting” means the practice of using advanced digital compression techniques to encode and transmit audio, text, data, images and video signals resulting in more efficient bandwidth usage;

[Inserted 9/15 (14/5/15).]

“Director” means the Director of the Authority appointed under section 11;

“employee”—

- (a) means any person who works under a contract of employment with the Authority;

(b) includes the Director;

“financial year” means the period starting on 1 July and ending on 30 June in the following year;

“ICT Authority” means the Information and Communication Technologies Authority established under the Information and Communication Technologies Act;

“Internet Protocol” means a standard consisting of a set of rules governing digital data communications on the Internet;

[Inserted 9/15 (14/5/15).]

“Internet Protocol Television service” means a service which provides scheduled television programming over a public network and may provide additional features such as data, text and audio signals which are ancillary to the scheduled television programming;

[Inserted 9/15 (14/5/15).]

“law practitioner” has the same meaning as in the Law Practitioners Act;

“licence” means any licence specified in the First Schedule;

“licensee” means the holder of a licence;

“local authority” has the same meaning as in the Local Government Act;

“member” means a member of the Authority and includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of matters relating to the Authority is assigned;

[Amended 9/15 (14/5/15).]

“Multimedia” means the combination of multiple forms of media such as audio, video, text, graphics, fax, and telephony in the communication of information;

[Inserted 9/15 (14/5/15).]

“Multiplex” means a bundle of television broadcast programs that have been digitised, compressed and combined into a single data stream;

[Inserted 9/15 (14/5/15).]

“Multiplex Operator” means the Company acting as such in accordance with section 28;

[Inserted 9/15 (14/5/15).]

“public network” means a network set up and operated by a public operator, to which the general public has access and through which it can connect to other networks or the Internet;

[Inserted 9/15 (14/5/15).]

“qualified auditor” has the same meaning as in the Statutory Bodies (Accounts and Audit) Act;

“reception apparatus” means any instrument intended for the reception of a broadcast programme;

“Standards Committee” means the committee set up under section 29;

“transmission station” means a station for the transmission of broadcasting for reception by the public.

[S. 2 amended by s. 25 of Act 9 of 2015 w.e.f. 14 May 2015.]

PART II – THE AUTHORITY

3. Establishment of Authority

(1) There is established for the purposes of this Act the Independent Broadcasting Authority, which shall be a body corporate.

(2) Subject to subsection (3), the Authority shall not, in the exercise of its functions, be subject to the control of any person, body or other authority.

(3) The Minister may issue directions to the Authority in relation to matters affecting national security and public order and the Authority shall comply with those directions.

4. Objects of Authority

The Authority shall—

- (a) promote the provision of a diverse range of radio and television broadcasting services throughout Mauritius;
- (b) promote the development of broadcasting services which are responsive to the needs of the Mauritian audience;
- (c) preserve and promote the pluralist nature of Mauritian culture by ensuring that licensees include, in their services, programmes reflecting the linguistic and cultural diversity of Mauritius;
- (d) ensure that licensees include, in their services, regular locally produced programmes;
- (e) ensure that broadcasting services are not controlled by foreign nationals;
- (f) impose limitations on cross media control of private broadcasting services;
- (g) ensure fair competition between broadcasting licensees;
- (h) set acceptable standards for programmes and advertising and monitor compliance with those standards;
- (i) ensure that broadcasting services—
 - (i) are of such a nature as not to encourage or incite crime or racial hatred leading to disorder or offending public feeling;
 - (ii) give adequate coverage to information, education, culture, entertainment and recreation; and
 - (iii) are impartial and accurate;
- (j) be the sole authority empowered to issue licences for broadcasting;
- (k) levy fees in respect of licences issued;
- (l) inquire into public complaints against a licensee and take any action it thinks appropriate;
- (m) promote, together with the ICT Authority, the most efficient use of the broadcasting frequency bands; and
- (n) monitor, after consultation with the ICT Authority, the availability of segments of broadcasting frequency bands and make recommendations for the allocation of frequencies to licensees of broadcasting services.

5. Powers of Authority

(1) The Authority may, for the purposes of this Act, give written directions to the Corporation or any licensee and they shall comply with those directions.

(2) The Authority may require the Corporation or any licensee to provide such information as it thinks necessary in relation to its broadcasting operations.

(3) The Authority may, in writing, authorise a member, or any person, to enter the premises of the Corporation, or of any licensee, to—

- (a) inspect any equipment, apparatus, or material which may be found on the premises;
- (b) take possession of the recording of a broadcast programme where the Corporation or any licensee has, pursuant to a direction under subsection (1), been directed to produce the recording and it has failed to do so.

