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Pakistan Electronic Media Regulatory Authority Ordinance, 2002

PAKISTAN ELECTRONIC MEDIA REGULATORY AUTHORITY ORDINANCE, 2002

Ordinance No. XIII of 2002

March 10 2002

AN

ORDINANCE

to regulate electronic media in Pakistan

WHEREAS it is expedient to provide for the development of electronic media in order to –

(i) improve the standards of information, education and entertainment;

(ii) enlarge the choice available to the people of Pakistan in the media for news, current affairs, religious knowledge, art, culture, science, technology, economic development, social sector concerns, music, sports, drama and other subjects of public and national interest;

(iii) facilitate the devolution of responsibility and power to the grass-roots by improving the access of the people to mass media at the local and community level; and

(iv) ensure accountability, transparency and good governance by optimizing the free flow of information;

AND WHEREAS, the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of Proclamation of Emergency of the fourteenth day of October, 1999 and the Provisional Constitution Order No.1 of 1999 read with the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

1. Short title, extent and commencement.—(1) This Ordinance shall be called the Pakistan Electronic Media Regulatory Authority Ordinance, 2002.

(2) It extends to the whole of 2[Islamic Republic of Pakistan.

(3) It shall come into force at once.

1Subs. by Act II of 2007, s. 2

2Ins. and Subs. by Act II of 2007, ss. 3-4.

3. Establishment of the Authority.-(1) As soon as may be, after the commencement of this Ordinance, the Federal Government shall, by notification in the Official Gazette, establish an authority to be known as the Pakistan Electronic Media Regulatory Authority (PEMRA) for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate having perpetual succession and a common seal with powers subject to the provision of this Ordinance to hold and dispose of property by the said name, sue and be sued.

(3) The principal office of the Authority shall be at Islamabad and it may set up offices at such place or places in the country as it may deem appropriate.

(4) No act or proceeding of the Authority shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Authority.

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(4) No act or proceeding of the Authority shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Authority.

1[4. Functions of the Authority.-(1) The Authority shall be responsible for regulating the establishment and operation of all broadcast media and distribution services in Pakistan established for the purpose of international, national, provincial, district, local or special target audiences.

(2) The Authority shall regulate the distribution of foreign and local TV and radio channels in Pakistan;

2[(3) * * *]

1Subs. by Act II of 07, ss. 5-6.

2Omitted by Ord. XXVII of 07, s. 3 (valid up to 02-10-07)

5. Power of the Federal Government to issue directives. The Federal Government may, as and when it considers necessary, issue directives to the Authority on matters of policy, and such directives shall be binding on the Authority, and if a question arises whether any matter is a matter of policy or not, the decision of the Federal Government shall be final.

6. Members of Authority.-(1) The Authority shall consist of a Chairman and 1[twelve] members to be appointed by the President of Pakistan.

(2) The Chairman of the Authority shall be an eminent professional of known integrity and competence having substantial experience in media, business, management, finance, economics or law.

(3) Out of 1[twelve] members one shall be appointed by the Federal Government on full time basis and five shall be eminent citizens chosen to ensure representation of all provinces with expertise in one or more of the following fields: media, law, human rights, and social service. Of the five members from the general public, two members shall be women.

(4) Secretary, Ministry of Information and 2[Broadcasting, Secretary, Interior Division, Chairman, Pakistan Telecommunication Authority and Chairman, Central Board of Revenue] shall be the ex-officio members.

2[(4A) The remaining two members shall be appointed by the Federal Government on need basis on the recommendation of the Chairman.]

(5) The members 2[* * *] shall receive such fee and expenses for each meeting as may be prescribed28.

2[(6) A member, other than an ex-officio member, shall be deemed to have vacated his office if he absents himself for three consecutive meetings of the Authority without the leave of the Authority.]

