

Setting Up Radio Station

Media Manager's Guide to Pakistani Broadcast Law

Media Manager's Companion Series
Internews Pakistan

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Media Manager's Companion Series
Internews Pakistan

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Introduction

The media law department of Internews Pakistan is writing and publishing, in both Urdu and English, a series of guidebooks to attend to the various requirements by the media in Pakistan. These guidebooks would cover a variety of topics, ranging from the liberalization of electronic media to the rights of broadcast journalists. The goal of these guidebooks is to help build an open, diverse, and socially responsible broadcast media sector in Pakistan.

This is the first guidebook of the series. This guidebook intends to serve the new private electronic broadcast media in Pakistan and sheds light on the following topics:

1. Why Pakistan liberalized its broadcast media;
2. An introduction to the Pakistan Electronic Media Regulatory Authority (PEMRA), the regulatory agency overseeing electronic media;
3. An introduction to and explanation of the broadcast radio license application process; and
4. An explanation of the duties and obligations that a broadcast radio licensee must follow in order to comply with the law.

While it is common for laws to be repealed and amended, this guidebook must be read in conjunction with any changes in the law that have occurred since its publication. Internews Pakistan encourages this guidebook to be used as a reference guide and not as a replacement to the actual forms and laws. Internews Pakistan will do its best to keep the guidebooks updated to reflect changes occurring after its publication.

Internews Pakistan recognizes the efforts of the Government of Pakistan in opening up the broadcast media sector in particular and looks forward to the strengthening of this endeavor. That is why Internews Network is implementing a media assistance program in Pakistan to support the fledgling broadcast radio stations and other media outlets by offering legal, technical, editorial, and management training. The goal of the Internews Pakistan program is to ensure that skilled, independent, and financially viable media outlets exist, especially in the broadcast sector, and

provide the citizens of Pakistan with quality news, social, educational, and entertainment programming.

The Pakistani broadcast sector, especially the private sector radio stations that have been issued licenses to operate, face the challenge of standardizing and strengthening of their skills and abilities to function competitively and effectively in the evolving broadcast media environment.

Key challenges to a successful broadcast media sector in Pakistan include:

1. A lack of technical experience and broadcast equipment maintenance skills;
2. Establishing and maintaining financial sustainability;
3. Exercising of rights and responsibilities as decreed by the constitution and law;
4. Practicing accurate and balanced reporting;
5. Reporting on the parliament to promote responsible and accountable governance; and
6. Building the capacities to report news and events at the community level.

Internews Pakistan is implementing numerous activities that will address these urgent needs and in the process will support the development of a viable independent media as Pakistan progresses in the opening up of its broadcast sector.

Internews Pakistan's activities seeking to address these challenges in Pakistan include:

1. Legal assistance to stakeholders in media policy development
2. Legal resource assistance to the license holders and the government regulators to improve the overall broadcast media environment.
3. Technical support and hands-on training for journalists and radio stations;
4. In-house monitoring by international experts for radio stations;
5. Seminars and support of community radio stations; Internews Pakistan will assist the private media entities so they may fulfill

their evolving role as alternative voices in a country that is experiencing an open and plural broadcast media for the first time in its history. Internews Pakistan will foster the broadcast media to serve as the principal conduit for dialogue, as people increasingly want to communicate with their local, provincial, and national governments. On its own and in collaboration with select partners in Pakistan, Internews Pakistan seeks to strengthen technical competence of media institutions through its programs in order to guarantee their long-term sustainability.