(4) The Authority may—

- (a) set up such committees as it thinks fit to assist in implementing this Act;
- (b) subject to sections 29 and 30, delegate to any such committee such of its powers as it thinks fit other than the power—
 - (i) to issue licences; or
 - (ii) to borrow money or incur expenditure exceeding 10,000 rupees.

6. Constitution of Authority

The Authority shall consist of—

- (a) a Chairperson, who shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition;
- (aa) a representative of the Ministry;
- [Inserted 9/15 (14/5/15).]
- (b) a representative of the Ministry responsible for the subject of information;
- (c) a representative of the Attorney-General's Office;
- (d) a representative of the Ministry responsible for the subject of arts and culture;
- (e) the Chairperson of the ICT Authority;
- (f) not less than 3, nor more than 5, persons who shall, subject to section 7, be appointed by the Minister, having regard to their experience in the field of broadcasting policy and technology, media issues, frequency planning, entertainment, education or in any other related activities.

[S. 6 amended by s. 25 of Act 9 of 2015 w.e.f. 14 May 2015.]

7. Disqualification

(1) No person shall be appointed under section 6 (f) if—

- (a) he is a member of the National Assembly;
- (b) he is an office bearer of a political party or political organisation; or
- (c) he, his spouse or any of his children has an interest in a concern engaged in broadcasting, advertising or audio-visual production.

(2) A member shall cease to be a member where—

- (a) he becomes a member of the National Assembly;

- (b) he becomes a member of a political party or is actively engaged in politics;
or
- (c) he, his spouse or any of his children acquires an interest in a concern engaged in broadcasting, advertising or audio-visual production.

8. Meetings of Authority

(1) A meeting of the Authority shall be held at such time and at such place as the Chairperson may determine.

(2) The Authority shall regulate its own procedure.

(3) Where the Chairperson is absent from a meeting, the members present shall elect one of the members present to chair the meeting.

(4) Subject to subsections (5) and (7), the Authority shall meet at least 5 times in a year.

(5) The Chairperson may convene a special meeting at any time.

(6) Not less than 6 members may, by notice in writing, submit a request to the Chairperson to convene a special meeting.

(7) Where a request is made under subsection (6), the Chairperson shall convene a special meeting within 21 days of the receipt of the notice of the request.

(8) A notice under subsection (6) shall specify the purpose for which the meeting is to be convened.

(9) Five members shall constitute a quorum at any meeting of the Authority.

9. Term of office

(1) A member appointed under section 6 (a) or (f) shall hold office for 3 years and shall be eligible for reappointment.

(2) The appointment of a member under section 6 (a) or (f) shall not be terminated except for a reason specified in section 37 (3) (b) of the Interpretation and General Clauses Act.

10. Remuneration

Every member shall receive such allowance or remuneration as the Authority may determine.

11. Director

(1) The Authority shall appoint a Director on such terms and conditions as it thinks fit.

(2) The Director shall be the chief executive officer of the Authority.

(3) The Director shall be responsible for the running of the day-to-day business of the Authority and the implementation of the Authority's decisions.

(4) The Director shall—

- (a) exercise appropriate supervision over the other employees of the Authority;
- (b) attend every meeting of the Authority;
- (c) keep the minutes of proceedings of the Authority; and
- (d) oversee the keeping of the accounts of the Authority.

(5) In the exercise of his functions, the Director shall act in accordance with such instructions as he may receive from the Authority.

12. Appointment of staff

(1) The Authority may appoint, on such terms and conditions as it thinks fit, such employees as may be necessary for the proper discharge of its functions.

(2) A person shall not be eligible for appointment under subsection (1) where—

- (a) he is a licensee;
- (b) his spouse or any of his children is a licensee; or
- (c) he, his spouse or any of his children has a financial interest in a body corporate or other body which is a licensee.

(3) Every employee of the Authority shall be under the administrative control of the Director.

PART III – FINANCE

13. General Fund

The Authority shall establish a General Fund—

- (a) into which shall be paid all the revenue of the Authority; and
- (b) out of which shall be paid all the expenses incurred by the Authority.

14. Revenue and expenditure

(1) The revenue of the Authority shall consist of—

- (a) such fees or charges as may be levied on a licensee or on any other person;
- (b) such amounts as may be received from the Consolidated Fund; and
- (c) any other sum that may lawfully accrue to the Authority.

(2) The Authority may incur expenditure in relation to salary, wages, fees, allowances, administrative expenses and any other item for the purposes of implementing its objects under this Act.

15. Raising of loans

The Authority may raise loans to finance any expenditure which it may incur under this Act.

16. Auditor

(1) The auditor to be appointed under section 5 (1) of the Statutory Bodies (Accounts and Audit) Act shall be a qualified auditor.

(2) Without prejudice to the duties and powers of the auditor under the Statutory Bodies (Accounts and Audit) Act, the qualified auditor shall, not later than 4 months after the end of every financial year, examine and audit—

- (a) the annual statement of the Authority's income and expenditure; and
- (b) the balance sheet made up to the end of the financial year showing the assets and liabilities of the Authority.

