

# BANGLADESH BROADCASTING ACT

Act. No. ....of ....

## CHAPTER I PRELIMINARY MATTERS

An Act to provide for the regulation of broadcasting services, including terrestrial, satellite and cable broadcasting, and to make provision for the establishment of an independent Authority for the purpose of overseeing broadcasting regulation with a view to promoting independent, pluralistic broadcasting in the public interest;

Whereas it is expedient to set clear rules for the regulation of broadcasting services in Bangladesh so as to ensure the orderly and effective development of this sector, and to provide for the establishment of an independent Authority to oversee such regulation and for the transfer of the related powers and functions of the Ministry of Information to the Authority;

Now, therefore, it is hereby enacted as follows:-

### 1. Short Title and Commencement

- (1) This Act may be cited as the Bangladesh Broadcasting Act, 2003.
- (2) This Act shall come into operation on such date as the Government may, by notification published in the *Gazette*, specify, provided that in the absence of such notification, this Act shall come into effect six months after it has been passed by the Jatiya Sangsad.

### 2. Definitions

In this Act, except where the subject or context otherwise requires:-

**“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 broadcasting time has been given up to the advertiser for remuneration or similar consideration;

**“Advertising Code”** means a set of standards governing broadcast content which constitutes an advertisement;

**“Authority”** means the Bangladesh Broadcasting Authority;

**“basic service”** means the minimum bouquet of television and/or radio channels which subscribers to a cable service are required to purchase;

**“broadcasting”** means the dissemination of broadcast programming, including through terrestrial transmitters, cable, satellite or any other medium, for public consumption and for simultaneous reception, whether or not by subscription, through a radio and/or television broadcast receiver or other related electronic equipment, but does not include communications internal to a private organisation or government body, such as closed circuit television or internal address systems, or Internet communications;

**“broadcaster”** means an organisation that engages in broadcasting, be it a public service broadcaster, a private broadcaster or a community broadcaster;

**“Broadcasting Frequency Plan”** means a plan for the allocation of the broadcasting frequency spectrum among the various uses such as television and radio, national, regional and local licenses, and public, private and community broadcasters;

**“broadcasting frequency spectrum”** means that part of the electromagnetic wave spectrum which is part of the public domain and which may be assigned by the Bangladesh Telecommunications Regulatory Commission to be used for broadcasting uses, but does not include other frequencies, such as those used for telecommunications purposes;

**“broadcasting service”** means a defined service which consists in the broadcasting of television or sound material to the public, sections of the public or subscribers to such service;

**“cable broadcasting”** means the transmission by cables of a broadcasting service, including re-transmission by cables of broadcast signals;

**“private broadcaster”** means a broadcasting organisation that is neither a public broadcaster nor a community broadcaster;

**“community broadcaster”** means a broadcaster which is controlled by a non-profit entity and operates on a non-profit basis, carries programming serving a particular community including by reflecting the special interests and needs of that community, and is managed and operated primarily by members of that community;

**“Fund”** means the Bangladesh Broadcasting Authority Fund;

**“independent producer”** means an individual or company who produces programmes for radio or television and who is independent of any individual broadcaster;

**“license”** means a license issued by the Authority for purposes of providing a broadcasting service to the public;

**“licensee”** means an individual or organisation who has been granted a license to provide a broadcasting service to the public;

**“Minister”** means the minister in charge of the Ministry responsible for broadcasting;

**“Programme Code”** means a set of standards relating to general broadcasting content and practices;

**“Programme Schedule”** means a plan indicating the general types of programmes proposed to be broadcast, along with the percentage of broadcasting time to be devoted to such programmes and to advertising, and the target audience but for cable services the Programme Schedule means a description of the basic service and of all other services provided;

**“public broadcaster”** means a broadcaster subject to public ownership which has a mandate to broadcast in the public interest, such as Bangladesh Television and Bangladesh Betar;

**“satellite broadcasting”** means the dissemination of a broadcasting service by means of satellite transmission, whether such service is provided free-to-air or on a subscription basis;

**“Spectrum Management Committee”** means the Spectrum Management Committee constituted under section 56 of the Bangladesh Telecommunications Act, 2001;

**“sponsorship”** means the participation of a natural or legal person who is not engaged in broadcasting activities or the production of audiovisual works in the direct or indirect financing of a programme with a view to promoting the name, trademark or image of that person;

**“subscriber”** means a person who receives a broadcasting service at a specific location in exchange for a prescribed fee, without further transmitting that service to any other person; and

**“terrestrial broadcasting”** means the dissemination of a broadcasting service via the radio frequency for direct reception by homes or businesses without needing equipment other than radio or television equipment.