Through such activities, Internews Pakistan will play an important role in helping improve the regulatory environment and media broadcast sector in Pakistan. A strong and effective legal system is integral to the proper functioning of the media. Governing bodies must implement fair and effective laws that are properly enforced. Likewise, a strong and vibrant independent media must understand and conform to these laws that legitimize their work. With these concerns before us, Internews Pakistan has established a media law department that shall offer legal support to Pakistan's burgeoning independent media sector so that it may succeed in the goal of achieving a free and open media. Given below is the brief on the media law department and the activities it undertakes to support the media sector in Pakistan:

Internews Pakistan has hired one attorney and one advocate who will establish, shape, and run the media law department. The legal team intends to become Pakistan's foremost media law specialists, knowledgeable in such areas as policy formulation and advocacy, broadcast and cable television licensing and regulatory schemes, and broadcasters' and journalists' defense issues. Through practical work and intensive media law training by a variety of international media law consultants, the media law attorneys will be able to assist both the government and independent broadcasters on a variety of legal issues relating to the media.

The legal team will utilize the most modern research techniques to stay current with the advancements in the Pakistani and international media arenas. Furthermore, the law department will subscribe to topical academic journals, newsletters, and websites pertaining to media law. The department

will establish contacts with the relevant government agencies responsible for media legislation. The legal team intends to provide whatever support they can to encourage the government's efforts to liberalize the media, such as providing information about how other developing countries have utilized media liberalization to foster economic growth.

The legal team will establish a network of contacts throughout the government agencies responsible for preparation, consideration, and implementation of the media laws so that it can act as an intermediary between government, its policies and the private media sector and its concerns. In addition, a strong relationship with the government agencies will allow the department to find out what new media laws are being implemented and assist the broadcasters on how to prepare for forthcoming measures.

The legal team will also establish contact and forge relationships with all of the owners and directors of the private radio and television stations in Pakistan, to assist them with the legal obligations of operating a broadcasting station. The legal team will instruct the stations on the importance of complying with the laws that regulate their activity via the publication of various media law related guidebooks. The team will hold periodical training sessions, conducted in the federal capital and in each of the provinces, covering various issues facing the broadcast license holders from regulatory concerns, programming concerns, defense issues, to journalist's rights.

The media law department will also encourage strong relationships between the private radio broadcasters to ensure a unified and strong voice in representing their interests. Additionally, the legal team will work with already existing local media and journalistic associations to help them increase their ability to represent their interests.

The media law department has established a media resource center that will contain the most comprehensive collection of media law related materials in Pakistan. The resource center will be staffed with one full-time resource person responsible for compiling information resources as well as assisting visitors to the center as it is opened to public. The resource center

is collecting copies of all of the Pakistani media-related laws, in both Urdu and English, for access to the public. Besides archiving articles and public commentary relating to the media, the resource center is also compiling a collection of media policy papers written by the foremost authorities on the media, in addition to explanatory papers and articles. In future, the resource center intends to post significant amounts of the above material on Internews Pakistan's forthcoming website for simpler access.

The law department will also publish, in both Urdu and English, a quarterly media law bulletin, detailing all recent legislative developments and issues relating to private and independent media.

Chapter 1

Liberalization of Pakistani Media

On March 1, 2002, the government of Pakistan created the Pakistan Electronic Media Regulatory Authority (PEMRA). Since Pakistan's founding in 1947, the government has been the only disseminator of news, information, and entertainment via the airwaves in Pakistan. With the establishment of PEMRA, the government of Pakistan is, for the first time, issuing licenses to the public for transmitting news, sports, and entertainment, using terrestrial broadcast television and radio, satellite broadcast television, wireless cable television, and cable television.

By allowing for the creation of private, independent radio and television stations, Pakistan will be entering a new age of information and communication. It is hoped that such an era will lead to a vibrant, prosperous, and tolerant Pakistani society. The objective of PEMRA is to contribute to the strengthening of Pakistan, by promoting competition amongst private media enterprises. Perhaps most significantly, these private broadcasters will now compete with the state-owned broadcast television and radio stations, such as PTV and Radio Pakistan, which have monopolized the broadcast sector since 1947.