17. Annual report

(1) The Authority shall, as soon as practicable after the end of every financial year, cause to be published a report in relation to its functions, activities, affairs and financial position in respect of the previous financial year.

(2) The report specified in subsection (1) shall include—

- (a) a copy of the audited accounts specified in section 16; and
- (b) a copy of every written direction issued under section 5 (1) during the previous year, together with an indication of compliance or non-compliance therewith.

(3) The Authority shall, as soon as practicable, but not later than 8 months after the end of every financial year, forward a copy of the report specified in subsection (1) to the Minister, who shall lay it on the table of the Assembly.

PART IV – LICENSING

18. Prohibition against broadcasting

(1) Subject to subsection (2), no person shall provide a broadcasting service unless—

[Amended 21/16 (cio 15/12/16).]

- (a) he is licensed to do so under this Act; and
- (b) in the case of terrestrial broadcasting, he provides such a service pursuant to an access agreement with the Company for the transmission of broadcasting by the person for reception by the public.

[Amended 21/16 (cio 15/12/16).]

(2) Subsection (1) shall not apply to the National Assembly for the broadcast of its proceedings.

[Added 21/16 (cio 15/12/16).]

[S. 18 amended by s. 14 of Act 21 of 2016 w.e.f. 15 December 2016.]

19. Application for licence

(1) Any person who wishes to obtain a licence under this Act shall make an application to the Authority in the prescribed form.

(2) The Authority may require the applicant to furnish—

- (a) information in relation to his ability to provide a broadcasting service or to the technical material available to him; and
- (b) information which may be reasonably necessary in order to enable the Authority to—
 - (i) determine whether the applicant is a fit and proper person to hold a licence under this Act; and
 - (ii) properly consider the application.

(3) Subject to subsections (3A), (3B) and (3C), the Authority shall not grant a licence where the applicant—

[Amended 9/15 (14/5/15); 13/19 (cio 25/7/19).]

- (a) already holds a licence or, directly or indirectly, controls or has an interest in an organisation, association, company or corporate body which already holds a licence;
- (b) is not a citizen of Mauritius or is not ordinarily resident in Mauritius;
- (c) is a member of a political party or is actively engaged in politics;
- (d) is a political party or association;
- (e) is a religious organisation or association;
- (f) is a local authority;

- (g) has been adjudged bankrupt or declared insolvent or has been found liable for defamation or sedition, or has been convicted for any offence involving fraud or dishonesty; or
- (h) is a company or body corporate—
 - (i) formed, registered or incorporated in a foreign country; or
 - (ii) 49.9 per cent or more of the shares of which are owned or controlled, directly or indirectly, by a foreign national, company or body corporate, where the Authority is satisfied that the control of the company or body corporate, as the case may be, is not by virtue of any shareholder agreement or other instrument, effectively vested in a foreign national, a foreign company or a foreign body corporate; or

[RR 13/19 (cio 25/7/19).]

- (iii) 49.9 per cent or more of the directors of which are foreign nationals; or

[Amended 13/19 (cio 25/7/19).]

- (iv) 20 per cent or more of the shares of which are owned or controlled, directly or indirectly, by an individual who, or by another company or body corporate which, owns or controls, directly or indirectly, any newspaper or magazine, or any printing press publishing such newspaper or magazine.

(3A) The Authority may grant a licence specified in item 2A of Part III of the First Schedule to a company, notwithstanding that it does not satisfy the requirements of subsection (3) (h) (ii), (iii) or (iv).

(3B) The Authority may grant, with regard to Internet Service Providers licensed by the Information and Communication Technologies Authority, a licence specified in Part III of the First Schedule notwithstanding the fact that the licensed Internet Service Provider did not satisfy the requirements of subsection (3)(h)(ii) and (iii).

[Inserted 9/15 (14/5/15).]

(3C) The Authority may grant to the Corporation one or more of the licences specified in items 1 and 2 of Part I and item 1 of Part II of the First Schedule.

[Inserted 13/19 (cio 25/7/19).]

(4) On receipt of an application under subsection (1), the Authority, where it is satisfied that segments of broadcasting frequency bands are available and will be allocated to the applicant by the ICT Authority, shall—

- (a) cause notice thereof to be published in the *Gazette* and, for 3 consecutive days, in not less than 2 daily newspapers; and
- (b) invite all interested persons, who so wish, to lodge with the Authority such objections as they may have against the application.

(5) Any person who wishes to object to an application shall, not later than 21 days after the last date of the publication specified in subsection (4), lodge his objection in writing with the Authority.