### **3. Application**

- (1) This Act shall apply to the whole of Bangladesh.
- (2) This Act shall have effect notwithstanding any contrary provision in any other law.

## **CHAPTER II ESTABLISHMENT AND CONSTITUTION OF AUTHORITY**

### **4. Establishment of Authority**

- (1) There is hereby established the Bangladesh Broadcasting Authority. The Authority is an independent institution which is accountable to the Jatiya Sangsad.
- (2) The Authority shall be a body corporate having perpetual succession and a common seal.
- (3) The Authority shall have all powers, direct or incidental, as are necessary to undertake its functions as provided for in this Act and it shall have full legal personality, including the power to sue and be sued, and the power to acquire, hold and dispose of property.
- (4) The Authority shall enjoy operational and administrative autonomy from any other person or entity, except as specifically provided for in this or any other law
- (5) This autonomy of the Authority shall be respected at all times and no person or entity shall seek to influence its members or staff in the discharge of their duties, or to interfere with its activities, except in the discharge of a specific authority or duty provided for by law.

### **5. Mandate of the Authority**

- (1) The Authority is charged with the oversight of broadcasting in Bangladesh, consistent with constitutional and international standards and the guarantee of freedom of expression, and with promoting the public interest in the broadcasting sector.
- (2) The Authority shall be responsible for:-
  - a. developing and implementing a Broadcasting Frequency Plan to ensure orderly and optimal use of the broadcasting frequency spectrum;
  - b. issuing licenses to provide broadcasting services to the public and ensuring that license conditions are respected; and
  - c. overseeing the development of the Advertising Code and Programme Code and the implementation of those Codes.
- (3) In discharging its responsibilities, the Authority shall endeavour to promote the following goals:-
  - a. uphold the Constitution of Bangladesh, as well as human rights, democracy and the rule of law;
  - b. protect freedom of expression;
  - c. **encourage creative national broadcasting, including by licensing all three types of broadcaster, namely public, private and community;**
  - d. promote a diverse range of quality broadcasting services which serve all of Bangladesh's language and cultural groups;

- e. enhance the public's right to know through promoting pluralism and a wide variety of programming on matters of public interest;
- f. prevent monopolisation of ownership and promote fair competition in the broadcasting sector;
- g. 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, as well as local and municipal broadcasters;
- j. develop and promote broadcasting reflecting national and regional culture and identity;
- k. promote the appropriate use of new technology; and
- l. enhance the overall financial and competitive viability of broadcasting in Bangladesh.

## **6. Appointment of Members**

- (1) The Authority shall consist of five (5) Members, all of whom shall have some expertise, by virtue of their education or experience, in the area of broadcasting, including in the fields of policy, law, technology, journalism and/or business and who shall be known for their high moral standards, integrity, impartiality and competence.
- (2) An Appointments Committee shall be established consisting of representatives of civil society, including representatives from:-
  - (a) media outlets;
  - (b) media and journalists' NGOs and associations;
  - (c) the legal profession;
  - (d) the medical profession;
  - (e) representatives of consumer interests;
  - (f) universities; and
  - (g) human rights NGOs.

[THESE ARE ONLY SUGGESTIONS; OTHERS MAY NEED TO BE ADDED OR DELETED TO FIT THE BANGLADESHI SITUATION]
- (3) The Minister shall, by notification published in the *Gazette*, make regulations providing for the appointment of the Appointments Committee and the procedure to be followed by the Appointments Committee in making nominations.
- (4) The Appointments Committee shall forward a shortlist of nominations comprising not less than seven (7) individuals to the Minister, who shall appoint five (5) from among them as Members.
- (5) The appointments process shall be open, transparent and fair.
- (6) A list of all candidates on the shortlist prepared by the Appointments Committee shall be published and the public shall be given an opportunity to make representations concerning these candidates prior to appointment.
- (7) The Appointments Committee and the Minister shall strive to ensure that membership of the Authority as a whole represents a broad cross-section of Bangladesh society.
- (8) All Members of the Authority shall be independent and impartial in the exercise of their functions, shall represent the public interest and not the body that nominated them or any other particular interest, and shall, at all times, seek to promote the goals set out in sub-section 5(3).

