

REPUBLIC OF SOUTH SUDAN
LAWS OF SOUTH SUDAN



MEDIA AUTHORITY ACT, 2013

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LAWS OF SOUTH SUDAN**MEDIA AUTHORITY ACT, 2013**

In accordance with the provisions of Article 55 (2) (3) (b), read together with the provisions of Article 85 (1), of the Transitional Constitution, the National Legislative Assembly with the assent President of the Republic enacts the following:

CHAPTER I**PRELIMINARY PROVISIONS****1. Title and Commencement**

This Act may be cited as “Media Authority Act, 2013” and shall come into force on the date of its assent by the President.

*Signed
on
9th Dec
2013*

2. Repeal and Saving

Any existing legislation on the subject governed by this Act is hereby repealed, provided that any orders issued or regulations made under such legislation shall continue in force and effect, until expressly repealed, amended or are otherwise inconsistent with the provisions of this Act.

3. Purpose

- (1) The Act provides for regulation and development of the media in South Sudan with a view to promoting an independent pluralistic media in the public interest;
- (2) The Act establishes an autonomous regulatory Authority to oversee the media industry in South

Sudan; defines the powers, functions and duties of the Authority.

- (3) The Act provides for the exercise of powers relating to planning and broadcast frequency management by the Authority; and use of media services and for incidental or related matters.

4. Authority and Application

This Act is drafted under the powers granted in Schedule (A) and Article 24 (2) of the Transitional Constitution of the Republic of South Sudan, which grants the National Government of South Sudan powers to legislate on matters of national information, publication and mass media and regulate freedom of the press and other media.

5. Interpretations

In this Act, unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them respectively:

“Advertisement”

means any public announcement intended to promote the sale, purchase or rental of a product or service, to advance a cause or idea or to bring about some other effect desired by the advertiser for which a space or time has been given up to the advertiser in the media for a consideration;

“Advertising Code”

means a set of standards governing content which constitutes an advertisement;

“Annual Report”	means the report prepared by the Authority pursuant to the provisions of Section 32 of this Act;
“Assembly”	means the National Legislative Assembly;
“Authority”	means the Media Authority established under Section 7 of this Act;
“Basic Service”	means the print, publication or minimum package of television or radio channels which subscribers to a media service may purchase;
“Board”	means the board of Directors of the Authority established under Section 7 of this Act;
“Broadcasting”	means the dissemination of programmes, through terrestrial transmitters, cable, satellite or any other medium, for public consumption and for simultaneous reception, whether or not by subscription, through a radio or television receiver or other related electronic equipment, but does not include communications internal to a private organisation or government body such as internal press or closed circuit television or internal address systems, or internet communications;

- “Broadcaster”** means an organisation that engages in broadcasting, whether a public broadcaster, commercial or community broadcaster;
- “Broadcasting Frequency Plan”** means a plan for the allocation of broadcasting frequency spectrum among various usage such as television and radio, national, local, public, commercial and community media;
- “Broadcasting Frequency Spectrum”** means that part of the electromagnetic wave spectrum which is part of the public domain and may from time to time be assigned to be used for broadcasting but does not include other frequencies such as those used for telecommunication purposes;
- “Cable Broadcasting”** means the transmission by cables of broadcasting services including re-transmission by cables of broadcast signals;
- “Code”** means a set of standards relating to general media content and practices;
- “Constitution”** means the Transitional Constitution of the Republic of South Sudan, 2011;
- “Commercial Media”** means a profit media entity that is neither a public nor a community media service;

“Committee”	means any committee established by the Board of Directors of the Media Authority;
“Community Media”	means media controlled by a non-profit entity, which operates on a non-profit basis, to a particular community that reflects the special interests and needs of that community, is managed and operated primarily by members of that community;
“Competent Court”	means High Court unless defined by the Civil Procedure Act and the code of criminal Procedure;
“Council”	means the Press and Broadcast Complaints Council of the Media Authority pursuant to the provisions of Section 21;
“Defamation”	shall have the meaning assigned to it in the Penal Code;
“Defamatory Statement”	means a published statement which is false and harmful to reputation;
“Free-to-air”	means terrestrial broadcasting without a direct charge for reception to the recipient;
“Hate Speech”	means any speech made to advocate racial, ethnic or religious or incitement to hostility, xenophobia

	or violence hatred towards a target group;
“Hatred”	means intense and irrational emotions of opprobrium, enmity, and detestation towards a target group;
“Hearings Panel”	means the Hearings Panel of the Media Authority;
“Hostility”	means intense and irrational emotions of opprobrium, enmity, and detestation towards a target group;
“Incitement”	means statements about national, racial, ethnic or religious groups which create an imminent risk of discrimination, hostility or violence against persons belonging to those groups
“Independent Producer”	means an individual or company who produces programmes for radio or television and not controlled by any individual broadcaster;
“Libel”	means a defamatory statement in a written form;
“Licence”	means a licence issued by the Authority for purpose of providing a broadcasting service to the public;

“Licensee”	means an individual or organisation that has been granted a licence under this Act to provide a broadcasting service to the public;
“Local Content”	means a broadcast material produced by a licensee who is a resident of South Sudan or by a company the majority of whose shareholding is held by residents of South Sudan, or a co-production in which residents of South Sudan have at least 50% financial interest but shall not include advertisements;
“Media”	means the manner of receiving information or entertainment through the press, publication, television, radio or electronics;
“Media Appeals Board”	means the Media Appeals Board pursuant to the provisions of Section 58 of this Act;
“Media Service”	means a defined media service consisting of the press and publication, broadcasting by television, radio or any sound material to the public, a section of the public, or subscribers to such service;
“Minister”	means the Minister responsible for Information and Broadcasting;

“Ministry”	means the Ministry responsible for Information and Broadcasting;
“Person”	means any legal entity, association or body of persons, whether or not incorporated, as well as an individual or natural person;
“Penal Code”	means the Penal Code of South Sudan;
“Programme Schedule”	means a plan indicating the general types of programmes proposed to be broadcast, the proportion of broadcasting time to be devoted to such programmes and to advertising and the target audience, except that for cable or satellite services, it means a description of the basic service and all other services provided;
“Public Broadcaster”	means a broadcaster established under the Broadcasting Corporation Act 2013, subject to public ownership and having the mandate to broadcast in the public interest;
“Satellite Broadcasting”	means the dissemination of a broadcasting service by means of satellite transmission;
“Slander”	means a spoken defamatory statement;
“Sponsorship”	means the participation of a natural or legal person who is not

- engaged in media activities or the production of audio-visual works but who provides direct or indirect financing of a service with a view to promoting the name, trademark or image of that person;
- “State”** means any of the States of South Sudan;
- “Subscriber”** means a person who receives a broadcasting service at a specific location in exchange for a fee without further transmission of that service to any other person;
- “Technical Code”** means a set of standards relating to general technical media matters; and
- “Terrestrial Broadcasting”** means the dissemination of a broadcasting service via the electromagnetic wave spectrum for direct reception by homes or businesses without needing equipment other than radio or television sets.

6. Guiding Principles

- (1) The right to freedom of expression, including the public right to a pluralistic media is a fundamental human right, protected under Article 24 of the Constitution.

- (2) The right to freedom of expression is also recognised under Article 19 of the International Covenant on Civil and Political Rights and under Article 9 of the African Charter on Human and Peoples' Rights.
- (3) The Declaration of Principles on Freedom of Expression adopted by the African Commission on Human and Peoples' Rights states that the regulatory authorities for the broadcast sector shall be independent and adequately protected from interference of a political or economic nature; that the appointments process for members of such Authority shall be open and transparent, involve the participation of civil society and shall not be controlled by any particular political party and that such an Authority shall be formally accountable to the public through the Assembly
- (4) The Declaration of Principles on Freedom of Expression adopted by the African Commission on Human and Peoples' Rights states that State and government controlled broadcasters shall be transformed into public service broadcasters, accountable to the public through the legislature rather than the government
- (5) Access to Information is fundamental to the fulfilment of Human Rights and essential in the fight against corruption
- (6) Article 32 of the Constitution provides for right of access to official information and records, including electronic records in the possession of any level of government in South Sudan or any organs or agencies of the Government.
- (7) The Right of access to Information is also recognised under Article 19 of the International Covenant on Civil and Political Rights and under Article 9 of the African Charter on Human and Peoples' Rights.