[S. 19 amended by s. 11 (a) of Act 20 of 2009 w.e.f. 19 December 2009; s. 25 of Act 9 of 2015 w.e.f. 14 May 2015; s. 27 of Act 13 of 2019 w.e.f. 25 July 2019.]

20. Consideration of application

(1) The Authority shall, in determining whether to grant an application for a licence, have regard, *inter alia*, to—

- (a) any objection made under section 19 (5);

- (b) the objects specified in section 4;
- (c) whether or not the applicant is qualified to offer the broadcasting service;
- (d) the likelihood that the applicant shall comply with any condition of his licence; and
- (e) the ability of the applicant to satisfy the Authority that it shall comply with the Code of Conduct specified in the Second Schedule.

(2) The Authority shall promote pluralism in the media by giving priority of consideration to applicants who are able to satisfy the Authority that their broadcasting services shall be subject to no editorial control other than an independent editorial control exercised from within the broadcasting business of the prospective licensee.

21. Grant or refusal of licence

(1) The Authority shall, not later than 3 months after the expiry of the period of 21 days specified in section 19 (5), inform the applicant and the objector of—

- (a) its decision to grant or refuse the application for a licence; and
- (b) the reasons for its decision.

(2) Where the Authority does not, at the end of the period of 3 months specified in subsection (1), make a decision on the application, it shall be deemed to have refused to grant the licence.

(3) The Authority may grant a licence subject to such terms and conditions as it thinks fit to impose and on payment of the prescribed fee.

(4) A term or condition specified in subsection (3) may relate to—

- (a) a requirement that the licensee shall afford, in such manner as may be prescribed, a right of reply to a person whose character, goodwill or reputation has been adversely affected by a broadcast; and
- (b) the amount of any charge or fee leviable by the licensee from any person who avails himself of the broadcasting service provided by the licensee.

(5) Notwithstanding this Act, where the Authority is of the opinion that, by granting an application, the attainment of the objective of promoting a diverse range of radio and television broadcasting services and the pluralist nature of Mauritian culture may be impeded, the Authority may refuse an application.

(6) A licensee shall comply with the terms and conditions of a licence.

(7) A licensee shall carry out its activities in compliance with the code of conduct specified in the Second Schedule.

22. Duration of licence

(1) Subject to sections 24 and 25, a licence for—

- (a) radio broadcasting shall be valid for a period of 3 years; and
- (b) television broadcasting shall be valid for a period of 5 years.

(2) A licensee who wishes to renew his licence shall, not later than 3 months before the expiry of the licence, give written notice of his intention to the Authority.

23. Transfer and surrender of licence

(1) No licensee shall, except with the written consent of the Authority, assign or transfer his licence.

(2) A licensee may surrender his licence at any time before its expiry.

(3) A licensee who wishes to surrender his licence shall give written notice of his intention to the Authority.

(4) No person shall, except with the written consent of the Authority assign, sell, transfer or otherwise dispose of, any interest or share in a company which is a licensee.

[RR 13/19 (cio 25/7/19).]

(5) Where a person intends to assign, sell, transfer or otherwise dispose of, any interest or share in a company which is a licensee, he shall –

(a) furnish to the Authority, such information or document as the Authority may require;

(b) give at least 90 days' prior notice to the Authority of his intention to do so.
[Added 13/19 (cio 25/7/19).]

(6) Where the Authority determines that there are just and sufficient reasons for an assignment, sale, transfer or disposal and they are not for speculative purposes, it may give its written consent to such assignment, sale, transfer or disposal.

[Added 13/19 (cio 25/7/19).]

[S.23 amended by s. 27 of Act 13 of 2019 w.e.f. 25 July 2019.]

23A. Due diligence

(1) In the exercise of its powers under Part IV of this Act, the Authority shall conduct such due diligence exercise as it may determine.

(2) In carrying out the due diligence exercise under subsection (1), the Authority may –

(a) consider such reliable and independent source documents or information as it may determine; and

(b) seek assistance from such competent authorities or person as it may determine.

[S.23A inserted by s. 27 of Act 13 of 2019 w.e.f. 25 July 2019.]

24. Variation and revocation of licence

(1) A licensee may make a written application to the Authority to vary the terms and conditions of his licence and the Authority may accede to the request subject to such conditions as it thinks fit.

(2) Subject to subsections (5) and (7), the Authority may revoke a licence where it is satisfied that—

(a) the licensee has failed to operate within 6 months of the issue of the licence or within such additional period as may be allowed by the Authority;

(b) the licensee has ceased his operation under his licence;

(c) the licensee has given information to the Authority which is false or misleading in a material particular;

(d) the licensee has failed to comply with the code of conduct specified in the Second Schedule;

(e) it is in the public interest to do so; or

(f) the licensee no longer satisfies any of the conditions set out under section 19.