## **7. Disqualifications of Members**

- (1) No one shall be appointed as a Member of the Authority if he or she:-

- a. is not a citizen of Bangladesh;
  - b. is employed in the civil service or any other branch of government;
  - c. holds an elected position in the Jatiya Sangsad or in any local government, or holds an official office in, or is an employee of, a political party;
  - d. holds, directly or indirectly, significant financial interests in telecommunications or broadcasting;
  - e. is an undischarged bankrupt or has been declared by a registered bank as a defaulter loanee; or
  - f. has been convicted of a violent crime and/or a crime of moral turpitude unless five years has passed since the sentence was discharged;
- provided that individuals who have been nominated pursuant to sub-section 6(4) shall be given an adequate opportunity to take any necessary steps to remove a barrier to their appointment under this sub-section.
- (2) Where, by virtue of a will, gift or otherwise, a Member obtains an interest noted in sub-section (1)(d), he or she shall, within a period of two (2) months, either dispose of the interest or resign from his or her position as Member.
- (3) In any case where sub-section (2) becomes applicable to a Member, he or she shall not take part in any decision-making process of the Authority until he or she has either disposed of the relevant interest or resigned.

## **8. Tenure and Removal**

- (1) Members shall serve on the Authority for five (5) years and may be re-elected to serve a maximum of two terms, provided that the Minister shall identify two (2) individuals from among the original group of appointees whose initial term of office shall be just two (2) years.
- (2) A Member may be removed from office only that individual:-
- a. becomes, by virtue of sub-section 7(1), ineligible for appointment to the Authority;
  - b. commits a serious violation of his or her responsibilities under this Act, including by failing to promote the goals set out in sub-section 5(3), by engaging in corrupt practices, or for gross negligence of duty;
  - c. is no longer able to perform his or her duties effectively, whether due to physical or mental disability or any other cause; or
  - d. fails, without valid excuse, to attend three consecutive meetings of the Authority.
- (3) Where it is proposed to remove a Member from office, an Enquiry Committee consisting of two (2) or more judges from the Supreme Court shall be constituted with a view to enquiring into the matter, including by giving the Member in question an opportunity to be heard.
- (4) The Minister shall take the report of the Enquiry Committee into account when deciding whether or not to remove a Member from office.
- (5) Any Member who is removed from office pursuant to sub-section (4) shall be provided with written reasons for his or her removal and shall have the right to appeal against the Minister's decision to the courts.
- (6) Where a Member is removed from office pursuant to sub-section (4), or a Member resigns or dies, that Member shall be duly replaced under the same conditions, and in the same manner, as he or she was appointed.

## **9. Rules of Procedure**

- (1) The Authority shall appoint its own Chairperson and Vice-Chairperson.

- (2) The Authority shall adopt such rules, in relation to meetings and other matters, as it considers necessary and appropriate to enable it to perform its functions and all business shall be conducted in accordance with such rules.
- (3) The Authority shall meet as often as it deems necessary and shall, in any case, meet at least once in every two months.
- (4) Meetings of the Authority shall be convened by the Chairperson, or in his absence the Vice-Chairperson, provided that it shall be mandatory to convene a meeting within seven days of a request for such a meeting by not less than two Members.
- (5) The Chairperson or, in his or her absence the Vice-Chairperson, shall preside at all meetings of the Authority.
- (6) The quorum for meetings of the Authority shall be three members, save that the quorum for a meeting at which the Authority is to determine an application for a broadcasting license shall be four Members.
- (7) A decision at a meeting of the Authority shall be adopted by a simple majority of the Members present and voting except as otherwise decided by the Authority. In case of an equality of votes, the Member presiding over the meeting shall have a casting vote in addition to his or her deliberative vote.
- (8) The Secretary of the Authority shall attend all meetings of the Authority as a non-voting member, unless in any particular case the Authority otherwise directs.
- (9) Minutes shall be kept in proper form of each meeting of the Authority and shall be confirmed by the Authority at the next meeting and signed by the Member presiding over the meeting.
- (10) The Authority may act notwithstanding any vacancy in its membership.