- (8) The Declaration of Principles on Freedom of Expression adopted by the African Commission on Human and Peoples' Rights provide that everyone has the right to access information held by Public Bodies as well as the right of access to information held by Private Bodies which is necessary for the exercise or protection of any right
- (9) Public Broadcasting Service is necessary for upholding and fulfilling the principles of universal access, equality and diversity in broadcasting aligned with the democratic values of the Constitution to enhance and protect fundamental human rights.
- (10) The broadcasting system relies on use of radio frequencies that are public property, accordingly, radio frequencies shall be allocated in a fair and transparent process to promote public, commercial and community broadcasting
- (11) Public Broadcasting Service shall encourage the development of South Sudanese expression by providing a wide range of programming that refers to South Sudanese opinions, ideas, values and artistic creativity by displaying talent in radio and television programming.
- (12) Press and Broadcast Media:

The law and regulations governing media service in South Sudan shall promote the following policies:

- (a) uphold constitutional principles and in particular, respect for human rights, democracy and the rule of law;
- (b) promote freedom of expression;
- (c) encourage creative national media including licensing the broadcasting sectors, namely, public, commercial

- and community broadcasters;
 - (d) promote a diverse range of quality media services which serve South Sudan national languages, ethnic beliefs and cultures of the communities;
 - (e) enhance the right of the public to know through promoting pluralism and a wide variety of publications and programming on matters of public interest;
 - (f) prevent monopolisation of ownership and promote fair competition in the press and broadcasting media sector;
 - (g) mass media shall promote accurate, informative and balanced programming;
 - (h) encourage the provision of quality educational programming;
 - (i) promote the widest possible geographic distribution of broadcasting services, including by licensing national and local broadcasters;
 - (j) develop and promote broadcasting reflecting national and regional cultures and identities;
 - (k) promote the appropriate use of modern technology;
 - (l) enhance the overall financial and competitive viability of the press and broadcast media;
 - (m) promote national unity, peaceful coexistence and cohesion of the people of South Sudan; and
 - (n) promote social economic and cultural development in South Sudan
- (13) Press Freedom and Independent Media:
- (a) free media representing all groups and divisions of society shall be protected as essential to democracy, giving independent scrutiny and comment on the works of Government and institutions, serving as the

- public watchdog and advocate, providing a free flow of information and diverse opinions;
- (b) mass media shall be protected from censorship by any official or non official authority;
 - (c) respect for religious, ethnic and cultural diversity shall be guaranteed under the principles contained within International Human Rights Instruments; and inciting religious, ethnic or cultural intolerance shall be guarded against as an abuse of freedom of expression and media;
 - (d) the right of an individual has to be protected against hate speech, incitement to violence, defamation and intrusion of privacy;
 - (e) any provision incorporated within any law restricting freedom of expression and media has to be specifically and narrowly defined and subject to tests of necessity, proportionality and pressing social need of the citizens of South Sudan as defined by democratic and human rights courts;
 - (f) a Journalist shall not be compelled to reveal his or her source of information obtained upon promise of confidentiality;
 - (g) mass media and journalists shall be protected from criminal prosecution for media and journalistic offences except in the case of incitement to violence and referral to laws of general application, and litigation proceedings for journalistic offences shall be under provisions of this Act and Civil Procedures Act 2007 only to the extent applicable or consistent with the provision of Section (2) and the guiding principles of this Section.

- (h) no Government license shall be required from any person practicing journalism as a profession, the media and all journalists shall adhere to a professional code of conduct in their practice.
- (i) no person shall require a Government license in order to enter practice of journalism as a profession; and there shall be no licensing or registration of newspapers, news agencies, magazines and periodicals or other printed media, or of web sites or sources of content on the Internet, other than that required by law for any business seeking to engage in a commercial or non-profit activity
- (j) all print media shall be self-regulating and expansion and use of internet and electronic media shall be encouraged as other means of mass communication media;
- (k) a broadcast operator shall obtain licence from the Media Authority for purpose of frequency allocation and the conditions for the licence shall include a set of standards that take into account broadcast airwaves as a limited resource held in public trust;
- (l) national and regional or State government broadcasting shall be transformed into public broadcaster service;
- (m) the public broadcasting service shall have editorial independence and the Media Authority shall be responsible for ensuring adherence to modern democratic standards
- (n) truth shall be an absolute defence in defamation cases especially when reporting in the public interest, in good faith or in a fair and balanced manner, shall be taken into account and are also defences;

- (o) journalists shall have the right to form professional associations and to promote professionalism through training, education and writing of codes of ethics and advocate for editorial independence, the rights of journalists and the rights of an independent media without interference;
- (p) there shall be no statutory regulation of print media and a media complaints council shall have jurisdiction over journalistic offences, whose decisions shall be subject to due process.
- (q) the unlawful arrest, detention, harassment, intimidation and torture of journalists, including photo journalists accredited to media organizations shall be prohibited. Any existing laws shall be applied to the extent that they do not contradict the principles stated in this Section.
- (r) the Media Authority shall where necessary establish, other independent agencies and regulatory bodies in accordance with International Standards and in fulfillment of the principles referred to in this Act, the creation of independent news agencies shall be encouraged.

(14) The Internet and New Media

The use of Internet and New Media shall include:

- (a) promotion of freedom of expression, open standards and open access to such Internet and New Media;
- (b) registration requirements that shall adhere to, and be consistent with the guiding principles and non hindrance to competition nor be used as a means of restricting market entry;

- (c) information and content that is transmitted and made available over Internet or any data network in form of text, software, music, images, and video, shall be protected by copyright and may have specific conditions attached to the reproduction, transmission and distribution of any of such text, software, music, images, and video.
- (d) information and content publishers on the Internet or suppliers thereof shall not be licensed solely for the reason that they reside on the internet;
- (e) internet service providers to be able to offer internet services without prior approval;
- (f) registration requirements to be kept at absolute minimum necessary for essential operation and service providers shall be treated equally with regard to establishing a business;
- (g) internet service providers shall be regarded as providing carriage for information and that function shall incur no legal liability imposed by the content that is carried;
- (h) internet service providers may also be suppliers of content, and that content shall be subject to the policy regarding such content;
- (i) Internet service providers shall not be liable for any aspect of the content which they transmit in their function of providing data carriage;
- (j) There shall be no barriers to entry to set up Internet exchange points beyond technical competence, existence of the interface equipment, and the costs associated with providing the service;
- (k) to the extent that filtering of pornographic content

or material is needed, Internet service providers shall provide upon request by the end user, filtering software for terminals, or equivalent filtering services applied by the service provider before reaching end user terminals.

CHAPTER II

ESTABLISHMENT OF MEDIA AUTHORITY

7. Establishment

- (1) The Media Authority (“Media Authority”) is hereby established for the regulation, development and promotion of an independent and professional media in South Sudan to be known as “Media Authority”.
- (2) The Authority shall be a public institution accountable to the public through the Assembly.
- (3) The Authority shall be a corporate body with an official seal and shall enjoy operational and administrative autonomy with power to sue and be sued in its own name.
- (4) The Authority shall have such powers, as may be necessary to perform its functions and duties in accordance with provisions of this Act.
- (5) The Authority shall be a regulatory body for the Broadcast media and the transformation of Government and State controlled Television and Radio into Public Broadcasting Service.
- (6) The Authority shall comprise of Board of Directors and any other specialised committees and autonomous bodies, including but not limited to:

- (a) press and Broadcast Complaints Council;
- (b) hearings Panel;
- (c) media Appeals Board;
- (d) legal Counsel;
- (e) complaints and Monitoring;
- (f) broadcast Frequency Licensing;
- (g) public Affairs and Education; and
- (h) engineering and Technical Standards

8. Board of Directors

- (1) There shall be a Board of Directors of the Authority which shall exercise the powers and functions of the Authority.
- (2) The Board shall comprise of nine members, at least 25% shall be women.
- (3) The members of the Board shall be persons of integrity with high moral standards, impartiality and competence and shall possess relevant expertise and experience in the fields of media, law, technology, journalism, entertainment or business.
- (4) The Chairperson, Deputy Chairperson and members of the Board shall serve for four years and may be eligible for reappointment for only one additional term.
- (5) The Board shall in carrying out its functions be independent, transparent, impartial and make decisions in the best interest of the media industry.

9. Appointment of Members of the Board

- (1) The Minister shall, in consultation with media associations and the civil society submit for appointment to the Board a list of candidates twice the available positions to the National

Legislation Assembly for voting and approval.

- (2) The procedure for the appointment under subsection (1) of this Section shall be transparent, allowing opportunity for the public, media and civil society to make representations to the select Committee of the National Legislative Assembly hearings concerning the candidates for appointment, and shall commence within three months from the date of enactment of this Act into law
- (3) The Members nominated for appointment under subsection (1) and subsection (2), shall be approved by simple majority vote of the members of the National Legislative Assembly
- (4) A person may be eligible for appointment as member of the Board if he or she:
 - (a) is a South Sudanese
 - (b) is not an official or employee of a political party;
 - (c) is not holding a position in which he or she receives payment from or has direct or indirect financial interests in the media or telecommunications sector;
 - (d) is not un-discharged bankrupt or insolvent; or
 - (e) has not been convicted of an offence involving moral turpitude, fraud or dishonesty within a period of five years prior to the appointment.

10. Disclosure of Interest

- (1) A member of the Board who has an interest in a matter under consideration by the Board shall disclose that fact and nature of his or her interest to the Board.
- (2) A disclosure under sub-section (1) of this Section shall be recorded in the minutes of the meeting of the Board.