7. Tenure of members.-(1) The Chairman and members, other than ex-officio members, unless earlier removed for misconduct or physical or mental incapacity, shall hold office for a period of four years and shall be eligible for re-appointment for a similar term or as the Federal Government may determine:

Provided that the Chairman and a member shall retire on attaining the age of sixty-five years.

Explanation.- For the purposes of this section the expression "misconduct" means conviction for any offence involving moral turpitude and includes conduct prejudicial to good order or unbecoming of a gentleman.

1Subs. by Act II of 07, ss. 5-6.

2Subs., ins., omitted and added by Act II of 07, s. 6.

(2) The Chairman or a member may, by writing under his hand, resign his office.

8. Meetings of the Authority, etc.-(1) The Chairman or, in his absence, the member elected by the members for the purpose, shall preside at a meeting of the Authority.

(2) One-third of the total members shall constitute a quorum for meetings of the Authority requiring a decision by the Authority.

(3) The members shall have reasonable notice of the time and place of the meeting and the matters on which a decision by the Authority shall be taken in such meeting.

(4) The decisions of the Authority shall be taken by the majority of its members present, and in case of a tie, the member presiding a meeting shall have a casting vote.

(5)All orders, determinations and decisions of the Authority shall be taken in writing and shall identify the determination of the Chairman and each member separately.

9. Remuneration, of Chairman and members.-(1) The Chairman and members shall be paid such emoluments as the President of Pakistan may determine and shall not be varied to their disadvantage during their term of office.

10. Chairman and members not to engage themselves in certain business, etc.-(1) The Chairman shall not, during his term of office, engage himself in any other service, business, vocation or employment, or enter into the employment of, or accept any advisory or consultancy relationship with any person or entity engaged in applying for a licence from the Authority or operating a broadcast station established within the purview of the Authority or in providing services or products to the Authority on any of the projects, schemes, proposals or plans undertaken, executed or supervised by the Authority or any related undertaking of such aforesaid person or entity.

(2) The members shall not have any direct or indirect financial interest, or have any connection with any such person, entity or related undertaking as mentioned in sub-section (1) of this section associated in any way with the licensee of a broadcast station for so long as they are members and hold office.

11. Officers, employees, etc. To carry out the purposes of this Ordinance, the Authority may, from time to time, appoint members of its staff, experts, consultants, advisers and other officers and employees on such terms and conditions as it may deem fit.

12. Officers, etc. deemed to be public servants. The Chairman, members, members of its staff, other officers and employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

13. Delegation. The Authority may, by general or special order, delegate to the Chairman or a member or any member of its staff, or an expert, consultant, adviser, or other officer or employee of the Authority any of its powers, responsibilities or functions under this Ordinance subject to such conditions as it may by rules prescribe:

1["Provided that the delegation of such power shall not include the power to grant, revoke or cancel a broadcast media or distribution service licence except Cable TV."]

14. Fund.-(1) There shall be established a fund to be known as "PEMRA Fund" which shall vest in the Authority and shall be utilized by the Authority to meet charges in connection with its functions including payment of salaries and other remunerations to the Chairman, members, 1mployees] experts and consultants of the Authority.

(2) The Fund shall consist of.-

(i) Seed money by the Federal Government;

(ii) fees for issuance 2[and renewal] of licences for establishing and operating broadcast or CTV stations;

(iii) loans obtained with the special or general sanction of the Federal Government;

(iv) foreign aid obtained with sanction of and on such terms and conditions as may be approved by the Federal Government; and

(v) all other sums received by the Authority from any other source.

(3) The Authority may open and operate one or more accounts in local, or foreign currency, in any scheduled bank

15. Budget. The Authority shall, in respect of each financial year, prepare its own budget and submit it to the Federal Government three months before the commencement of every financial year for information.

16. Accounts and Audit.–(1) The Authority shall maintain complete and accurate books of accounts of its actual expenses and receipts in such form as the Federal Government may, in consultation with the Auditor General of Pakistan, determine.

(2) The Authority shall cause to be carried out audit of its accounts by one or more auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961).