#### **10. Remuneration of Members**

- (1) Members of the Authority shall receive remuneration for their work in accordance with a schedule, as provided for in sub-section (3).
- (2) Members of the Authority shall be compensated for actual expenses, including travel, accommodation and subsistence, incurred as a result of their duties as members of the Authority.
- (3) Remuneration of Members shall be in accordance with a set schedule, approved in advance by the Minister, and compensation of Members shall be according to set regulations, approved in advance by the Minister.
- (4) The rules relating to remuneration and compensation shall not be changed in relation to a Member after his or her appointment in a manner that disadvantages him or her.

#### **11. Committees**

- (1) The Authority may, for the purpose of assisting it in the effective discharge of its functions, appoint such committees as it deems necessary, consisting of one or more Members and such other persons as may be required or desirable.
- (2) The Authority may delegate any of its functions under this Act to any of its officers or committees.

#### **12. Staff**

- (1) The Members shall appoint the Secretary to the Authority and fix his or her salary and duties.
- (2) The provisions of section 7 shall apply, *mutatis mutandis*, to the Secretary.

- (3) The Members shall set the conditions of employment of the Secretary and may, outside of these conditions and by a vote of not less than four (4), remove the Secretary from office.
- (4) A Secretary who has been removed by the Authority pursuant to sub-section (3) shall be provided with written reasons and shall have the right to appeal his or her removal to the courts.
- (5) The Members shall, in accordance with the budget and in consultation with the Secretary, establish a full-time Secretariat of the Authority, along with such regional offices and such staff as it considers necessary and appropriate to enable it to perform its functions.
- (6) The Secretary and employees of the Authority shall be independent and impartial in the exercise of their functions and shall, at all times, seek to promote the goals set out in sub-section 5(3).

### **13. Funding for the Authority**

- (1) The Authority shall have a fund to be known as the Bangladesh Broadcasting Authority Fund.
- (2) The Authority may receive funds paid into the Fund from the following sources:-
- a. license fees paid by broadcasters under this Act;
  - b. grants from the government;
  - c. grants from local or foreign bodies;
  - d. loans; and
  - e. moneys received from other sources.
- (3) Three months prior to the end of each financial year, the Authority shall submit to the Minister for his or her approval a budget statement for the following financial year, including any operating funds requested by the Authority from the government.
- (4) The Minister shall be required to table the budget statement before the Jatiya Sangsad for its consideration prior to approving, rejecting or modifying the statement.
- (5) The Authority shall maintain accounts of all monies received and spent by it and shall, within sixty (60) days of the end of each financial year, submit such accounts to be audited by a registered firm of chartered accountants.
- (6) The Authority shall formally submit a copy of its audited accounts to the Minister, who shall place them before the Jatiya Sangsad for its consideration.
- (7) Notwithstanding any contrary provision in any other law, the Authority shall not be liable to pay income tax on any property held or received, or on any income earned and the Authority is hereby exempted from the payment of such tax.

### **14. Annual Report**

- (1) The Authority shall publish and distribute widely an Annual Report, along with its audited accounts. The Annual Report shall include the following information:-
- a. a description of the activities of the Authority during the previous year;
  - b. information relating to licensing, complaints and research;
  - c. a description of any sanctions applied by the Authority and the decisions relating thereto;
  - d. information relating to the Broadcasting Frequency Plan;
  - e. an analysis of the extent to which it has met its objectives of the previous year;
  - f. its objectives for the coming year;

- g. any recommendations in the area of broadcasting;
  - h. its income and expenditure over the previous year; and
  - i. a proposed budget for the coming year.
- (2) The Authority shall formally submit the Annual Report to the Minister, who shall place it before Jatiya Sangsad for its consideration.

## **CHAPTER III FUNCTIONS AND POWERS**

### **15. Functions of the Authority**

The Authority shall have the following functions:-

- a. to play a leading role in the development and updating of the Broadcasting Frequency Plan in a manner that ensures broadcasting diversity;
- b. to participate in the activities of the Spectrum Management Committee;
- c. to undertake licensing of broadcasters;
- d. to ensure that broadcasters respect the conditions of their licenses, as well as the rules set out in this Act; and
- e. to develop and implement the Advertising Code and the Programme Code.

### **16. Undue Concentration of Ownership**

- (1) The Authority shall take such reasonable steps as it deems necessary to prevent undue concentration of broadcast media ownership, monopoly practices and unfair competition.
- (2) No individual shall exercise direct or indirect control over more than one national television, radio or newspaper outlet.
- (3) No individual shall exercise direct or indirect control over more than one broadcaster covering the same geographical area.