(3) Subject to subsections (5) and (7), the Authority may revoke a licence where it is satisfied that the licensee has contravened this Act or any regulations made thereunder or a term or condition of his licence.

(4) Subject to subsections (5) and (7), the Authority may vary the terms and conditions of a licence for the reasons specified in subsection (2).

(5) Where the Authority is of the view that a licence should be revoked or varied, it shall give written notice of its intention to the licensee together with the reasons therefor.

(6) The Authority shall, in a notice under subsection (5), require the licensee to show cause in writing, within such time as may be specified in the notice, why the licence should not be revoked or varied.

(7) The Authority shall, after considering the explanations of the licensee, inform him in writing of its decision and the reasons for its decision.

25. Suspension of licence

(1) Notwithstanding section 24, where the Authority is satisfied that—

- (a) the licensee has failed to start his operation within 6 months of the issue of the licence, or within such additional period as may be allowed by the Authority;
- (b) the licensee has ceased his operation under his licence;
- (c) the licensee has given the Authority information which is false or misleading in a material particular;
- (d) the licensee has failed to comply with the code of conduct specified in the Second Schedule; or
- (e) it is in the public interest to do so,

it may suspend a licence.

(2) Any decision taken under subsection (1) shall—

- (a) be notified in writing to the licensee; and
- (b) have effect for not more than 21 days.

26. Register of licences

(1) The Director shall keep a register of every licence and of its essential particulars.

(2) The register shall be open to inspection by the public.

(3) The Director shall keep the register up to date and shall register any transfer, surrender, variation, revocation or suspension of a licence.

27. Derogation in respect of, and restrictions on, broadcasting by Corporation

(1) Subject to subsection (2), the Authority shall issue to the Corporation, on 1 January 2001, a licence, which shall be valid for a period of 10 years, in respect of any broadcasting service which, at that date, the Corporation is providing to the general public, and which the Corporation continues, in whole or in part, to provide, and in respect of which a fee is payable in accordance with the Mauritius Broadcasting Corporation (Collection of Licence Fees) Act.

(2) For the purposes of subsection (1), a broadcasting service provided only upon payment of a subscription fee shall not be regarded as being provided to the general public.

28. Broadcasting transmission company

(1) Subject to subsection (4), the Company shall have the exclusive right –

- (a) to carry on the business of terrestrial broadcasting;
- (b) to act as Multiplex Operator for the operation and management of digital broadcasting platforms, including multiplexing and distribution of licensees' broadcast programs, maintenance of a Conditional Access System and the provision of interactive services; and
- (c) to act as the exclusive terrestrial Multiplex Operator for digital terrestrial television broadcasting.

[Repealed and replaced 9/15 (cio 14/5/15).]

(2) All transmission stations and any equipment or asset relating thereto and owned or operated by the Corporation shall, within such period after the incorporation as may be determined by the Minister, be transferred to and vest in the Company on such terms and conditions as the Minister may determine.

(3) No person shall cause any broadcasting to be transmitted otherwise than in accordance with section 18.

(4) (a) The Company shall, for the purpose of acting as a Multiplex Operator, apply to the Information Communication and Technologies Authority for the appropriate licence and approvals for the use of radio frequencies or the transmission of digital broadcasting.

(b) Pending the determination of the application made under paragraph (a), the Company shall be considered to be licensed under the Information and Communication Technologies Act to operate a Multiplex platform.

[Added 9/15 (14/5/15).]

[S. 28 amended by s. 25 of Act 9 of 2015 w.e.f. 14 May 2015.]

PART V – CONTENTS OF PROGRAMMES

29. Standards and ethics

(1) The Authority shall set up a Standards Committee.

(2) The Standards Committee shall consist of—

- (a) a Chairperson; and
- (b) 6 persons who shall not be members of the Authority.

(3) The Chairperson and members of the Standards Committee shall be appointed by the Authority on such terms and conditions as it thinks fit.

(4) The Standards Committee shall, with the approval of the Authority, draw up a code of ethics for licensees.

(5) The Standards Committee shall, with the approval of the Authority, draw up a code of advertising practice.

(6) The code of ethics specified in subsection (4) shall give guidance as to—

- (a) the technical standards required in the preparation, production and presentation of broadcast programmes, including the need of subtitling for the benefit of the deaf, where applicable;
- (b) the standards and practice in advertising and in the sponsorship of programmes, including the absence of discrimination;
- (c) the promotion of locally produced programmes;
- (d) the optimisation of air-time occupancy; and
- (e) standards of taste and decency for broadcast programmes, particularly having regard to the portrayal of violence or sexual conduct.

(7) The Standards Committee may review the code from time to time.

(8) When drawing up or reviewing the code, the Standards Committee shall consult—

- (a) every licensee; and
- (b) a spectrum of listeners and viewers.

(9) The Standards Committee shall conduct audience research in such manner and at such times as the Authority may determine.