1Subs. by Act II of 07, s. 7.

2Subs. , ins. and added by Act II of 07, s. 8

(3) Notwithstanding the audit provided in sub-section (2) the Auditor-General shall have the power to audit

or cause to be audited the accounts of the Authority.

17. Annual report. The Authority shall compile and submit an annual report on its operations and accounts for each financial year to the President of Pakistan and shall also arrange for its publication and circulation to the media and the public.

1[18. Categories of licences. The Authority shall issue licences for broadcast media and distribution service in the following categories, namely:-

i. International and National scale stations;

ii. Provincial scale broadcast;

iii. Local Area or Community based Radio and TV Broadcast;

iv. Specific and specialized subjects;

v. Distribution services; and

vi. Uplinking facilities including teleporting and DSNG.

(2) The Authority may further sub-categorize the categories specified in sub-section (1) as it may deem fit.]

19. Licence to broadcast or operate.-1[(1) The Authority shall have exclusive right to issue licences for the establishment and operation of all broadcast media and distribution services, provided that this exclusive right shall be used by the Authority in conformity with the principles of fairness and equity applied to all potential applicants for licences whose eligibility shall be based on prescribed criteria notified in advance and that this shall be done through an open, transparent bidding process:-

Provided that the bidding shall be held if the number of applications exceeds the number of licences to be issued by the Authority.

(2) No person shall engage in 2[any broadcast media or distribution service] except after obtaining a licence issued under this Ordinance.

(3) Every licence shall be subject to such terms and conditions as may be prescribed.

1Subs. by Act II of 07, ss. 9-10.

2Subs., added and omitted by Act II of 07, ss. 10-11.

2[(4) The Authority shall have the power to determine number of licences to be issued in each category or sub-category and charge fees at such rates as the Authority may fix from time to time for the grant of a licence and for its annual renewal.]

2[(5) The Authority shall devise a Code of Conduct for programmes and advertisements for compliance by the licensees.]

20. Terms and conditions of licence. A 1[person] who is issued a licence under this Ordinance shall-

(a) 1[ensure preservation of] the sovereignty, security and integrity of the Islamic Republic of Pakistan;

(b) 1[ensure preservation of] the national, cultural, social and religious values and the principles of public policy as enshrined in the Constitution of the Islamic Republic of Pakistan;

1[(c) ensure that all programmes and advertisements do not contain or encourage violence, terrorism, racial, ethnic or religious discrimination, sectarianism, extremism, militancy, hatred, pornography, obscenity, vulgarity or other material offensive to commonly accepted standards of decency;]

(d) comply with rules 2[and regulations] made under this Ordinance;

(e) broadcast, 1[if permissible under the terms of its licence,] programmes in the public interest specified by the Federal Government or the Authority in the manner indicated by the Government or, as the case may be, the Authority, provided that the duration of such mandatory programmes do not exceed ten per cent of the total duration of broadcast or operation by a station in twenty-four hours except if, by its own volition, a station chooses to broadcast 1[* * *] such content for a longer duration;

(f) comply with the codes of programmes and advertisements approved by the Authority 1[and appoint an in-house monitoring committee, under intimation to the Authority, to ensure compliance of the Code;]

(g) not broadcast or distribute any programme or advertisement in violation of copyright or other property right;

1[(h) obtain NOC from Authority before import of any transmitting apparatus for broadcasting, distribution or teleporting operation; and]

1Subs., added and omitted by Act II of 07, ss 10-11.

2Subs., added and omitted by Act II of 07, ss. 10-11.

(i) not sell, transfer or assign any of the rights conferred by the licence without prior written permission of the Authority.

2[(j) not broadcast video footage of suicide bombers, terrorists, bodies of victims of terrorism, statements and pronouncements of militants and extremist elements and any other act which may, in any way, promote, aid or abet terrorists activities or terrorism;

(k) ensure that no anchor person, moderator or host propagates any opinion or acts in any manner prejudicial to the ideology of Pakistan or sovereignty, integrity or security of Pakistan.