- (3) After the disclosure under sub-section (1) of this Section, the member in question shall not take part nor be present during any deliberations of the Board or Committee.

11. Disposition of Interest

- (1) Where, by virtue of a bequest, donation or other acquisition, a member of the Board or committee unknowingly obtains an interest referred to in subsection (1) of Section 10 of this Act, such member shall, within a period of two months, either dispose of the interest or resign from his or her position as a member.
- (2) In any situation where the provisions of sub-section (1) of Section 10 of this Act apply to a member, he or she shall not take part in any decision-making process of the Authority until the relevant interest has been disposed of under sub section (1) of this Section.

12. Removal from the Board

- (1) The Chairperson, Vice Chairperson or a member of the Board, may be removed from office by the President on the following grounds:
 - (a) guilt of gross misconduct or incompetence or incapacitation;
 - (b) ineligibility for the position under Section 35(5) of this Act;
 - (c) violation of duties under this Act including but not limited to failing to uphold the right of access to information or engaging in corrupt practices.
- (2) The Chairperson may resign from office by submitting the resignation in writing to the President through the Minister.

- (3) The Vice Chairperson or any member of the Board may resign from office by submitting the resignation to the President through both the Chairperson of the board and the Minister.
- (4) Where the Chairperson, Vice Chairperson or a member of the Board is removed from office, resigns or dies, that member shall be duly replaced under the same conditions and in the same manner in which such member was appointed.

13. Remuneration of Members

- (1) The Chairperson, Deputy Chairperson and members of the Board shall:
 - (a) receive sitting allowances; and
 - (b) be reimbursed for actual and reasonable expenses, including travel, accommodation and subsistence, incurred in the performance of their functions and duties as shall be determined by the Minister in consultation with the Minister for Public Service.
- (2) The sitting allowances and other entitlements of the members of the Board under subsection (1) of this Section shall be determined by the Minister in consultation with Minister of Public Services, and approved by the Assembly.

14. Meetings of the Board

- (1) The Board shall, in accordance with the provisions of this Act and the regulations made there under adopt such rules in relation to its meetings and other matters, as it may deem appropriate for the performance of its duties and functions.
- (2) The Board shall meet every three months but may convene extra-ordinary meeting whenever necessary.

- (3) The Chairperson shall call for the Board meetings and in his or her absence the Vice Chairperson in co-ordination with the Managing Director shall call for meeting of the Board.
- (4) The Board may convene an-extra ordinary meeting within seven days upon a decision of the Chairperson after a written request by at least three members of the Board.
- (5) All meetings of the Board shall be open to the public unless otherwise decided by the Chairperson.
- (6) The Chairperson and in his or her absence the Vice Chairperson shall preside over all meetings of the Board.
- (7) The Quorum for any meeting of the Board shall be five.
- (8) Decisions at the meetings of the Board shall be by a simple majority vote in case of a tie the Chairperson shall have a casting vote.
- (9) Notwithstanding subsection (7) and (8) of this Section, the quorum for a meeting at which the Board is to determine an application for a broadcast licence shall be seven.
- (10) The Managing Director of the Authority shall be the secretary to the Board and an ex-officio member, unless in any particular case, the Board directs otherwise
- (11) Minutes of any meeting of the Board shall be kept in proper form and shall be confirmed by the Board at the next meeting.

15. Invitation to Meetings

The Board or any of the Committees of the board may invite any expert to attend its meeting for the purpose of giving expert advice on any matter under consideration, provided that the expert so attending shall have no right to vote.

16. Committees of the Board

- (1) The Board may establish such committees as it may deem necessary for efficient and effective discharge of its functions and duties.
- (2) The committees of the Board established under subsection (1) of this Section shall consist of three or more members of the Board and may co-opt such persons as may be necessary to enable the committee execute its functions effectively.
- (3) The Board may delegate any of its functions and duties under this Act to any of its committees.
- (4) Persons who are disqualified from being members of the Board by provisions of this Act shall not be eligible for appointment as members of a committee of the Board

17. Appointment and Removal of Managing Director

- (1) The Board shall by a two-third vote recommend the Managing Director to the Minister for appointment by the Council of Ministers.
- (2) The Managing Director shall be responsible for the day-to-day management of the authority and shall in that capacity be accorded status privileges of the under secretary of National Ministry.
- (3) The provisions of Section 9(4) of this Act shall apply in relation to appointment of the Managing Director.
- (4) The Board shall recommend terms and conditions of service of the Managing Director. The Managing Director shall hold office for a period of five years and may be re-appointed for one additional term

- (5) The Managing Director shall be answerable to the Board for the proper administration and management of the Authority in accordance with policies laid down by the Board.
- (6) Where the office of the Managing Director falls vacant, he or she shall be duly replaced under the same conditions, and in the same manner, as he or she was appointed.
- (7) The Board shall, pending the replacement of the Managing Director under subsection (6), designate or appoint an acting Managing Director.
- (8) The Board may by two-thirds vote remove the Managing Director subject to approval by the Council of Ministers on the following grounds:
 - (a) guilt of gross misconduct or incompetence or incapacitation;
 - (b) ineligibility for the position under Section 35(5) of this Act;
 - (c) violation of duties under this Act including but not limited to failing to uphold the right of access to information or engaging in corrupt practices.
- (9) Where at the end of the tenure of the Managing Director no appointment for the replacement is made, the tenure of office of the sitting Managing Director shall be extended by three months, within which period a new Managing Director shall be appointed
- (10) The Board shall, on the recommendation of the Managing Director, and in accordance with the approved budget establish a Secretariat for the Authority with such staff as it considers necessary to enable the Authority perform its functions and duties.

- (11) The Managing Director shall in accordance with the approved budget, recruit the necessary staff.
- (12) The terms and conditions of appointment of the staff of the Authority shall be in accordance with the Public Service Law and Regulations.
- (13) The Managing Director and staff of the Authority shall in the exercise of their functions and duties and, at all times, seek to promote the media policy and guiding principles in Section 6 of this Act.

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

18. Powers of the Authority

- (1) The Authority shall have such powers as may be necessary for carrying out its functions and duties under this Act and the power to regulate its own procedures.
- (2) The Authority may seek the assistance of the courts as may be necessary to bring proceedings to enforce provisions of this Act, the media and access to information laws of South Sudan or an order of the Information Commissioner for the right of access to information.
- (3) The Authority may initiate legal proceedings against any person or entity for violating a provision of an order or regulation to the competent court.
- (4) The Authority may bring an action before a court of law for equitable relief to redress a violation by any person or entity of a provision or regulation issued under the Right of Access to Information Law.

- (5) A person injured by breach of the media and information laws or an order of the Authority may bring a civil action to seek damages or remedies against such breach or order.

19. Functions

- (1) The Authority shall ensure that media development and press freedoms in South Sudan are consistent with Constitutional and International guarantees of freedom of expression and shall promote public interest in the media sector specifically by:
- (a) issuing licences for broadcasting services, allocating broadcast frequencies and managing the broadcast frequency spectrum with a view to facilitate the emergence of a commercial broadcast sector;
 - (b) overseeing advertisement, the development and implementation of programmes and technical codes;
 - (c) ensuring that broadcasting licence conditions are respected by the licensees;
 - (d) investigating any breach of media ethics or access to information law on its own initiative or initiation by the Ministry, governmental entity or upon complaint by a third party and taking appropriate action in accordance with provisions of this Act;
 - (e) advising the Government on media related issues, policies and events, and managing the transformation of state broadcasting to public broadcasting service;
 - (f) establishing and working with a Press and Broadcast Council to hear and resolve ethical and legal complaints of journalistic wrongdoing;
 - (g) taking, investigating, hearing and resolving ethics

- complaints appealed from or passed on by the Press and Broadcast Council; and,
- (h) amicably resolving legal complaints of defamation, incitement to violence, hate speech and invasion of privacy
 - (2) The Authority shall be impartial in the exercise of its functions and duties and at all times promote the media policies and the guiding principles set out in Section 6 of this Act.
 - (3) In promoting transparency in its functions, the Authority shall establish an official internet website where all public documents including media policies, plans, codes, tenders and decisions of the Authority shall be posted.
 - (4) The Authority shall, subject to the provisions of this Act, have exclusive power in relation to its functions as set out in sub-section (1) of this Section.
 - (5) Without prejudice to the provisions of this Section, the power to set policy in relation to the media shall vest in the National Government and shall be exercised in accordance with the principles set out in Section 6 of this Act.

20. Legal Committee

- (1) The Legal Committee (“The Committee”) is hereby established
- (2) The Board of the Authority shall appoint the members of the Legal Committee
- (3) The Board shall, in consultation with the Managing Director recommend qualifications, terms and conditions of service

for the persons appointed to the Legal Committee.

- (4) The Committee shall:
 - (a) be responsible for the development of the legal framework;
 - (b) be responsible for providing legal advice to the Authority and the Managing Director;
 - (c) be responsible for representing the Managing Director in cases brought before the Press and Broadcast Council as necessary and the Hearings Panel, the Board of Directors, and Media Appeals Board; and
 - (d) assist in the drawing up of broadcast licenses and associated codes of conduct.