(10) The Standards Committee shall, in the light of research effected under subsection (8), make periodical reports to the Authority on the standards attained by every licensee.

30. Complaints Committee

(1) The Authority shall set up a Complaints Committee.

(2) The Complaints Committee shall consist of—

- (a) a Chairperson, who shall be a law practitioner of not less than 10 years' standing; and
- (b) 6 persons, who shall not be members of the Authority.

(3) The Chairperson and members of the Complaints Committee shall be appointed by the Authority on such terms and conditions as it thinks fit.

(4) Subject to subsections (5) and (6), the Complaints Committee shall consider and adjudicate on any complaint of—

- (a) failure, or likelihood of failure, to comply with the code of ethics specified in section 29 (4), or the code of advertising practice specified in section 29 (5);
- (b) unjust or unfair treatment or likelihood of unjust or unfair treatment in a broadcast programme;
- (c) unwarranted infringement or likelihood of unwarranted infringement of privacy in, or in connection with, the obtaining of material included in a broadcast programme.

(5) No complaint shall be considered unless it—

- (a) is made in writing by a person who identifies himself;
- (b) emanates, in the case of a complaint under subsection (4) (b) or (c), from the person affected or his duly authorised agent;
- (c) is received by the Complaints Committee within 6 months from the date the relevant programme was broadcast; and

(d) is made, where the person affected has passed away, within 6 months from the date of the death of that person.

(6) A complaint shall not be considered where it—

(a) is, or is likely to be, the subject of an action before a Court of law; or

(b) appears to be frivolous or vexatious.

(7) When considering a complaint under subsection (4), the Complaints Committee shall afford a hearing to every interested person.

(8) A hearing may, at the discretion of the Complaints Committee, be held in private.

(9) The Complaints Committee may, for the purposes of a hearing under subsection (7)—

(a) summon any person to attend a hearing, give evidence or produce any document, recording or other matter; and

(b) administer an oath.

(10) The Complaints Committee shall, after considering a complaint under subsection (4), forward a copy of its decision to the Authority.

(11) The Complaints Committee may recommend to the Authority to issue a direction under section 5 (1).

(12) A direction under section 5 (1) may require the Corporation or a licensee to publish, in such manner as the Authority thinks fit, a summary of the complaint and of the Standards Committee's decision.

PART VI – MISCELLANEOUS

31. Oath of office

Every member of the Authority, the Standards Committee or the Complaints Committee, the Director and every employee of the Authority shall, before assuming office, take the oath specified in the Third Schedule.

32. Conflict of interest

(1) Where—

(a) a member;

(b) a member of the Standards Committee;

(c) a member of the Complaints Committee; or

(d) the spouse or any child of a member specified in paragraphs (a) to (c),

has a pecuniary or other material interest in a matter to be determined by the Authority, the Standards Committee or the Complaints Committee, as the case may be, that person shall, at or before the meeting at which the matter is to be considered, disclose the interest and not take part in the determination.

(2) No employee of the Authority shall own or acquire an interest in the activities of a licensee.

(3) Where an interest in a licensee devolves upon an employee of the Authority, by inheritance or otherwise, he shall, unless the Authority otherwise determines, forthwith dispose of that interest.

33. Confidentiality

(a) No member of—

- (i) the Authority;
 - (ii) the Standards Committee;
 - (iii) the Complaints Committee; or
- (b) no employee of the Authority,

shall, except in the course, and for the purpose, of the performance of his duties, disclose to any other person anything that comes to his knowledge which relates to a matter which is to be, is being or has been determined by the Authority, the Standards Committee, or the Complaints Committee.

34. Reception apparatus

(1) The Authority may, on the recommendation of the Standards Committee, in relation to a parabolic antenna or such other reception apparatus as may be prescribed, determine the type and specifications thereof.

(2) Where a type of, and specifications for, any reception apparatus have been determined pursuant to subsection (1), no person shall import, assemble, use or possess any reception apparatus other than one that is of the type and has the specifications so determined.

35. Exemptions

(1) Article 910 of the Code Civil Mauricien shall not apply to the Authority.

(2) The Authority shall not be liable to income tax.

(3) The Authority shall not pay any charges or duties in respect of any document executed by it or under which it is the sole beneficiary.

36. Protection from liability

- (a) A member of—
- (i) the Authority;
 - (ii) the Standards Committee;
 - (iii) the Complaints Committee; or
- (b) an employee of the Authority,

shall not be personally liable for any damage or loss suffered by any person in consequence of any act or thing which was done in good faith or done or omitted in the course of the exercise or performance of a power, duty, or function under this Act.