(l) not broadcast any programme inciting violence or hatred or any action prejudicial to maintenance of law and order;

(m) not broadcast anything which defames or brings into ridicule the Head of State, or members of the armed forces, or executive, legislative or judicial organs of the state;

(n) not broadcast any programme or discussion on a matter which is sub-judice; and

(o) not broadcast anything which is known to be false or baseless or is malafide or for which there exist sufficient reasons to believe that the same may be false, baseless or malafide.

1[21. Consultation with Provinces.-(1) The Authority shall, except where applications for the issuance of a licence relates to Islamabad Capital Territory, invite the comments of the Government of the Province concerned, with regard to the proposed location of the Radio, TV or MMDS station for which the application has been made, and if the concern Provincial Government has any reservation to the issuance of the licence, the Authority shall invite the representative of the Provincial Government and consider its viewpoint before taking a decision on the issuance of a licences.

Provided that where the Provincial Government objects to the issuance of a particular licence, the applicant shall be provided an opportunity to be present at the meeting of the Authority and given an opportunity of being heard with regard to the observations made by the Provincial Government.

(2) Where the signal of a radio, TV or MMDS station has the potential to cover an area outside the limits of the Province in which the unit is proposed to be located, the Authority shall invite one or more representatives from the concerned Provincial Governments to express their viewpoint, if any, on the inter-Provincial dimensions of the signal.]

1Subs. by Act II of 07, s. 12.

2Ins and added by Ord. LXV of 07, s. 2.

22. Duration for consideration of the application for a licence. The Authority shall take decision on the application for a licence within one hundred days from the receipt of the application.

23. Exclusion of monopolies.-(1) No person shall be entitled to the benefit of any monopoly or exclusivity in the matter of broadcasting or the establishment and operation of broadcast 1[media or distribution service] or in the supply to or purchase from, a national broadcaster of air time, programmes or advertising material and all existing agreements and contracts to the extent of conferring a monopoly or containing an exclusivity clause are, to the extent of exclusivity, hereby declared to be inoperative and of no legal effect.

1[(2) In granting a licence, the Authority shall ensure that open and fair competition is facilitated in the operation of more than one media enterprise in any given unit of area or subject and that undue concentration of media ownership is not created in any city, town or area and the country as a whole.

Provided that if a licensee owns, controls or operates more than one media enterprise, he shall not indulge in any practice which may impede 2[fair] competition and provision of level playing field.]

24. Licence, application, issuance, refusal and validity.-1[(1) Any person desirous of obtaining a licence for establishment and operation of broadcast media or a distribution service shall apply to the Authority in such manner and form as may be prescribed.]

(2) The Authority shall process each application in accordance with prescribed criteria and shall hold public hearings in the respective provincial capitals of each Province, or as the case may be, in Islamabad, before granting or refusing the licence.

(3) Each application shall be accompanied by such fee as the Authority may prescribe.

(4) A licence shall be valid for a period of five, ten or fifteen years subject to payment of the annual fee prescribed from time to time.

(5) The Authority may renew a licence on such terms and conditions as may be prescribed and in case of refusal to renew a licence reasons shall be recorded in writing.

1Subs. by Act II of 07, ss. 13-14.

2Subs. by Ord. XXVII of 07, s. 5 (valid up to 2-10-07)

25. Certain persons not be granted licence. A licence shall not be granted to—

(a) a person who is not a citizen of Pakistan or resident in Pakistan;

(b) a foreign company organized under the laws of any foreign government; 1[* * *]

(c) a company the majority of whose shares are owned or controlled by foreign nationals or companies whose management or control is vested in foreign nationals or companies; 1[or]

1[(d) any person funded or sponsored by a foreign government or organization.]

26. Council of Complaints.-1[(1) The Federal Government shall, by notification in the Official Gazette, establish Councils of Complaints at Islamabad, the Provincial capitals and also at such other places as the Federal Government may determine.]