### **17. Investigations**

- (1) The Authority shall have the power to conduct investigations and hold hearings as necessary to discharge its responsibilities under this Act.
- (2) When holding a hearing, the Authority shall have the power to require the production of evidence and to compel witnesses to testify before it.
- (3) Hearings of the Authority shall be conducted in accordance with the rules of natural justice.

## **CHAPTER IV FREQUENCY PLANNING**

### **18. Broadcasting Frequencies**

- (1) A representative of the Authority shall sit on the Spectrum Management Committee established by section 56 of the Bangladesh Telecommunications Act, 2001.
- (2) The Bangladesh Telecommunication Regulatory Commission, after consultation with the Authority and other interested parties, and in accordance with International Telecommunications (ITU) rules, shall from time to time allocate a fair portion of the electromagnetic wave spectrum to be used for broadcasting uses, to be known as the broadcasting frequency spectrum. Such allocation shall take into



account broadcasting needs and the public interest in a diverse broadcasting sector, as well as competing telecommunications needs.

#### **19. Broadcasting Frequency Plan**

- (1) The Authority shall, in consultation with interested stakeholders, develop and from time to time revise a Broadcasting Frequency Plan, which shall include a locator map, in order to promote the optimal use of these frequencies and the widest possible broadcasting diversity.
- (2) The Broadcasting Frequency Plan shall ensure that, in accordance with the goals set out in sub-section 5(3), the broadcasting frequency spectrum is shared equitably and in the public interest among the three tiers of broadcasting – public, private and community – the two types of broadcasters – radio and television – and broadcasters of different geographic reach –national, regional and local.
- (3) The Broadcasting Frequency Plan, along with any revisions to it, shall be published and disseminated widely.
- (4) The Broadcasting Frequency Spectrum Plan may reserve certain frequencies for future use for specific categories of broadcasters in order to ensure diversity and equitable access to frequencies over time.

### **CHAPTER V LICENSING**

#### **20. Broadcast License Requirement**

- (1) It is prohibited to provide a broadcasting service except in accordance with a valid broadcasting license.
- (2) The Authority shall have exclusive responsibility in relation to issuing and renewing licenses.
- (3) The Authority shall maintain a register of licenses, which shall be available for public inspection.

#### **21. Existing broadcasting services**

- (1) The existing public broadcasters, Bangladesh Betar and Bangladesh Television, shall be guaranteed broadcasting service licenses.
- (2) Bodies currently providing broadcasting services which have been approved by the Ministry of Information and/or the Bangladesh Telecommunications Regulatory Authority shall be required to apply for a broadcasting service license within three (3) months of the establishment of the Authority, provided that there shall be a presumption that they shall be provided with such a license absent overriding countervailing reasons in the public interest.

#### **22. New Licenses**

- (1) From time to time, the Authority shall determine whether it is in the public interest, based on the Broadcasting Frequency Plan, broadcasting policy, interest by potential broadcasters and market capacity, to hold a competition with a view to issuing additional licenses to provide a broadcasting service.
- (2) Where it is proposed to issue additional licenses, the Authority shall publish widely a notice to that effect. The notice shall include all relevant information about the proposed licenses, including the deadline for receipt of applications, any application fee and the annual license concession fee.

- (3) The Authority shall adopt in advance regulations setting out the process to be followed in submitting an application and a description of what information must be provided, as well as a schedule of the annual license concession fees, established in accordance with section 29.
- (4) The Authority may, in the absence of a call for licenses, also receive applications to provide a broadcasting service for which there does not appear to be serious competition.
- (4) Applicants for a broadcasting service license shall be required to provide detailed financial, technical and, where relevant, proposed customer or subscriber information, as well as a Programme Schedule.
- (5) An application for a license to provide a cable service shall include information about the channels proposed to be provided within the basic service, as well as any other channels which may be purchased.
- (6) The process for receiving and assessing license applications shall be open, transparent and fair.

### **23. License Frequency**

- (1) Prior to deciding whether or not to issue new broadcasting service licenses, the Authority shall liaise with the Spectrum Management Committee to ensure that any frequencies which may be required for the proposed licenses are available.
- (2) The Authority and the Spectrum Management Committee shall agree on the specific frequencies to be allocated for each proposed license in advance of the notice under section 22(2) being issued.