37. Offences

- (1) Any person who—
- (a) provides a broadcasting service without being licensed under this Act;
 - (b) contravenes the terms and conditions of his licence;
 - (c) assigns or transfers his licence without the written consent of the Authority;
 - (d) being summoned to attend a hearing, give evidence or produce any document, record or other matter, fails to do so;
 - (e) being an employee of the Authority, owns or acquires an interest in the activities of a licensee;

- (f) being a member or employee specified in section 36, discloses, without any reasonable cause, to any person, anything that comes to his knowledge relating to any matter which has been, is being, or is to be determined by a body specified in that section; or
- (g) otherwise contravenes any provision of this Act,

shall commit an offence.

(2) Any person who commits an offence shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

38. Regulations

(1) The Authority may make such regulations as it thinks fit for the purposes of this Act.

(2) The Authority may, by regulations, amend the Schedules.

(3) Any regulations made under subsection (1) may provide—

- (a) for the levying of fees or charges; and
- (b) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

39. – 41. —

FIRST SCHEDULE

[Section 2]

LICENCES

PART I – Radio Broadcasting Licences

1. Public Radio Medium Wave Broadcasting licence

To establish and operate a radio broadcasting service in the medium wave frequency band on those frequencies allocated to the Corporation and in terms of the Mauritius Broadcasting Corporation Act.

2. Public radio FM Broadcasting Licence

To establish and operate a radio broadcasting service in the VFH FM band on those frequencies allocated to the Corporation and in the terms of the Mauritius Broadcasting Corporation Act.

3. Private Commercial Free to Air Medium Wave Radio Broadcasting Licence

To establish and operate a private commercial free to air radio broadcasting service in the medium wave frequency band on those frequencies allocated to the licensee.

4. Private Commercial Free to Air FM Radio Broadcasting Licence

To establish and operate a private commercial free to air broadcasting service in the VHF FM band on those frequencies allocated to the licensee.

5. Community Free to Air Radio Broadcasting Licence

To establish and operate a community free to air radio broadcasting service in either the medium wave or VHF FM band on the frequency or frequencies allocated to the licensee.

6. Narrowcasting Radio Licence

To establish and operate a private radio broadcasting service whose reception is limited to-

- (a) a specific audience in a precise location;
- (b) specific events held over a specific period of time;
- (c) programme of limited appeal.

PART II – Terrestrial Television Broadcasting Licences

1. Public Television Broadcasting Licence

To establish and operate a public television broadcasting service in the VHF/UHF Television frequency band on each multiplex allocated to the Corporation by the Multiplex Operator.

[RR GN 87/18 (cio 1/10/10)]

2. Private Commercial Television Broadcasting Licence

To establish and operate a private television broadcasting service in the VHF/UHF Television frequency band on those frequencies allocated to the licensee.

PART III – Subscription Television Broadcasting Licences

1. Subscription Television Rebroadcasting Licence

To establish and operate a subscription television rebroadcasting service whereby television signals received by any technological means are retransmitted for reception by subscribers through the Company on payment of a monthly subscription fee.

[Repealed and replaced 9/15 (cio 14/5/15).]

2. Subscription Television Direct to Home Satellite Broadcasting Providers Licence

To provide television services to the public whereby television signals are transmitted by satellites for direct reception by the general public via receive only dish antennas and decoders managed by the services provider upon payment of a monthly subscription fee.

2A. Subscription Television Direct to Home Satellite Broadcasting Services Provider Licence (For companies operating only elsewhere than in Mauritius)

To provide subscription television direct to home satellite broadcasting services to the public elsewhere than in Mauritius, whereby television signals are transmitted by satellite for direct reception by the general public, upon payment of a monthly subscription fee.

2B. Subscription Television Direct to Home Satellite Broadcasting and Rebroadcasting Services Provider Licence

To provide television services to the public whereby television signals are transmitted by satellites for direct reception by the general public via receive-only dish antennas and decoders and simultaneously allow the same signals received to be retransmitted for direct reception by the general public on multi platforms managed by the services provider on payment of a monthly subscription fee.

[Inserted GN 153/16 (cio 1/5/16).]

3. Subscription Cable Television Broadcasting Provider Licence

To provide television services to the public via a cable network to which the general public is connected upon payment of a monthly subscription fee.

4. Internet Protocol Television Service Licence

To establish and operate a service which provides scheduled television programming over a public network and which may provide additional features such as data, text and audio signals which are ancillary to the scheduled television programming.

[Added 9/15 (14/5/15).]

PART IV – Other Licences

1. Community Television Free to Air Broadcasting Licence

To establish and operate a community free to air television service in the VHF/UHF television band on those frequencies allocated to the licensee.

2. Narrowcasting Television Licence

(1) To establish and operate a private narrowcasting television licence service whose reception is limited to –

- (a) a specific audience in a precise location;
- (b) specific events held over a limited period of time;
- (c) programme of limited appeal.