21. Press and Broadcast Complaints Council

- (1) The Press and Broadcast Complaints Council (“The Council”) is hereby established.
- (2) The Council shall consist of a chairperson who shall be a media regulatory expert, or a judge of first or second grade, or a practicing advocate with at least five years experience and four other members, at least a secondary school leaving certificate all of whom shall be appointed by the Board;
- (3) The Council shall, subject to the provisions of this Act, adopt rules to govern its meetings and other matters as it may deem necessary and appropriate for the efficient performance of its functions and duties.
- (4) A member of the Press and Broadcast Complaints Council shall not be a holder of a political position in a political party or an elected office.

- (5) Members of the Press and Broadcast Complaints Council shall be selected through an open and transparent process, in consultation with the Managing Director, who shall first vet the nominees for positions on the complaints council.
- (6) The Press and Broadcast Complaints Council shall:
 - (a) promote and adopt codes of ethics and guidelines for professional conduct for print and broadcast journalists;
 - (b) promote the development of professional journalism through training and education;
 - (c) advocate for a free and independent media;
 - (d) provide advice on broadcast licensing;
 - (e) promote the formation of media and journalist associations;
 - (f) be responsible for receiving and investigating complaints brought against the press and broadcast media, including public broadcaster service providers;
 - (g) have initial jurisdiction over all complaints against the media and journalists and to resolve such complaints through mediation, conciliation or arbitration as it may deem appropriate;
 - (h) hear testimony, dismiss complaints or award limited remedies to complainants;
 - (i) refer complaints that are deemed to be serious violations or that cannot be resolved through mediation or arbitration to the Appeals Board to consider further action through a formal administrative hearing process;
- (7) The Council may dismiss a complaint, issue a finding and conclusion without sanctions, or take action including the imposition of the following sanctions:

- (a) a requirement that a news organization or journalist found to be at fault publishes or broadcast a correction, apology or both
 - (b) a requirement that an organization found to be at fault publishes or broadcast the Council's report of its findings.
 - (c) a reference to the commendation that the Authority take the complaint as a serious violation of ethics or professional code that could result in any sanction under Section 57, or as a violation of one of Section 28 (Defamation) or Section 29 (Hate Speech and Incitement to Violence). The Council's recommendation shall be advisory and shall not prejudice the Authority's investigation and findings.
- (8) The Council shall hold hearings and determine on the question of foreign ownership of print publications.
- (9) The imposition of any sanctions by the Press and Broadcast Council shall be without prejudice to any applicable legal actions brought against a broadcaster before the Media Authority.

22. Hearings Panel

- (1) The Hearings Panel ("The Panel") is hereby established.
- (2) The Board of Directors shall appoint members of the Hearing Panel, comprised of: a Chairperson, who shall be a media regulatory expert, a judge of high court, or a practicing human rights lawyer or advocate with at least seven years experience, and four other members of relevant experience and competence from civil society, media, or the law society.

- (3) The Board shall, in consultation with the Managing Director, recommend qualifications, terms and conditions of service of the persons appointed to the Hearings Panel.
- (4) The Panel shall, subject to the provisions of this Act, adopt rules to govern its meetings and other matters as it may deem necessary and appropriate for the efficient performance of its functions and duties.
- (5) The Hearings Panel shall:
 - (a) act as the hearings body for formal complaints against the press and violations of the media and licensing system that could not be resolved by the Press and Broadcast Council.
 - (b) be required to take testimony and come to decisions on the basis of public hearings as to culpability, mitigating circumstances and aggravating circumstances considering such things as public interest, truth, good faith, impact and degree of damage.
 - (c) make decisions on the basis of which the Authority subsequently issues appropriate sanctions where necessary and in accordance with the law.
 - (d) meet as necessary and as requested by the Managing Director in response to complaints and alleged violations of the media code of ethics, laws or broadcast licensing conditions.
 - (e) deliver all its decisions in writing.

23. Complaints and Monitoring

- (1) The Complaints and Monitoring (“The Committee”) is hereby established.

- (2) The Board shall in consultation with the Managing Director, determine qualifications, terms and conditions of service of the persons to be appointed to the Committee.
- (3) The Complaints and Monitoring Committee shall:
 - (a) be responsible for receiving and investigating complaints brought either generally or in the context of the relevant provisions of this Act;
 - (b) convene the Press and Broadcast Council when necessary in order to resolve complaints at source and if this fails, hand unresolved cases to the legal Counsel for presentation to the Hearings Panel;
 - (c) additionally be responsible for media monitoring, not in the sense of censorship or looking for violations, but in order to get an accurate picture of the media landscape;
 - (d) ensure that media policy development is properly and accurately focused; and
 - (e) establish regional and branch offices as appropriate for the purposes of performance of its duties and responsibilities.

24. Broadcast Frequency Licensing Committee

- (1) The Broadcast Frequency Licensing (“The Committee”) is hereby established.
- (2) The Board shall, in consultation with the Managing Director, recommend qualifications, terms and conditions of service for the persons to be appointed to the Committee.
- (3) The Broadcasting Frequency Licensing Committee shall:

- (a) be comprised of a Chairperson who shall be an expert media regulator and two other members with experience in the media or information and communications technology industry;
 - (b) be responsible for formulating and administering the licensing system for broadcasting;
 - (c) allocate licensing through open tendering;
 - (d) assess license fee rates; and
 - (e) consider, evaluate and deal with applications for the available frequency in a given area through an open and transparent hearing process to recommend the most suitable applicant for the frequency.
- (4) The Managing Director shall in consultation with the Board appoint members of the Committee.

25. Public Affairs and Education Committee

- (1) The Public Affairs and Education (“The Committee”) is hereby established.
- (2) The Board shall in consultation with the Managing Director, recommend qualifications, terms and conditions of service of the persons to be appointed to the Committee.
- (3) The Managing Director shall, in consultation with the Board appoint members of the Committee.
- (4) The public affairs and education committee shall:
 - (a) be comprised of a chairperson who shall be knowledgeable in public relations, education or media regulation and two other members;
 - (b) ensure maximum transparency for all activities of the Authority;

- (c) conduct public education and awareness campaign on media or press freedoms and regulation, and on the duties and responsibilities related and attached to freedom of expression;
- (d) ensure that the public understands what it should expect and demand from their media;
- (e) promote and assess public expectations on the role of independent media in a democratic society;
- (f) promote awareness among public officials, judiciary, police and security organs in order to understand their role and responsibility in supporting a free, open and democratic press;
- (g) assist in establishing professional training programs for journalists and media professionals in consultation with the Press and Broadcast Council, and other media and journalist associations; and
- (h) establish regional or branch offices as necessary for public outreach activities.

26. Engineering and Technical Standards Committee

- (1) The Engineering and Technical Standards (“The Committee”) is hereby established.
- (2) The Board shall in consultation with the Managing Director, recommend qualifications, terms and conditions of service of the persons to be appointed to the Committee.
- (3) The Managing Director shall in consultation with the Board, appoint members of the Committee.
- (4) The Engineering and Technical standards committee shall:
 - (a) comprise of a chairperson who shall be a person knowledgeable in electronics or telecommunications

- engineering and four other members with similar expertise or experience in engineering;
- (b) be responsible for creating a functioning frequency spectrum management plan upon which to base the broadcasting licensing system;
- (c) provide technical advice to the Authority and broadcasters; and
- (d) be responsible for setting technical standards for the electronic media, including satellite, digital, fibre-optic and cable delivery systems.

27. Inquiry

- (1) The Authority may conduct inquiry and hold hearings as may be necessary to discharge its functions and duties under this Act.
- (2) A complaint on the violation of the provisions of this Act shall be filed for determination by the Authority.
- (3) A complaint under subsection (2) of this Section shall state the facts that are the subject of the violation with as much detail as to enable the Authority to determine the validity of the complaint.
- (4) Where the inquiry under subsection (1) of this Section reveals a breach of Access to Information law or of an order of the Information Commissioner, the Authority may take necessary action to compel compliance with this Act or may impose a fine in accordance with a published schedule of fines imposed for similar breach.
- (5) The Authority shall take action against the violator only after having inquired and heard from the breaching party.

- (6) The Authority shall make a written report of each inquiry and provide a copy of the report to the party being inquired.
- (7) A report of inquiry made pursuant to subsection (6) of this Section shall include the findings, recommendations and the orders of the Authority.
- (8) The Authority shall publish the report of inquiry and such report shall be accepted as evidence of its contents.

28. Defamation

- (1) Individuals, legally established businesses and other legal entities who believe they have been defamed by published or broadcast statements have the right to take legal action against the organization or journalist they believe defamed them.
- (2) Consideration and resolution of complaints of defamation shall follow international best practice standards.
- (3) The following parties do not have standing to file a defamation action:
 - (a) Government agencies.
 - (b) Government officials in their official capacity.
 - (c) Persons claiming an offense on behalf of another party; for instance, the state or nation, an institution, a group that is not a legal entity with the right to sue and obligation to defend itself against suit, a family (though individual members can be defamed), a deceased person, a patriotic or religious object.
 - (d) Persons or parties allegedly protecting an interest other than their own reputation; for instance, public

order, national security or the honor of an institution, group or religion.