The State Of Pakistan Broadcasting Prior To PEMRA

Since October 12, 1999, General Pervez Musharraf has been the head of Pakistan state after he seized power in a coup overthrowing Prime Minister Nawaz Sharif. In November 2002, in the first general elections held since the Oct 12 military coup, Mir Zafarullah Jamali was elected as Pakistan's Prime Minister. In what President Musharraf called a final transition to democracy, Senate elections were held on February 24, 2003 in which the ruling party won the majority of the upper house seats. The Constitution of Pakistan was suspended when General Musharraf assumed control of the government. Though PEMRA was constituted when the Constitution was held in abeyance, Article 19 of the Constitution empowers the spirit of PEMRA in that:

“Every citizen has the right to freedom of speech and expression, and there shall be freedom of press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, or incitement to an offense.”

But Pakistan's interest to privatize the airwaves existed as early as 1994 when Benazir Bhutto was in power. The policy of liberalization gained considerable momentum with the arrival of President Musharraf in 1999. In his first public address as President, General Musharraf hinted at allowing private broadcast television and radio stations to operate in Pakistan. Afterward, the then Secretary of Information Khawaja Ijaz Sarwar confirmed Musharraf's commitment to liberalize the media sector.

At present, the state-owned Pakistan Television Corporation, Ltd. operates two terrestrial broadcast stations, PTV, PTV National, and PTV World, in addition to one semi-private cable channel, the Shalimar Television Network (STN). STN is not allowed to create its own news and public affairs programming. Instead, STN is permitted to re-broadcast PTV news and programming in addition to the re-broadcasting of selected BBC World News episodes. Despite the implementation of PEMRA, PTV, PTV National, PTV World, and STN will continue to be state-run under the Companies Ordinance, 1984 (XLVII of 1984).

Radio Pakistan first aired its transmission on August 14, 1947, Pakistan's first day of existence. In 1974, Pakistan federal government, via the Pakistan Broadcasting Corporation Act, created the Pakistan Broadcasting Company (PBC) to facilitate greater administrative and financial autonomy for Radio Pakistan. Radio Pakistan's objective and policy is to provide a medium offering “public service activities in economic, agricultural, social, political, religious, and cultural fields, in the format of discussion programs, plays, features, documentaries, audience participated talk shows, general talk on social themes, music, and news programs.”

Currently, Radio Pakistan comprises 23 stations throughout Pakistan that reach 95% of the population and 75% of the area via medium wave transmission and 100% of the population and area via short wave transmission. Radio Pakistan also transmits in FM. Its radio stations' transmission power ranges from 250 kw (kilowatt) to 1000 kw and transmits 300 hours of programming daily. Radio Pakistan and PTV are actively planning expansion of services to compete with the new private broadcast sector.

Prior to the creation of PEMRA, the Pakistan Telecommunication Authority (PTA) regulated cable television. PEMRA is now in charge of the issuance and maintenance of cable television in Pakistan, which includes the large task of regulating over 1000 cable service operator licensees and the closing down of the large number of unlicensed cable service operators. State-owned broadcast television and radio are no more the only sources of information and programming in Pakistan. The main competitor to 'over-the-air' broadcast television, state owned or privately owned, is cable and satellite television. With the majority of available broadcast programming originating from the Pakistani government, satellite and cable television filled a large programming and information void for the Pakistani public. Cable and satellite television are widely available throughout the country at a low cost, allowing for successful market penetration into the lower middle economic classes.

The availability of external sources of information and entertainment, especially programming from India and international news organizations, such as CNN and the BBC, has made the use of satellite and cable television in Pakistan widespread and popular. In addition to licensed cable and satellite operators, numerous unlicensed and unregulated cable television operators provide an increasingly popular source of external news, information, and entertainment programming to the locals.

Establishment Of PEMRA: Purpose

On March 1, 2002, the Law, Justice, and Human Rights Division of the Pakistani Ministry of Law, Justice, Human Rights, and Parliamentary

Affairs established PEMRA. The government issued an Ordinance for the creation of PEMRA governing body, establishment of the PEMRA Rules and for the creation of additional regulations for (1) broadcast television and radio (2) cable television, (3) media ownership and control, and (4) a Council of Complaints. The PEMRA Ordinance to regulate broadcast media in Pakistan sets forth the following four objectives to:

1. Improve the standards of information, education, and entertainment;
2. Improve the choices available to the people in news programming, current affairs, religious knowledge, art, culture, science, technology, economic development, social sector concerns, music, sports, drama, and other subjects of public and national interest;
3. Facilitate the devolution of responsibility and power to the grassroots by improving the access of the people to mass media at the local and community level; and
4. Ensure accountability, transparency and good governance by optimizing the free flow of information.