### **24. Assessing License Applications**

- (1) The process for assessing licenses shall be fair, non-discriminatory and transparent.
- (2) The Authority shall, within 60 days of the closing date for applications, decide on a competitive basis whether or not to issue a broadcasting service license to an applicant, provided that the 60-day limit may be extended where there are exceptional reasons to justify this.
- (3) The Authority shall take the following factors into account in deciding whether or not to issue a broadcasting service license to an applicant:-
  - a. the technical capacity of the applicant to deliver a quality service, taking into account the nature of the proposed service;
  - b. the nature and extent of the financial resources of the applicant and the financial viability of the proposal;
  - c. the effect of licensing the proposed service in terms of monopolies, cross ownership and fair competition;
  - d. the need to promote broadcasting produced in the different regions and by the different cultures of Bangladesh;
  - e. the promotion of the widest possible diversity of programming, 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; and
  - f. the need to promote locally produced programming which serves the needs and interests of the people of Bangladesh.
- (4) The Authority shall provide written notice of its decision to all applicants for broadcasting service licenses. Where the application is refused, this notice shall include the reasons for the refusal, as well as information regarding the applicant's right of appeal.

- (5) A license shall not be issued to a political party or to a body which is substantially owned or controlled by someone with a senior post in a political party.
- (6) A license shall not be issued to an individual who is not a resident or citizen of Bangladesh, or to an entity which does not have recognised legal status in Bangladesh or which is subject to majority control by non-residents or non-citizens.
- (6) Upon the grant by the Authority of an application under sub-section (2), it shall cause notify
- (7) cation of that decision to be published in the *Gazette*.

## **25. License Renewals**

- (1) An application for the renewal of a license shall be made within the last three months before the date of expiry of the existing license.
- (2) A licensee shall be entitled to have a broadcasting service license renewed, provided that the Authority may refuse to renew a license where the licensee has operated in significant breach of its license conditions or where this is clearly in the public interest, based on the goals set out in sub-section 5(3).
- (3) At the time of renewal, either a licensee or the Authority may propose amendments to the license conditions and the Authority may accept or reject these amendments, provided that any amendments imposed by the Authority must be consistent with section 31.
- (4) The Authority may, when considering an application for the renewal of a license, require such new or additional information as it may deem necessary.
- (5) If at the date of expiry of a license the Authority has not yet reached a decision in respect of an application to renew it, the license shall continue to be of effect until the application for its renewal is granted or refused by the Authority.
- (6) A license renewal shall be for the same period as the original license.
- (7) The Authority shall provide a licensee with written reasons, in advance of a final decision, of any proposed decision not to renew a license and shall give the licensee an opportunity to make oral and/or written representations.
- (8) Where the Authority does not renew a license, it shall provide written reasons for its decision.

## **CHAPTER VI LICENSE CONDITIONS**

### **26. License Conditions**

- (1) A license shall stipulate any frequency or frequencies to be used by the broadcaster.
- (2) Licenses shall be for a period of five (5) years for a radio and ten (10) years for a television broadcasting service.
- (3) Compliance with the Advertising and Programme Codes, and all matters specified in the license application, including the Programme Schedule, are deemed to be license conditions.
- (4) Licenses are not transferable to any other person without the prior approval of the Authority.
- (5) Broadcasters may only broadcast programmes which they produced or for which they hold broadcasting rights and copyright must be clearly indicated as part of the credits displayed with each programme.

- (6) The name of the producer of every programme shall be displayed at the end of the programme.
- (7) Terrestrial and satellite broadcasters are required to keep a master recording of all programmes broadcast for at least twenty-eight (28) days after they have been broadcast provided that where specific broadcast material is the subject of a dispute, the relevant broadcaster shall, at the request of the Authority, keep a master recording of that broadcast material until the matter has been resolved fully.
- (8) Cable broadcasters are required to keep a register of the programme channels and advertisements distributed for at least twenty-eight (28) days after they have been distributed, provided that where specific broadcast material is the subject of a dispute, the relevant broadcaster shall, at the request of the Authority, keep a record of it until the matter has been resolved fully.
- (9) If six (6) months expire after the granting or renewal of a license before any broadcasting service is provided, that license shall lapse.
- (10) Licensed cable broadcasters shall include, without any deletion or alteration, within the top ten (10) prime band channels of their basic service, Bangladesh Television and at least two other locally licensed terrestrial or satellite television channels, provided that they shall not bear any liability or responsibility for these broadcasts.
- (11) Licensees are required to report annually to the Authority on their activities, including the observance of license conditions.