- (4) A defamation complaint shall be filed first with the Press and Broadcast Council, which shall investigate the merits of the complaint and attempt to negotiate a resolution that may include agreement by the journalist or news medium to correct any false information published and/or apologize.
- (5) If the Council finds merit to the complaint but is unable to negotiate a resolution acceptable to both parties, the Council shall pass the case to the Board of the Authority, which may dismiss the claim or hear it and reach a resolution.
- (6) To be found actionable, a statement must be made publicly (to a “3rd party”); the complainant must be identified or identifiable; the statement must be defamatory in common legal usage of the term (tending to lower the complainant in the esteem of others); the statement must be false; there must be injury; and the party who published the statement must have been at fault.
 - (a) in the case of private complainants the fault shown must be negligence.
 - (b) in the case of public officials, public figures and all parties when the statement is published in a matter of public interest, the fault shown must be malice. To prove malice, the complainant must present convincing evidence that the alleged defamer knew that the statement was false, or recklessly disregarded clear indications of falsity, and published nonetheless.
 - (c) no finding of liability shall be issued for mistakes made innocently, in good faith or without fault.

- (7) The following shall be defenses to complaints of defamation:
 - (a) truth. No liability shall be found for truth, no matter how defamatory. The burden is on the complainant to prove falsity.
 - (b) good faith. A defendant may show that he or she acted and followed accepted standards of professionalism and believed the matter published was true.
 - (c) opinion. No opinion shall be the basis of liability, even insulting or offensive ones. The factual basis of the opinion may be the basis of liability if false.
 - (d) privilege. No report shall be liable if it is an accurate account of statements made by government officials and agents, including police and those in the judiciary, in the course of their work.
 - (e) limitations of actions. A complaint of defamation must be brought within one year of publication after which it shall lapse.
- (8) Sanctions for a finding of liability may include the following:
 - (a) a requirement that the false information be corrected.
 - (b) compensation for actual damages, defined as provable losses as a result of the defamatory publication.
 - (c) compensation for non-material harm to reputation in serious cases.
- (9) Journalists shall not be required to reveal sources of information to whom they have promised confidentiality. The burden shall be on the complainant to prove that information attributed to an unidentified source was false.
- (10) A newspaper or other news medium may be liable for

republishing of defamatory statements published or broadcast by another.

- (11) Internet Service Providers, printers, distributors, news agents and vendors shall not be liable for defamatory statements except where they have had actively aggravated the publication.

29. Hate Speech and Incitement to Violence

- (1) It shall be an offense to publish, broadcast or otherwise disseminate statements that threaten, insult, ridicule or otherwise abuse a person or group with language that is intended to, and does or may provably incite others to commit acts of violence or to discriminate against that person or group, or is published, broadcast or otherwise disseminated in reckless disregard of the probability that it may incite such violence or discrimination.
- (2) In all cases, a nexus must be established between the words and an actual or probable act of violence or discrimination. Language that is merely offensive or insulting may not be subjected to liability under this Section. Language that is followed by an act of violence or discrimination that was not intended or could not reasonably have been foreseen shall not be the basis of liability under this Section.
- (3) Complaints of such offensive language shall be made to the Press and Broadcast Council, which shall investigate the merits of the complaint and attempt to resolve the matter through mediation and negotiation.
- (4) If the Council finds merit to the complaint but is unable to negotiate a resolution acceptable to both parties, the Council

shall refer the case to the Board of the Authority, which may dismiss the claim or hear it and reach a resolution.

- (5) Sanctions for a finding of liability under this Section may include:
- (a) the requirement to publish or broadcast a correction, apology or both.
 - (b) compensation for actual damages.
 - (c) a punitive fine.
 - (d) a warning;
 - (e) suspension of the broadcast license;
 - (f) denial of entry into premises;
 - (g) seizure of equipment;
 - (h) closedown of broadcast operations; or
 - (i) termination of the broadcast license.
 - (j) in the case of print publications found to have violated this Section with intent or reckless disregard, where the damage is serious, the publication may be ordered to cease publication and all equipment may be seized.
- (6) In serious cases where malicious intent or recklessness is shown and damage is serious, a prison term of up to five years may be imposed by a competent court. Malice may be defined in this Section as intent to arouse hatred or discrimination because of religious, ethnic and gender or other reason recognized as discriminatory.

30. Limitation of Liability

A member of the Board, officer or employee of the Authority shall not be liable for any act or omission committed in good faith in exercising or performing his or her duty with the Authority.

CHAPTER IV**FUNDING AND REPORTING OF THE AUTHORITY****31. Sources of Funding**

- (1) The Authority shall be funded through a budget approved in accordance with the budget procedures established by the Government.
- (2) Without prejudice to the provisions of sub-section (1), the Authority may receive funds from other sources; provided that such funds shall be applied in conformity with the requirements of the Public Finance Management and Accountability Act.
- (3) Other sources of funding for the Authority may include the following:
 - (a) license fees paid by broadcasters under this Act;
 - (b) fines collected by the Authority in the performance of its right to apply enforcement measures;
 - (c) grants from local or foreign bodies;
 - (d) grants from government;
 - (e) loans and money received from other legitimate sources.
- (4) The Authority shall for each financial year submit a budget for approval by the Council of Ministers and the Assembly within a reasonable period before the beginning of the following financial year.
- (5) Any grant or donation given to the Authority for a specific task or project shall be distinguished from the approved budget, spent in the public interest and be accounted for

separately in accordance with Public Finance Management and Accountability Law.

- (6) The funds of the Authority shall be deposited in the consolidated Accounts of the Ministry of Finance
- (7) Notwithstanding the provision of subsection (6) of this Section, the Authority shall, where necessary open and hold an account with the Central Bank of South Sudan, and other National Commercial Banks in full compliance with requirements of the Public Finance, Management and Accountability Act, 2011.

32. Audit and Annual Report

- (1) The Managing Director shall within four months after the end of each financial year prepare and submit to the Board an annual report of the activities of the Authority for that financial year.
- (2) The Authority shall within four months after the end of each financial year submit a statement of accounts of all monies received and spent by it for consideration by the Board.
- (3) The Board shall submit to the National Legislative Assembly a statement of accounts audited by the Auditor General in conformity with the requirements of the Public Finance Management and Accountability Act.
- (4) The annual report and audited accounts of the authority shall be submitted to both the Council of Ministers and the National Legislative Assembly for approval as soon as practicable but not later than six months from the beginning of the next financial year.

- (5) The annual report of the authority shall include the following information:
- (a) copy of the report by the auditor General;
 - (b) statement of financial performance and of cash flows;
 - (c) approved budget for the coming financial year;
 - (d) description of the activities of the Authority during the previous year;
 - (e) information relating to licensing, complaints and research;
 - (f) description of any sanctions applied by the Authority and the decision relating thereto;
 - (g) information relating to the Media and Broadcasting Frequency Plans;
 - (h) analysis of the extent the Authority has met its objectives in the previous year;
 - (i) objectives of the Authority for the coming year; and,
 - (j) any recommendations with regards to media sector.
- (6) The Authority shall publish its annual report along with the audited accounts.

CHAPTER V

FREQUENCY PLANNING AND LICENSING

33. Broadcasting Frequencies

- (1) The Authority shall, in consultation with the National Communications Authority established under the law, the interested stakeholders and the relevant Government institutions, develop and from time to time revise the Broadcasting Frequency Plan including locator map in

order to promote optimal use of the broadcasting frequency spectrum and the widest possible broadcasting diversity.

- (2) The Broadcasting Frequency Plan shall ensure that, the broadcasting frequency spectrum is shared equitably and in accordance with the broadcasting policy and guiding principles as set out in Section 6 of this Act, and in the public interest with consideration of the following categories of operators:
 - (a) Public Broadcasters;
 - (b) Commercial Broadcasters;
 - (c) Community Broadcasters;
 - (d) Radio and Television Broadcasters
 - (e) Local Broadcasters;
 - (f) Regional Broadcasters; and
 - (g) Broadcasters whose geographic area of coverage extends to the whole of South Sudan.
- (3) The Broadcasting Frequency Plan, along with any revisions to it, shall be posted on the official website of the Authority and disseminated widely;
- (4) The Broadcasting Frequency Plan shall reserve certain frequencies for future use for specific categories of broadcasters in order to ensure diversity and equitable access to frequencies over time.

34. Broadcast Licence Requirements

- (1) A person shall not provide a broadcasting service except in accordance with a valid broadcasting licence.
- (2) The Authority shall have exclusive responsibility in relation to issuing and renewing broadcasting licences.

- (3) The Authority shall maintain a register of all persons granted licences under subsection (2) and the categories of the licenses issued, and shall post the register on the official website of the Authority for public inspection.