These objectives are to be achieved by liberalizing the state-monopolized media sector by opening it up to private media competition. The Authority's jurisdiction is broad in that it has exclusive regulatory power over all electronic media, including broadcast radio, broadcast television, cable television, wireless cable television, satellite television, and media technologies that have yet to be implemented or developed. The PEMRA Ordinance supersedes all other laws, rules, contracts, and agreements relating to private electronic media. However, it is very important to realize that the state-run media monopolies, namely PTV1, PTV2, PTV World, STN, and Radio Pakistan, are outside of the Authority's jurisdiction and thus, are not subject to the rules, regulations, and restrictions promulgated by PEMRA. These state-run media organizations are now expected to compete with the private stations. How fair this type of competition will be will have to be seen in how the private broadcast media flourishes.

Who Is In Charge Of PEMRA?

A chairperson along with a Board of Governors comprising nine members runs the Authority. The law requires that the chairperson must be a Pakistani citizen who is a renowned professional in his field with substantial knowledge of media, business, management, finance, economics, or the law. The first chairperson selected to head the Authority is Mian Muhammad Javed, the former head of the Pakistan Telecommunication Authority and of the Pakistan Telecommunication Corporation Ltd.

The nine-panel membership of the Authority must include one full time member chosen by the federal government, at least two women, and five out of the nine must be notable Pakistani citizens with an expertise in at least one of the following fields: media, law, human rights, and / or social services. Additionally, the Secretary of Ministry of Information and Media Development, Secretary of Ministry of Interior, and the Chairman of the Pakistan Telecommunication Authority serve as ex-officio members.

The President of Pakistan determines the income of the chairperson and of the Board of Governors. Additionally, to avoid any conflicts of interest while serving the Authority, the chairperson and the individual Board members are prohibited from having any direct or indirect financial or other interests in any entities that may have any associations with the broadcast licensees, such as partial ownership in a radio station or the ownership of an advertising company, while being a member of the Authority.

The financial needs of the Authority are currently satisfied by a fund created to carry out its financial obligations and requirements. The Authority in the future plans on being a self-sustaining regulatory agency that derives operating revenue from license fees, auction fees, annual fees, renewal fees, and from a percentage of the gross revenues from the license holders. The Authority is required to submit an annual financial report to the President of Pakistan.



Contacting PEMRA

The Authority can be contacted at its headquarters and four provincial offices.

Headquarters: PEMRA

Green Trust Tower, 6th Floor, Blue Area, Jinnah Avenue,
Islamabad

Telephone: 051-9222320, 9222326, 9222332, 9222340

Fax: 051-9207419

Email: info@pemra.gov.pk

Regional Offices:

Balochistan: PEMRA Office

Mr. Zahid Hussain, AGM

House 7A, Kali Road, Model Town, Quetta Cantt.

Telephone: 081-9201158

Fax: 081-9201233

Email: quetta@pemra.gov.pk

NWFP: PEMRA Office

Mr. Mohammed Asif, General Manager

House 2, Machny Lane, Peshawar Cantt.

Telephone: 091-9211407, 284847

Fax: 091-9211498

Email: peshawar@pemra.gov.pk

Punjab: PEMRA Office

Mr. Sattar Irfan Ashraf, General Manager

House 25, Abid Majid Road, Bridge Colony,
Lahore Cantt.