## **27. General Terms and Conditions**

- (1) The Authority may, from time to time, by notification published in the *Gazette*, adopt regulations setting out general license terms and conditions either of general application for all licensees or for different types of licensees (such as terrestrial, satellite or cable).
- (2) Such terms and conditions may, among other things, set maximum tariffs to be charged by cable broadcasters.

## **28. Specific License Conditions**

- (1) The Authority may attach such reasonable conditions, including in relation to technical matters, to a broadcasting service license as it deems necessary to promote the goals set out in sub-section 5(3).
- (2) Such conditions may, in particular, relate to:-
- a. the power limitations in respect of a station, the technical servicing and inspection of a station and any other technical specifications;
  - b. the prevention of electric and other disturbances or radio reception of the transmission over any telegraph line;
  - c. the location of a transmitter station and, where applicable, and the specific geographical area to which broadcasts may be made.

## **29. License Fees**

- (1) The Authority shall, from time to time as it deems necessary, in consultation with interested parties and taking into account market considerations, produce a schedule of the applicable annual license concession fees, setting out the rates for various types of broadcasting licenses (classified by tier – public, private or community – type – radio or television, terrestrial, satellite or cable – and scope – national, regional or local, or number of subscribers).

- (2) This schedule shall come into force after it has been placed before the Jatiya Sangsad for 30 days and published by notification in the *Gazette*.
- (3) Licensees shall be required to pay to the Authority the applicable annual license concession fee, in accordance with the schedule currently in force.

### **30. License Condition Amendments**

- (1) Broadcasters may propose amendments to their licenses to the Authority, which may approve or refuse such amendments, provided that if the Authority fails to respond to a proposal within 30 working days after receiving it, the Authority shall be deemed to have accepted it.
- (2) The Authority may, in respect of any particular broadcasting service license, and after giving the license holder an opportunity to make written representations, amend of its own motion any of the prescribed conditions, including adding further conditions:-
- a. if the Authority is of the opinion that this is in the interest of orderly spectrum management; or
  - b. in order to give effect to any international treaty governing broadcasting matters to which Bangladesh is a party.

### **31. General Restriction on Specific License Conditions**

No license conditions shall imposed under sections 27, 28 or 30 unless they:-

- a. are relevant to broadcasting;
- b. further the goals set out in sub-section 5(3); and
- c. are reasonable and realistic, given the licensee.

## **CHAPTER VII THE ADVERTISING AND PROGRAMME CODES**

### **32. The Codes**

- (1) The Authority shall, in consultation with broadcasters, journalists and other interested parties, draw up, and from time to time review, an Advertising Code and a Programme Code for broadcasters.
- (2) The Codes shall be published and every licensee shall be provided with a copy of each Code.

### **33. The Advertising Code**

- (1) The Advertising Code shall address a range of issues relating to broadcast advertising, including the following:-
- a. all advertisements shall be clearly identified as such;
  - b. no broadcaster shall carry advertisements for alcohol or for medicines which are available only with a prescription;
  - c. advertising by private and community broadcasters shall be limited to 20% of total daily programming on any given channel and to 25% of any given hour;
  - d. advertising by public broadcasters shall be limited to 10% of total daily programming on any given channel and to 12.5% of any given hour;
  - e. except in accordance with this section or any regulations promulgated by the Central Election Commission [INSERT CORRECT NAME], no broadcaster shall carry any advertisement for or on behalf of any political party or candidate for election to political office; and

- f. subject to any regulations promulgated by the Central Election Commission [INSERT CORRECT NAME], the Authority may, by notification published in the *Gazette*, adopt regulations regarding political advertisements during elections, provided that any such regulations shall be based on the principle that parties and candidates should be granted equitable, non-discriminatory access to licensees.
- (2) The Advertising Code may also set rules regarding programme sponsorship.

#### **34. The Programme Code**

The Programme Code shall, among other things, clarify in detail standards in relation to the following programming obligations:-

- a. to be balanced and impartial in news and current affairs programming and to strive for accuracy in these programmes;
- b. to encourage the development of Bangladeshi expression, including by independent producers, by providing a wide range of programming that reflects the attitudes, opinions, ideas, values and artistic creativity of Bangladeshis;
- c. to protect children against harmful material;
- d. to classify programmes, including films, according to the recommended age of viewers;
- e. to keep within accepted boundaries in relation to the portrayal of sexual conduct and violence;
- f. to promote tolerance and respect for religious and ethnic minorities, and disadvantaged groups;
- g. to respect privacy; and
- h. to respect religious views.