35. Tender Licence Applications

- (1) The Authority shall, from time-to-time determine whether it is in the public interest to issue additional licences to provide broadcasting services, based on the Broadcasting Frequency Plan, Broadcasting policy or interest by potential Broadcasters and market capacity.
- (2) The Authority shall make regulations setting out the types of licences and procedures for submission of application and description of information to be provided and a schedule of annual licence fees established in accordance with the provisions of Section 47 of this Act.
- (3) Where a tender is issued pursuant to the provisions of subsection (1) of this Section, the Authority shall post a notice to that effect on its official website and publicise it in the available media outlets.
- (4) The notice in subsection (3) shall include all relevant information about the proposed licence, including the deadline for receipt of applications, application fee and the annual licence and renewal fees.
- (5) Any tender shall require the applicant, in relation to the proposed broadcasting service, to provide at least, the following information:
 - (a) ownership structure;

- (b) evidence of incorporation or establishment as a legal entity;
 - (c) sources of finance and the proposed financial plan during licence period;
 - (d) the organisation and management structure, including the personnel and expertise available to deliver the service;
 - (e) the programme schedule in case of cable or satellite service, information about the channels proposed to be provided within the basic service, as well as any other channels which may be purchased; and,
 - (f) the technical facilities for delivery of the service.
- (6) An application for broadcast license shall be published on the website of the Authority at least 60 days prior to public hearing at which license applications are assessed by the Authority.
- (7) The publication made under subsection (6) of this Section shall not include sensitive commercial or other information tendered by the applicant.

36. Non-tender Licence Applications

- (1) The Authority may receive applications to provide a broadcasting service even where a call for applications pursuant to Section 35 of this Act has not been made.
- (2) An application for a licence under sub-section (1) of this Section shall include the same information as is required for tender licence application pursuant to subsection (5) of Section 35 of this Act.

37. Assessing Licence Applications

- (1) The Authority shall in assessing licence applications be fair, non-discriminatory and transparent.
- (2) The procedure for assessing licence applications by the Authority shall include consideration of the application at an open hearing and any person may provide written comments on the application.
- (3) The Authority may conduct public hearings in the area of geographical reach of the proposed broadcaster.
- (4) The Authority shall in deciding whether or not to issue a broadcasting licence to an applicant in accordance with Section 35(1) of this Act take the following into consideration:
 - (a) technical capacity of the applicant to deliver quality service taking into account the nature of the proposed service;
 - (b) nature and extent of financial resources of the applicant and financial viability of the proposal;
 - (c) effect of licensing the proposed service in terms of concentration of ownership, cross ownership and fair competition and, where the applicant is not a South Sudanese, the percentage of shareholding by South Sudanese Nationals;
 - (d) promotion of the widest possible diversity of services taking into account the proposed Programme Schedule, the demand and the need for that service, and the broadcasting services already being provided in that area;
 - (e) need to promote locally produced programs which serve the needs and interests of the people of South Sudan; and,

- (f) need to promote broadcasting produced in the different regions, states, and languages and by the diverse cultures of South Sudan.
- (5) The Authority shall provide a written notice of its decision to an applicant for broadcasting service licence.
- (6) Where an application for broadcasting service licence is rejected the notice under subsection (5) of this Section shall include the reasons for the rejection and information regarding the right of the applicant to appeal.
- (7) A broadcasting license shall not be issued to a political party or to a body which is substantially owned or controlled by a political party.
- (8) A licence may be issued to:
 - (a) an individual who is a citizen or resident of South Sudan;
 - (b) an entity incorporated or has a recognized legal status in South Sudan; or,
 - (c) an entity which is not subject to majority control by non-citizens or non-residents.
- (9) The Authority shall upon its decision by the Authority on an application under sub-section (4) of this Section, cause a notice of that decision to be posted on the official website of the Authority.
- (10) Every application for a license shall be published on the official website of the Authority and the Government Gazette at least 60 days prior to the public hearing at which license application will be assessed.
- (11) The publication under subsection (10) of this Section shall

not involve sensitive commercial or other information tendered by the applicant.

38. Licence Frequency

- (1) The Authority shall before deciding whether or not to issue a new broadcasting licence, ensure that appropriate frequencies for the proposed service are available.
- (2) A licence issued under subsection (1) of this Section shall stipulate any frequency or frequencies for dissemination of the licensed service.

39. Licence Renewals

- (1) An application for renewal of a licence shall be made in accordance with the conditions set out in the licence.
- (2) An application under subsection (1) of this Section shall, in the absence of licence conditions be presented to the Authority three months before the date of expiry of the existing licence.
- (3) The Authority may refuse to renew a licence where the licensee has operated in breach of licence conditions or where refusal to renew the licence is clearly in public interest, based on the broadcasting policy and guiding principles as set out in Section 6 of this Act.
- (4) The Authority may upon a proposal for amendments to the licence conditions by a licensee at the time of renewal of the licence, accept or reject amendments to the conditions of the licence except for the conditions imposed by the Authority on its own, which shall satisfy the conditions set out in Section 44 of this Act.

- (5) The Authority may, when considering an application for renewal of a licence, require such new or additional information as it may deem necessary.
- (6) Where on the date of expiry of a licence the Authority has not decided in respect of an application for renewal, the licence shall be deemed to be valid until the application for renewal is granted or rejected by the Authority.
- (7) The Authority shall in case of a proposed decision not to renew the licence, provide the licensee with written reasons, and shall give the licensee opportunity to make oral or written representations before taking the final decision.
- (8) Where the Authority does not renew a licence, it shall provide written reasons for its refusal.

CHAPTER VI

GENERAL LICENSING CONDITIONS

40. Licensing

- (1) A Licence shall not be transferable to a third party without the prior approval of the Authority.
- (2) It shall be a licence condition to comply with all the matters specified in the application for licence, including the Programme Schedule,
- (3) Terrestrial broadcasters shall keep all master recordings of all the programmes and advertisements they broadcast for at least twenty-eight days after the broadcast.
- (4) Where a particular broadcast material is a subject of a dispute, the broadcaster shall, at the request of the Authority,

keep a master recording of that broadcast material until the dispute is fully resolved.

- (5) Satellite broadcasters shall keep a register of the programme channels and advertisements distributed for at least twenty-eight days after the distribution.
- (6) Where a particular broadcast material is a subject of a dispute, the Satellite broadcaster shall keep a record of it until the dispute is fully resolved.
- (7) A broadcasting licence shall automatically lapse where the licensee does not initiate a service within six months from the date specified in the licence for the commencement of the service, or if a broadcaster fails to broadcast for six months without a valid excuse.
- (8) Licences shall be valid for the following periods:
 - (a) 4 years for a community broadcasting licence;
 - (b) 5 years for a commercial radio broadcasting licence; and,
 - (c) 7 years for commercial television broadcasting licences
- (9) Licensees shall report annually to the Authority on their activities, including the observance of the licence conditions.

41. Copyright

- (1) Broadcasters may only broadcast programmes they produce or for which they hold broadcasting rights;
- (2) Copyright shall be clearly indicated as part of the credits displayed with each broadcast programme.

- (3) The name of the producer of every broadcast programme shall be printed, displayed or read out at the beginning or end of the programme.

42. Undue Concentration of Ownership

- (1) A legal or natural person shall not exercise direct or indirect control over more than one national free-to-air television service.
- (2) A legal or natural person shall not exercise direct or indirect control over a national free-to-air broadcasting service and a national newspaper.
- (3) For purposes of this Section, financial or voting interest of 40% or more shall be deemed to constitute control.
- (4) The provisions of sub-section (1) of this Section shall not apply to a national public broadcaster.

43. Local Content Requirements

- (1) Every licensed broadcaster shall within each broadcasting service include the following minimum quotas of local programming:
 - (a) 10% within 6 months of the coming into force of this Act;
 - (b) 20% within 2 years from the end of six months in paragraph (a) of this Section.
 - (c) 40% within 5 years from the end of the 2 years in paragraph (b) of this Section.
- (2) In exceptional circumstances the Authority may delay or waive the above requirements for a particular broadcasting service.

44. Licence Fees

- (1) The Authority shall, after consultation with the Minister and the Minister of Finance and Economic Planning and taking into account market considerations, produce a schedule of the applicable annual licence fees as it deems necessary and shall set out the rates for various types of broadcast media services.
- (2) The schedule of applicable annual licence fees shall be widely publicized over domestic media outlets and published on the website of the Authority.
- (3) The schedule of the applicable annual licence fees shall be laid before the Assembly by the Minister of Finance and Economic Planning for consideration.
- (4) For purposes of sub-section (1) of this Section, the Authority may classify licensed services by:
 - (a) tier (public, commercial or community);
 - (b) type (radio or television, terrestrial, free-to-air, subscription, satellite or cable and analogue or digital); and,
 - (c) scope (national, regional, local or according to the number of subscribers).
- (5) Licensees shall be required to pay the applicable annual licence fees for each broadcasting service they operate.