Telephone: 042-6666220

Fax: 042-6667006

Email: lahore@pemra.gov.pk

Sindh: PEMRA Office
Mr. Ashfaq Jumani, General Manager
House 56 / II, Block-7, Clifton Bath Island, Karachi
Telephone: 021-9250901-4
Fax: 021-9250902
Email: karachi@pemra.gov.pk

Pakistan Telecommunication Authority & Frequency Allocation Board

Having been approved for a license, PEMRA forwards the licensee's case to the Pakistan Telecommunication Authority (PTA), which then forwards the case to the Frequency Allocation Board (FAB). FAB, established under the Pakistan Telecommunication (Reorganization) Act (1996), is exclusively charged with allocating and assigning frequencies to the government, such as for armed forces communications, terrestrial and wireless telecommunication services, such as mobile telephones, and public and private broadcast radio and television operations, such as PTV.

Unlike PEMRA, which is a part of the Ministry of Information and Broadcasting, FAB is part of the Ministry of Communications. A board consisting six individuals runs FAB. The Secretary of Communications is the chairman. The federal government appoints the vice-chairman. The remaining board members include the chairman of the PTA, and one nominee each from the Ministry of Defense, the Ministry Information and Broadcasting, and the Ministry of Interior.

Creating a successful private broadcast sector is a very difficult task. As of this writing, the liberalization process is still in its beginning phase. One way of ensuring success is by educating the public about the requirements of getting a license. Exposure to the realities, both good and bad, will allow informed decision making as to whether to apply for a license, and what the realities are once the license is in hand.

Chapter 2

Getting A License: Is It Possible?

Pakistan liberalized electronic media to enhance the choices available to its citizens in news, current affairs, and improve the standards of information, education and entertainment. The creation of private radio stations is also expected to enhance viewers' choices. Establishing a new broadcast radio or television station in Pakistan requires the permission of various government departments and the compliance of extensive rules, regulations and procedures. This chapter explains the process, from the application for license to the allocation of a frequency.

1. License And Categories/Types Of Licenses

You need license from the relevant authority for operating private radio station in Pakistan. Any form of broadcasting or transmission without a license is prohibited. Established with the aim of liberalizing broadcast media, the Pakistan Electronic Media Regulatory Authority (PEMRA) deals exclusively with the issuance of license to the private sector for establishment and operation of electronic media.

A license is a legal document granting official permission to do something. The person or authority that grants license is called 'licensor' and to whom the license is granted is called 'licensee.' In case of radio broadcast, the license is an agreement between licensor (PEMRA) and licensee (radio station) permitting the radio broadcasters to operate within the approved limits. Under PEMRA Ordinance, the term 'license' is defined as “a license issued by the Authority to establish and operate a broadcast station or distribute programs through a CTV network.”

2. Geographic Scope Of Licenses

The PEMRA Ordinance 2002 authorizes six types of private broadcast licenses. The categories include international scale stations, national scale stations, provincial scale stations, local Area or community-based stations,

specific and specialized subject stations, and cable television (CTV) network stations. Following briefly explains what characterizes these types of stations, respectively:

- An international scale station broadcasts and transmits from Pakistan via satellite to the rest of the world.
- A national scale station broadcasts or transmits to the whole of Pakistan.
- A provincial scale station broadcasts or transmits to one of the provinces within Pakistan.
- A local area or community-based station broadcasts or transmits to a specific area or people of a particular community or a section of society.
- Specific and specialized subject stations are stations run by educational institutions like universities, technical, and training institutes etc.
- A CTV network station transmits the television channels, which are approved by the Authority as eligible and provided by television channel providers/distributors to their subscribers.

3. Types Of Licenses

PEMRA is licensing the following mediums:

1. Radio broadcast station
2. Television broadcast station
3. CTV network stations
4. For up linking facilities

Radio broadcast station include analogue, digital, frequency modulation (FM), short wave (SW), and medium wave (MW) radio stations. Television broadcast station comprises both analogue and digital TV stations. CTV network stations constitute terrestrial and Multi-channel Multi-point Distribution Service (MMDS) technologies.

The Authority will also issue licenses for the long-term and short-term up linking facilities. The licenses for new technologies like Direct to Home

(DTH), High Definition TV and Direct Audio Broadcast (DAB) will also be issued.