(2) 1[Each] Council shall receive and review complaints made by persons or organizations from the general public against any aspects of programmes broadcast 1[or distributed by a station] established through a licence issued by the Authority and render opinions on such complaints.

(3) 1[Each] Council shall consist of a 1[Chairperson] and five members being citizens of eminence from the general public at least two of whom shall be women.

1[(3A) The Councils shall have the powers to summon a licensee against whom a complaint has been made and call for his explanation regarding any matter relating to its operation.]

(4) The Authority shall formulate rules for the functions and operation of the 1[Councils] within two hundred days of the establishment of the Authority.

(5) The 1[Councils] may recommend to the Authority appropriate action of censure, fine against a broadcast or CTV station or licensee for violation of the codes of programme content and advertisements as approved by the Authority as may be prescribed.

2[27. Prohibition of broadcast media or distribution service operation. The Authority shall by order in writing, giving reasons 2[therefore], prohibit any broadcast media or distribution service operator 3[or owner] from,–

(a) broadcasting or re-broadcasting or distributing any programme or advertisement if it is of the opinion that such particular programme or advertisement is against the ideology of Pakistan or is likely to create hatred among the people or is prejudicial to the maintenance of law and order or is likely to disturb public peace and tranquility or endangers national security or is pornographic, obscene or vulgar or is offensive to the commonly accepted standards of decency; or

1Omitted, subs., added and ins. by Act II of 07, ss 15-16.

2Omitted, subs. and added by Act II of 07, ss 17-19.

3Ins. and subs. by Ord. LXV of 07, ss 4-6.

(b) engaging in any practice or act which amounts to abuse of media power by way of harming the legitimate interests of another licensee or willfully causing damage to any other person.]

1[27A. Prohibition of foreign broadcasts. A person who is issued a broadcast media licence or a landing rights permission under this Ordinance shall not enter into an agreement with any foreign broadcaster to sell its air time or otherwise provide its air time to another foreign broadcaster without prior written permission of the Authority.]

28. Suspension of 1[broadcast media or distribution service]. A 1[broadcast media or distribution service] operator shall not cease or suspend broadcasting except on account of force majeure or with the prior approval of the Authority.

29. Power to authorize inspection.-(1) The Authority may authorize any of its officers or its nominees to enter the premises of a 1[broadcast media or distribution service] operator for purposes of inspection 2[* * *].

(2) A broadcast 2[media station or distribution service premises] shall, at all reasonable times, be open to inspection by an authorized officer under sub-section (1) and the licensee shall provide such officer with every assistance and facility in performing his duties.

(3) The authorized officer shall, within forty-eight hours of the inspection, submit his inspection report to the Authority.

2[(4) The Authority may authorize any of its officers to undertake investigation, in the manner it may prescribe, in any matter with regard to its functions and to seek any specific information, from any person, which the Authority may deem useful in order to enable it to determine and dispose of such matter.

(5) The Authority or as the case may be the Chairman, after issuing show cause notice to broadcast media or distribution service may seize its broadcast or distribution service equipment, or seal the premises, which is being used in contravention of the provisions of this Ordinance or the rules made there under or any other law:

Provided that the equipment shall be returned to the holder of a valid licence after imposing on him such penalty as the Authority may determine.

(6) The Authority may, after the licensee has been, given reasonable opportunity to show cause, impose fine up to 2[ten] million rupees on a licensee who contravenes any of the provisions of this Ordinance or the rules or regulations made thereunder.

3[29A. Dues to be recovered as arrears of land revenue. All dues including outstanding licence fee, annual renewal fee or any other charges including fine as imposed by the Authority shall be recoverable as arrears of land revenue.]

1Ins. and subs. by Ord. LXV of 07, ss 4-6.

2Omitted, subs. and added by Act II of 07, ss 17-19.

2Ins. and subs. by Ord. LXV of 07, ss 4-6.