45. Additional Terms and Conditions

- (1) The Authority may from time to time, make regulations setting out general licence terms and conditions for different types of licensees.

- (2) The general licence terms and conditions may include, among others:
 - (a) the period prior to the expiry of a licence during which an application for renewal shall be submitted;
 - (b) the minimum amount of programming to be commissioned from local independent producers; or,
 - (c) the categories of information that shall be provided by the licensees in their annual reports to the Authority pursuant to the provisions of Section 39 (5) of this Act.
- (3) The Authority shall publish the regulations made under subsection (1) of this Section widely, including on its website.

46. No Retroactive Application for a Licence

Changes in licence conditions pursuant to Sections 44 and 45 of this Act, shall not apply retroactively to broadcasters licensed under provisions of this Act.

CHAPTER VII

SPECIFIC LICENCE CONDITIONS

47. Licence Conditions

- (1) The Authority may attach such specific conditions to the licence as it may deem necessary to promote broadcasting and in accordance with the Guiding Principles and media policy as set out in Section 6 of this Act.
- (2) The conditions for a broadcasting service licence in particular shall among others:

- (a) set the minimum number of hours to be broadcast on a daily, weekly or annual basis;
- (b) set minimum local content requirements over and above the minimum specified in this Act;
- (c) specify maximum amounts of repeat programming; or,
- (d) specify the language or languages in which the programmes are to be broadcast and in what minimum proportions.

48. Amendment of Licence Conditions

- (1) Broadcasters may propose amendments to conditions of their licences to the Authority. The Authority may approve or reject such amendments.
- (2) Where the Authority fails to respond to the proposal made by a broadcaster under sub Section (1) of this section within 60 working days from the date of receipt of the proposal, the Authority shall be deemed to have accepted the proposal
- (3) The Authority may, in respect of any particular licence, and after giving the license holder an opportunity to make written representations, amend on its own motion any of the prescribed conditions, including adding further conditions:
 - (a) if the Authority is of the opinion that it is necessary to promote broadcasting on the basis of the guiding principles and media policy as set out in Section 6 of this Act; or,
 - (b) in order to give effect to any international treaty governing broadcasting and media matters to which South Sudan is a signatory.

49. General Restriction on Specific Licence Conditions

Specific licence conditions shall not be imposed under Sections 45, 46 or 47 of this Act, unless they:

- (1) are relevant to broadcasting;
- (2) further media and broadcasting policy as set out in Section 6 of this Act; and,
- (3) are reasonable, realistic and in the public interest.

CHAPTER VIII**ADVERTISEMENT, PROGRAMME AND
TECHNICAL CODES****50. Advertisement and Technical Codes**

- (1) The Authority shall, in consultation with broadcasters, publishers, journalists and other interested stakeholders, draw up and from time to time review and amend the Advertisement, Programme and Technical Codes for print media and broadcasters.
- (2) The Codes shall be published and widely disseminated and every licensee or media outlet shall be provided with a copy of each Code.

51. The Advertisement Code

- (1) The advertising code shall address a range of issues relating to print, broadcast and audio-visual advertising, including the following:
 - (a) all advertisements shall be clearly identified;
 - (b) no printer or publisher or audio-visual licensee shall

- advertise medicines which are available only with a prescription;
- (c) no printer or publisher or audio-visual licensee shall advertise or promote illegal products and contents that tend to corrupt public morals;
 - (d) the maximum space, daily and hourly advertising which may be carried by different licensed broadcasting services shall in no case exceed 60% of total daily programming or 60% of pages and spaces available in case of print or newspaper publication; and,
 - (e) no broadcaster shall carry any advertisement for or on behalf of any political party or candidate for election to political office, except in accordance with the Section or in accordance with the law and regulations governing elections
- (2) Subject to the provisions of the Elections law or any regulations issued there under, the Authority may adopt regulations regarding political advertisements during elections, provided that any such regulations shall be based on the principle that parties and candidates shall be granted equitable and non-discriminatory access to media services
- (3) The Advertisement Code shall set out rules regarding programme sponsorship.
- (4) For purposes of this Act sponsorship shall not be deemed to constitute advertisement.

52. The Programme Code

- (1) The Programme Code shall address a range of issues relating to programming including, among others, the following:

- (a) balance and impartiality in news and current affairs and programming and the duty to strive for accuracy in these programmes;
 - (b) protection of children;
 - (c) classification of programmes, including films, according to the recommended age of the viewers;
 - (d) terms, conduct and editing of interviews;
 - (e) use of covert recording and subterfuge;
 - (f) keeping within accepted boundaries of taste and decency, including in relation to the portrayal of sexual conduct and violence and the use of strong or abusive language;
 - (g) coverage of crime and anti-social behaviour;
 - (h) distinguishing between factual material and comedy;
 - (i) the treatment of religion, ethnic, religious and cultural communities and relations, gender issues, minors and people with special needs;
 - (j) respect for privacy; and,
 - (k) use of subliminal images or sounds.
- (2) The Authority shall in developing and implementing the Programme Code, have due regard to the rightful place a robust and open debate, free expression of personal views, the need for original, innovative and stimulating programme-making, in a pluralist democratic society and the potential for achieving proper balance over a series of programmes, or over time, rather than in every individual programme.

53. The Technical Code

- (1) The Authority shall, in consultation with the Ministry, the Ministry responsible for Telecommunications, the Postal Services, broadcasters, journalists and other media service

providers and interested stakeholders, draw up and from time to time review and amend the Technical Code for broadcasters.

- (2) The Technical Code shall address issues relating to general technical broadcast standards and formats.
- (3) The Technical Code shall be published and widely disseminated and every licensee shall be provided with a copy.
- (4) The Authority shall in coordination with the Ministry and Ministry responsible for Telecommunications and Postal Services, monitor compliance by broadcasters with the Technical Code.

54. Compliance

Compliance with Advertisement, Programme and Technical Codes shall be deemed to be licence conditions for broadcasters.

CHAPTER IX

BREACH OF LICENCE CONDITIONS

55. Complaints and Monitoring

- (1) A person who believes that a licensee has breached the Advertisement, Programme or Technical Code may lodge a complaint in writing with the Authority
- (2) The Authority shall investigate the complaint lodged under subsection (1) of this Section unless it considers the complaint frivolous or manifestly unfounded.
- (3) The Authority shall in ensuring that all licensees comply with their licence conditions, monitor licensees and carry

out investigation where it believes that there may be breach of licence conditions

56. Investigations

- (1) Where the Authority conducts an investigation pursuant to the provisions of Section 55 of this Act, it shall provide the licensee with written notice of any allegation in the complaint and a reasonable opportunity to make representations.
- (2) Where a complaint is filed pursuant to subsection (1) of this Section, the Authority shall provide the licensee with a reasonable opportunity to make representation on the issues raised in the complaint.
- (3) The Authority shall make a decision in relation to a complaint filed under Section 52 of this Act within sixty days from the date of receiving the complaint, except where exceptional circumstances arise that make it impossible to do so.
- (4) Where the Authority decides that a licensee is in breach of the Advertisement, Programme or Technical Code or any other licence condition, it shall publish its decision including the reasons for such decision and the sanction if any, imposed against the defaulter, pursuant to Section 57 of this Act, and notify the licensee of the right to appeal against the decision.
- (5) The Authority shall provide the licensee and, where appropriate the complainant, with a copy of its decision.

57. Sanctions

- (1) Where the Authority determines that a licensee is in breach of the Advertisement, Programme, Technical Code or other

licence condition or provision of this Act, it may apply one or more of the following sanctions:

- (a) issue an internal instruction to the licensee;
 - (b) issue a written warning to the licensee;
 - (c) order the licensee to issue a broadcast or press statement, correction or retraction at a specified time and in a specified form; or,
 - (d) order the licensee to take such action or desist from taking such action as it deems necessary to rectify or prevent repetition of the breach.
- (2) The Authority may where the licensee is guilty of a repeated breach of licence conditions, order the licensee to pay a fine not exceeding 2% of the licensee's total revenue for the previous year.
- (3) The fine paid under subsection (2) of this Section shall be deposited in the Authority's account
- (4) In case of a repeated or gross breach of licence conditions, the Authority may order the suspension of part or the entire programme schedule of a licensee, or terminate its licence.
- (5) the Authority shall not impose the sanctions provided for in sub-section (2) or (3) of this Section, or breach of a rule relating to broadcast service content, except as shall be decided by Members of the Board and where other, lesser sanctions have failed to prevent further breach.
- (6) Where a person carries on an unlicensed broadcasting activity in contravention of the provisions of Section 34(1) of this Act, or transfers a broadcasting licence in contravention of the provisions of Section 40(1) of this Act, the Authority may

order the termination of that broadcasting activity, impose a determinable fine on the offending person or order for the confiscation of the equipment used in the illegal activity.

- (7) Failure to comply with an order of the Authority under this Section shall be deemed to be contempt of court, and where a licensee fails within a period specified by the Authority to comply with an order, the Authority may request the Public Attorney to institute contempt proceedings against that licensee.