(2) The narrowcasting television licence service will be issued in the following categories –

- (a) horseracing broadcasts, per event;
- (b) commercial broadcasts, per day/event/meeting; or
- (c) social or cultural broadcast, per day/event/meeting.

[Repealed and replaced GN 153/16 (cio 1/5/16).]

[First Sch. amended by s. 50 (6) of Act 44 of 2001 w.e.f. 11 February 2002; repealed and replaced by GN 38 of 2002 w.e.f. 1 April 2002; amended by s. 11 (b) of Act 20 of 2009 w.e.f. 19 December 2009; s. 25 of Act 9 of 2015 w.e.f. 14 May 2015; GN 153 of 2916 w.e.f 1 May 2016;s. 3 of GN 87 of 2018 w.e.f. 1 October 2010 .]

SECOND SCHEDULE

[Sections 21, 24 and 25]

CODE OF CONDUCT FOR BROADCASTING SERVICES

1. Preamble

The fundamental principle to be upheld is that the freedom of all broadcasting licensees is indivisible from, and subject to, the same restraints as those relevant to the individual person, and is founded on the individual's right to be informed and to freely receive and disseminate opinions.

2. General

Broadcasting licensees shall—

- (a) not broadcast any material which is indecent, obscene or offensive to public morals or offensive to the religious convictions or feelings of any section of the population or likely to prejudice the safety of the State or the public order or relations between sections of the population;
- (b) not, without due care and sensitivity, present material which depicts or relates to brutality, violence, atrocities, drug abuse and obscenity; and
- (c) exercise due care and responsibility in the presentation of programmes where a large number of children are likely to be part of the audience.

3. News

(1) Broadcasting licensees shall report news truthfully, accurately and objectively.

(2) News shall be presented in the correct context and in a balanced manner, without intentional or negligent departure from the facts, whether by—

- (a) distortion, exaggeration, or misrepresentation;
- (b) material omission; or
- (c) summarisation.

(3) Only that which may reasonably be true, having due regard to the source of the news, may be presented as fact, and such facts shall be broadcast fairly with due regard to context and importance. Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it shall be presented in such manner as to indicate clearly that such is the case.

(4) Where there is reason to doubt the correctness of a report and it is practicable to verify the correctness thereof, it shall be verified. Where such verification is not practicable, that fact shall be mentioned in the report.

(5) Where it subsequently appears that a broadcast report was incorrect in a material respect, it shall be rectified forthwith, without reservation or delay. The rectification shall be presented with such a degree of prominence and timing as may be adequate and fair so as to readily attract attention.

(6) Reports, photograph or video material relating to matters involving indecency or obscenity shall be presented with due sensitivity, due regard being had to the prevailing moral climate. In particular, broadcasting licensees shall avoid the broadcasting of obscene and lascivious matter.

(7) The identity of rape victims and other victims of sexual violence shall not be divulged in any broadcast without the prior consent of the victim concerned.

4. Comment

(1) Broadcasting licensees shall be entitled to comment on and criticise events of public importance.

(2) Comment shall be presented in such manner that it appears clearly to be comment, and shall be made on facts truly stated or fairly indicated and referred to.

(3) Comment shall be an honest expression of opinion.

5. Controversial issues of public importance

(1) In presenting a programme in which controversial issues of public importance are discussed, a broadcasting licensee shall make reasonable efforts to fairly present significant points of view either in the same programme, or in a subsequent programme forming part of the same series of programmes presented within a reasonable period of time and in substantially the same time slot.

(2) A person whose views have been criticised in a broadcasting programme on a controversial

issue of public importance shall be given a reasonable opportunity by the broadcasting licensee to reply to such criticism, should that person so request.

6. Elections

During any period starting, in respect of National Assembly elections, on the day of election and ending on the day poll is to be taken, all licensees shall comply with such guidelines as shall be issued by the Authority.

7. Privacy

In so far as both news and comment are concerned, broadcasting licensees shall exercise exceptional care and consideration in matters involving the private lives and private concerns of individuals, bearing in mind that the right to privacy may be overridden by a legitimate public interest.

8. Paying a criminal for information

No payment shall be made to persons involved in crime or other notorious behaviour, or to persons who have been engaged in crime or other notorious behaviour, in order to obtain information concerning any such behaviour, unless compelling societal interests indicate the contrary.

Third Schedule

[Section 31]

OATH

I,, being appointed Chairperson/Member/Director/employee of the Standards Committee/Complaints Committee/Authority, do hereby swear/solemnly affirm that I will, to the best of my judgment, act for the furtherance of the objects of the Committee/Authority and shall not, on any account and at any time, disclose, otherwise than with the authorisation of the Authority, or where it is strictly necessary for the performance of my duties, any confidential information obtained by me by virtue of my official capacity.

Taken before me

.....
Master and Registrar of the Supreme Court