30. Power to vary conditions, suspend or revoke the licence.-1[(1) The Authority may revoke or suspend the licence of a broadcast media or distribution service by an order in writing on one or more of the following grounds, namely:-

2[* * * * * * *]

1[(b) the licensee has contravened any provision of this Ordinance or rules or regulations made thereunder or an order passed under section 27:]

(c) the licensee has failed to comply with any condition of the licence; and

(d) where the licensee is a company, and its shareholders have transferred a majority of the shares in the issued or paid up capital of the company or if control of the company is otherwise transferred to persons not being the original shareholders of the company at the time of grant of licence, without written permission of the Authority.

(2) The Authority may vary any of the terms and conditions of the licence where it deems that such variation is in the public interest.

(3) Except for reason of necessity in the public interest a licence shall not be varied, suspended or revoked under sub-section (1) or (2) unless the licensee has been given reasonable notice to show cause and a personal hearing.]

2[(4) Notwithstanding anything contained in sub-section (5) of section 29 or any other provision of this Ordinance , where the Authority takes action under sub-section (3) without notice by reason of necessity in the public interest, the Authority or the Chairman, as the case may be, may seize broadcast or distribution service equipment or seal the premises of the licensee;

Provided that in a situation of emergency the Authority or the Chairman may direct closure of any broadcast or distribution network for such period as it may determine."]

3[30A. Appeals. Any person aggrieved by any decision or order of the Authority may, within thirty days of the receipt of such decision or order, prefer an appeal to the High Court:

Provided that PEMRA shall make available a copy of its decision or order of revocation of licence within

twenty-four hours after decision to the licensee for referring an appeal to the High Court.]

1Ins. and subs. by Act II of 07, ss 20-21.

2Ins. and subs. by Ord. LXV of 07, ss 7.

3Ins., subs. and added by Act II of 07, ss 22-24.

1[31. Uplinking Facilities.-(1) No person shall carry out uplinking without a valid Teleport or Satellite TV licence from the Authority;

(2) The Authority may, subject to fulfillment of such conditions, as may be prescribed, issue permission in writing to any party to carry out temporary uplinking from a ground transmission facility to a satellite in order to transmit any programme within or outside Pakistan.]

32. Power to grant exemptions. The Authority may grant exemptions from any provisions of this Ordinance, where the Authority is of the view that such exemption serves the public interest and the exemptions so granted shall be supported by recording the reasons for granting such exemptions in writing provided that the grant of exemptions shall be based on guidelines and criteria identified in the Rules and that such exemptions shall be made in conformity with the principles of equality and equity as enshrined in the Constitution.

33. Offences and penalties.-1[(1) Any broadcast media license or its representative who violates or abets violation of any provision of this ordinance shall be punishable with imprisonment for a term which may extend to three years or with a fine may extend to ten million rupees or with both.

(2) Any distribution service license or its representative who violates or abets violation of any provision of the ordinance shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to five million rupees or with both.]

(3) Where the violation, or abetment of the violation of any provision of this Ordinance is made by a person who does not hold a licence, such violation shall be punishable with imprisonment for a term which may extend to four years, or with fine, or with both, in addition to the confiscation of the equipment used in the commission of the act.

2[(4) Whosoever damages, removes, tampers with or commits theft of any equipment of a broadcast media or distribution service station licensed by the Authority, including transmitting or broadcasting apparatus, receivers, boosters, converters, distributors, antennae, wires, decoders, set-top boxes or multiplexers shall be guilty of an offence punishable with imprisonment which may extend to three years, or with fine, or both.]

3[33A. The Officers of Federal, Provincial and Local Government to assist Authority.- The officers of Federal Government, Provincial Governments and Local Governments including the Capital Territory Police and the Provincial Police shall assist the Authority and its officers in the discharge of their functions under the provisions of this Ordinance and the Rules and Regulations made thereunder.

1Ins., subs. and added by Act II of 07, ss 22-24.