CHAPTER X

MEDIA APPEALS BOARD

58. Establishment of Media Appeals Board

- (1) The Media Appeals Board (hereinafter called ‘the Appeals Board’) is hereby established to exercise the functions relating to appeals against decisions made by the Board of the Authority or by the Information Commissioner.
- (2) The Appeals Board shall be independent in performing its functions and duties, determining its own rules of procedure, which rules shall guarantee fair and impartial proceedings in accordance with internationally recognized human rights standards, and shall include provisions on reconsideration of decisions of the Appeals Board.
- (3) The Appeals Board shall decide on appeals from parties that are directly affected by decisions regarding:
 - (a) granting, denying, non-renewal or revocation of broadcasting licenses;

- (b) imposition or modification of broadcasting license conditions, excluding conditions relating to frequency allocation or any other technical criteria;
 - (c) imposition of sanctions by the Board or by the Press and Broadcast Complaints Council or refusing to grant access to information and,
 - (d) such other matters as may be provided for in an administrative directive or regulations.
- (4) Deliberations and decisions of the Appeals Board shall:
 - (a) be in accordance with the law and internationally recognised broadcasting best practices and human rights standards;
 - (b) respect democracy and the rule of law; and
 - (c) protect freedom of expression.
- (5) The Appeals Board may uphold, modify or rescind any decision of the Board of the Authority regarding the appeal, and its final decisions shall be binding and enforceable.

59. Appointment of Members of the Media Appeals Board

- (1) The Media Appeals Board shall comprise of three members, two of who shall be at least a retired judge of the appeal court, a retired judge of the high court, or advocate or lawyer with credentials to be appointed at least as judge of court of appeal, and a third member shall be a media regulatory expert or journalist or information and communications technology professional or a human rights lawyer with credentials to be appointed as judge of appeal court, who shall have relevant knowledge and experience and shall have the required qualifications for nomination to the Appeals Board.

- (2) The Board of the Authority shall submit through the Minister, the names of persons to be appointed to the Appeals Board to the President for submission to the National Legislative Assembly for vetting, allowing opportunity for the public to make representations on the candidates to the select Committee of the Assembly before their appointment.
- (3) The list of the names of nominees for appointment to the Media Appeals Board in subsection (2) of this Section shall be double the number of vacancies available on the Appeals Board.
- (4) The President shall appoint the members of the Appeals Board from the list of nominees submitted under subsection (2) and subsection (3) of this Section upon approval by a simple majority vote of the members of the National Legislative Assembly,
- (5) A person shall be eligible for appointment to the Appeals Board if he or she:
 - (a) is South Sudanese;
 - (b) does not hold a position where he or she, receives payment from or has, a direct or indirect, financial interest in media or telecommunications;
 - (c) is not declared bankrupt or insolvent or
 - (d) has not been convicted of an offence involving dishonesty or moral turpitude;
 - (e) is not a holder of an office in or employed by a political party;
 - (f) is not a holder of an elected office at any level of Government

- (6) No member of the Appeals Board shall use his or her position for personal benefit or for the benefit of any other party or entity.
- (7) Members of the Media Appeals Board shall be independent in exercising their duties and shall elect one from among them as President or the Chairperson to preside over the Appeals Board
- (8) The Chairperson shall be at least a sitting or retired court of appeal judge, or a retired high court judge in that order.

60. Tenure and Removal from Office

- (1) The tenure of office of a member of the Media Appeals Board shall be three years and may be renewed for two additional terms, in accordance with procedures set out in Section 59 of this Act.
- (2) The President may remove a member of the Media Appeals Board upon a resolution passed by a simple majority vote of the National Legislative Assembly after a hearing following the recommendation of the Board of the Authority through the Minister, where that member:
 - (a) becomes by virtue of Section 59(5) of this Act, ineligible for appointment to the Media Appeals Board;
 - (b) commits breach of his or her duties under this Act;
 - (c) is unable to perform his or her duties effectively due to incapacity; or,
 - (d) fails, without valid excuse, to attend meetings of the Media Appeals Board for more than three consecutive meetings.

- (3) A member of the Media Appeals Board may resign from office upon delivering a written resignation to the President through the Chairperson of the Appeals Board and the Minister.
- (4) The Chairperson of the Media Appeals Board may resign from office upon delivering a written resignation to the President through the Minister.
- (5) A member who is removed from the Appeals Board pursuant to subsection (2) of this Section shall be served with written reasons for his or her removal.
- (6) Where the Chairperson, or a Member is removed from office or he or she resigns or dies, he or she shall be duly replaced under the same conditions and in the same manner, as he or she was appointed

61. Procedures of the Media Appeals Board

- (1) The Chairperson of the Media Appeals Board shall convene the first meeting of the Media Appeals Board not later than thirty days following the appointment of all the Members of the Media Appeals Board.
- (2) The Media Appeal Board shall, subject to the provisions of this Act, adopt rules to govern its meetings and other matters as it may deem necessary and appropriate for the efficient performance of its functions and duties.
- (3) Rules of the Media Appeal Board shall include provisions governing procedures for submitting appeals for consideration.
- (4) Rules of the Media Appeal Board shall be adopted by

unanimous vote of the members and shall be posted on the official website of the Authority.

62. Submission of Appeals

- (1) Any appeal shall be submitted to the Media Appeal Board within thirty days of receipt of a decision subject of that appeal
- (2) An appeal shall be made in writing with reasons for such appeal.
- (3) The Media Appeal Board may, without hearing, reject an appeal not submitted within thirty days or does not contain sufficient reasons for its consideration.

63. Decisions of Media Appeals Board

- (1) The Media Appeal Board shall issue its decisions in relation to any appeal in writing.
- (2) The decisions of the Appeal Board under subsection (1) of this Section shall be distributed to all the parties involved in the dispute.

Decisions of Media Appeal Board shall be final and subject to review only by the Supreme Court of South Sudan.

64. Funding of Media Appeals Board

- (1) The Media Appeals Board shall be funded through an approved budget of the Authority in accordance with the budget procedures established by the Government.
- (2) Without prejudice to the provisions of sub-section (1) of this Section, the Media Appeals Board may receive additional

funding from local or foreign grants subject to approval by the Authority.

65. Remuneration of Members

- (1) The Chairperson, and Members of the Appeals Board shall be paid sitting allowances
- (2) The Chairperson, and Members of the Appeals Board shall be reimbursed for actual and reasonable cost incurred, including travelling, accommodation and subsistence expenses in the performance of their official functions and duties as shall be prescribed by regulations.
- (3) The sitting allowances and other expenses shall be determined by the Minister in consultation with the Minister of Finance and Economic Planning and approved by the Assembly.

CHAPTER XI

MISCELLANEOUS PROVISIONS

66. Existing Broadcasting Services

- (1) The Authority shall within two months of its establishment, initiate a review of all existing broadcasting services with a view to determine whether or not to issue these services with licences under Section 36 of this Act.
- (2) The review of existing broadcasting services initiated by the Authority under subsection (1) of this Section shall be concluded within twelve months of establishment of the Authority.

- (3) Notwithstanding the provisions of this Act, any agreement or licence to provide broadcasting services in force prior to the date of commencement of this Act shall be deemed a valid broadcasting licence for purposes of this Act, unless the Authority, in exercise of its functions and duties under sub-section (1) of this Section decides otherwise.
- (4) Where an agreement or licence referred to in sub-section (3) of this Section under which an existing broadcaster operates does not specify the type or number of broadcasting services which may be provided, the number or types of such services shall be deemed to be the services being provided at the time this Act came into force.

67. Rules and Regulations

- (1) The Authority may on the recommendation of the Board make Regulations for effective implementation of the provisions of this Act, provided that such Regulations are not inconsistent with this Act or any Government procedures for subsidiary legislation.
- (2) The Managing Director shall post the rules and regulations of the Authority on the official website of the Authority.

FIRST SCHEDULE:**OATH OF A MEMBER OF THE BOARD OF THE MEDIA
AUTHORITY**

“I....., do hereby swear by the Almighty God/solemnly affirm, that I shall be faithful and bear true faith and allegiance to the Republic of South Sudan and shall diligently and honestly discharge my functions and duties as a Member of the Board of the Media Authority, and shall strive to foster the development and welfare of its people; shall obey, preserve and defend the Constitution and abide by the law; and that I shall protect and promote the right to freedom of expression and freedom of thought as defined by the Constitution, and the law; so help me God”

SECOND SCHEDULE:**OATH OF A MEMBER OF THE MEDIA APEALS BOARD**

“I....., do hereby swear by the Almighty God/solemnly affirm, that I shall be faithful and bear true faith and allegiance to the Republic of South Sudan and shall diligently and honestly discharge my functions and duties as a Member of the Media Appeals Board, and shall strive to foster the development and welfare of its people; shall obey, preserve and defend the Constitution and abide by the law; and that I shall protect and promote the right to freedom of expression and freedom of thought as defined by the Constitution, and the law; so help me God”



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