### **CHAPTER VIII BREACH OF LICENSE CONDITIONS**

#### **35. Complaints and Monitoring**

- (1) Anyone who believes that a licensee has breached the Advertising Code or the Programme Code may lodge a complaint in writing with the Authority and the Authority shall investigate every such complaint, unless it considers the complaint to be frivolous or manifestly unfounded.
- (2) It shall be the duty of the Authority to ensure that all licensees comply with their license conditions and, to this end, the Authority may monitor licensees and undertake an investigation where it believes there may have been a breach of a license condition.

#### **36. Investigations**

- (1) Where it conducts an investigation pursuant to section 35, the Authority shall provide the broadcaster with adequate written notice of any allegation of a breach and with a reasonable opportunity to make representations. In the case of a complaint, the Authority shall also provide the complainant with a reasonable opportunity to make representations.
- (2) The Authority shall, absent exceptional circumstances, come to a decision in relation to a complaint within two (2) months.

(3) Where the Authority decides that a licensee is in breach of the Advertising Code, the Programme Code and/or its license conditions, it shall publish its decision, including reasons for its decision, any sanction to be imposed pursuant to section 37 and notification of the broadcaster's right to appeal from this decision. The Authority shall provide the broadcaster and, where relevant the complainant, with a copy of its decision.

### **37. Sanctions**

(1) Where the Authority determines that a licensee is in breach of the Advertising Code, the Programme Code and/or its license conditions it may apply one or more of the following sanctions:-

- a. order the broadcaster to broadcast a message;
- b. issue a written warning to the broadcaster; or
- c. order the broadcaster to take such action or desist from taking such action as it deems necessary to rectify or prevent repetition of the breach.

(2) In cases of repeated breach of license conditions, the Authority may order a licensee to pay a fine not exceeding 2% of its total revenues for the previous year, provided that such fines shall be paid into general government revenues.

(3) In cases of repeated and gross breach of license conditions, the Authority may order the suspension of part or all of the Programme Schedule of a licensee or terminate its license.

(4) For breach of a rule relating to broadcast content, the Authority shall not impose the sanctions provided for in sub-sections (2) or (3) except in cases of repeated and gross breach and where other sanctions have failed to prevent further breach.

(5) Where any body deliberately carries on an unlicensed broadcasting activity in contravention of sub-section 20(1), or deliberately transfers a broadcasting license in contravention of sub-section 26(4), the Authority may order the termination of that broadcasting activity, a fine and/or the confiscation of the equipment used in the illegal activity.

(6) 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 reasonable time to comply with such an order, the Authority may request the prosecutor to institute contempt proceedings.

## **CHAPTER IX APPEALS**

### **38. Appeals**

Any person aggrieved by a decision of the Authority granting or refusing to grant a license, renewing or refusing to renew a license, imposing conditions as part of a license or imposing or refusing to impose a sanction on a licensee may appeal to the courts for a review of that decision.

## **CHAPTER X FINAL PROVISIONS**

### **39. Existing Regulations**

Any regulations which relate to, or institutions with responsibility over, broadcasting shall not be affected by the coming into force of this Act, provided that any such regulations or institutions are, at that time, deemed to be amended, repealed or terminated to the extent that they have been superseded, supplanted or contradict provisions in this Act.

### **40. Institutional Arrangements**

- (1) Broadcasters already in existence on the date this Act comes into force shall make any necessary adjustments to comply with the provisions of this Act within six (6) months of that date, except as specifically provided for in this Act or pursuant to a decision of the Authority.
- (2) The Authority shall be established within six (6) months of this Act coming into force.

### **41. Jatiya Sangsad may Give Instructions**

The Jatiya Sangsad may, in writing, give the Authority directions of a general or specific nature, and the Authority shall comply with every such direction.

### **42. Rules and Regulations**

- (1) The Government may, by notification published in the *Gazette*, make rules and regulations for carrying out the purposes of this Act, provided that such rules and regulations are not inconsistent with this Act.
- (2) In particular, the Minister shall make rules relating to the appointment of the Appointments Committee, pursuant to section 6(3) and relating to compensation of Members, pursuant to section 10(3).