1Added and subs. by Ord. LXV of 07, ss. 8-9.

2Ins., subs. and added by Act II of 07, ss. 22-24

3Ins. by Act II of 07, ss. 25-27.

33B. Warrants for search.-(1) Where on information furnished by the Authority, the Court has reason to believe that any unlicensed broadcast media or distribution service is being owned, controlled or operated or its equipment is being kept or concealed, it may issue a search warrant and the person to whom search warrant is directed, may enter the premises where such unlicensed broadcast media or distribution service is being owned, controlled, operated or provided or its equipment is being kept or concealed, or carry out search and inspection thereof and seize all or any equipment therein.

(2) Any equipment of a broadcast media station seized under sub-section (1) having no ostensible owner shall vest in the Authority.]

1[34. Offences to be cognizable and compoundable. The offences under this Ordinance shall be cognizable and compoundable."]

[* * * * * * *]

1Subs. and omitted by Ord. LXV of 07, ss. 10-14.

35. Cognizance of offences etc.-(1) No court inferior to that of a Magistrate of the first class shall try an

offence punishable under this Ordinance.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any Magistrate of the first class to pass any sentence authorized by this Ordinance even if such sentence exceeds his powers under the said section 32.

36. Offences by companies.-(1) Where any offence under this Ordinance has been committed by a person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company itself shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the person guilty of an offence under this Ordinance, is a company, corporation or firm, every director, partner and employee of the company, corporation or firm shall, unless he proves that offence was committed without his knowledge, or consent, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

37. Ordinance overrides other laws.-(1) The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force, or any contract, agreement or any other instrument whatsoever:

Provided that –

(a) the national broadcasters, namely the Pakistan Broadcasting Corporation shall continue to be regulated by the Pakistan Broadcasting Corporation Act 1973 (XXXII of 1973) and the Pakistan Television Corporation and Shalimar Recording and Broadcasting Company Limited shall continue to be administered under the provisions of the Companies Ordinance 1984 (XLVII of 1984); and

(b) other existing private broadcasters or CTV operators who had been granted respective monopolies in multi-modal distribution system, cable TV and in FM radio shall henceforth be regulated by this Ordinance except in respects where specific exemptions are granted by the Authority.

38. Indemnity. No suit, prosecution or other legal proceeding shall lie against the Federal Government or any Provincial Government or local authority or any other person exercising any power or performing any function under this Ordinance or for anything which is in good faith done or purporting or intended to be done under this Ordinance or any rule made thereunder.

39. Power to make rules.-(1) The Authority may, with the approval of the Government, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the fore-going power, such rules may be provided for all or any of the following matters, namely:-

(a) to prescribe the forms for the licences for working, installing, operating, or dealing in transmission broadcast or distribution apparatus and the manner in which applications for the licences shall be granted;

(b) to prescribe the terms and conditions of the licence including fee to be charged in connection with the issuance of licences and related matters, 1[* * *]

1[(c) to prescribe standards and measures for the establishment of broadcast media stations, installation of broadcasting, distribution service or teleporting equipment, transmitters, receivers, boosters, converters, distributors and common antennae;]

(d) to prescribe terms and conditions for the broadcast media or distribution service operators who own, control or operate more than one media enterprise; and

(e) to define the circumstances constituting undue concentration of media ownership and abuse of powers and anti-competitive practices by media companies.

2[39A. Power of the Authority to make regulations. The Authority may, by notification in the official Gazette, make regulations, not inconsistent with this Ordinance and the rules made thereunder, to provide for all matters for which provisions is necessary or expedient for carrying out the purposes of this Ordinance."]

40. Removal of difficulties. If any difficulty arises in giving effect to the provisions of this Ordinance, the Authority may make such order, not inconsistent with provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty.

1Omitted and subs. by Act II of 07, s. 28.

2Ins. by Ord. XXVII of 07, s. 11 (valid upto 02-10-07).