4. How To Get License To Operate Private Radio Station In Pakistan?

The process of issuing a license to operate a radio station involves detailed and extensive procedures. It requires the compliance of various statutory requirements and the submission of a variety of documents and information to the Authority. Starting with the invitation of expression of interest by the Authority, the procedure to set up a broadcast radio station comprises several stages and components. It entails the invitation to the parties interested in setting up broadcast stations, submission and evaluation of the applications, the processing of short-listed applications, the issuance of license, and the allocation of frequency, the payment of fees and security deposits and the commencement of broadcasting within the specified time.

4.1 Invitation Of Expression Of Interest (EOI)

Licensing begins with PEMRA publicizing that certain licenses are available through an expression of interest (EOI). The EOI advertisement is published in the major Pakistani daily newspapers. The advertisement describes the categories, types and number of licenses to be issued to prospective licensees. The Authority asks any interested party to express their interest to the Authority to set up broadcast station(s). The PEMRA allows up to two weeks for public to submit their EOI to Islamabad office of PEMRA.

4.2 Who Can Apply For License?

To encourage the development of the local broadcast media, particularly local radio stations, the PEMRA Ordinance permits only Pakistani nationals to apply for a license to operate a radio station.

Foreigners or foreign companies, organized under the laws of any foreign governments, cannot get a license to operate a broadcast station. PEMRA also forbids the issuance of a license to any firm or company the

majority of whose shares are owned or controlled by foreign nationals or whose management control is vested in foreign nationals or companies.

A previous license holder whose license was cancelled for violating the Ordinance is not eligible for another license. Furthermore, to avoid undue concentration of media ownership PEMRA Ordinance prohibited the issuance of license to those already owning other media such as newspapers. The issue is commonly known as 'cross media ownership.' Any person who already owned or operated, as sole or joint shareholder, any other broadcast or cable TV network station, printed newspaper or magazine or an advertising agency is not eligible for an electronic media license.

Recently, the federal cabinet has decided to remove the ban on issuance of license to any person who already owns or operates, as sole or joint shareholder, any other broadcast or cable TV network station, printed newspaper or magazine or an advertising agency. As of publication, the Authority has yet to amend the specific rule prohibiting cross media ownership.

4.3 Application For License And Additional Requirements

After receiving the “expression of interest” from the interested parties, the Authority evaluates these EOIs and informs, in writing, the short-listed parties to formally apply for grant of the license. The parties then must apply according to the PEMRA's requirements. To avoid any loss all papers must be sent to the Authority through a reliable and dependable courier in a sealed and marked envelope.

4.3.1 Application Form

The standard 'Application Form' is given in SCHEDULE-A of the PEMRA Rules 2002. It requires the name of the applicant, business address, proposed location of the broadcast station, and category/type of license required. The form also requires mentioning the duration of the license and the expected date of commencement of operation of radio station.

Moreover, the amount of the application fee and programming concepts including types and contents of programmes to be produced, commissioned or distributed must be mentioned in the form. In addition, the applicant must describe the particulars of area/region of coverage, organizational set up, technical aspects, financial aspects, and socio-economic effects of the station. The applicant shall submit, on a stamp paper, an undertaking as part of application to do or not to do certain things. The undertaking, provided with the application form, requires that the applicant will:

- (a) respect the sovereignty, security and integrity of the Islamic Republic of Pakistan;
- (b) respect the national, cultural, social and religious values and the principles of public policy as enshrined in the Constitution of the Islamic Republic of Pakistan;
- (c) ensure that programs and advertisements do not encourage violence, terrorism, racial, ethnic or religious discrimination, sectarianism, or hatred;
- (d) comply with rules made under PEMRA Ordinance and the code of conduct;
- (e) broadcast or distribute programs 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, by the Authority;
- (f) comply with the codes of programs and advertisements conduct approved by the Authority;
- (g) abstain from broadcasting/distributing any program or advertisement in violation of copyright or other property right;
- (h) obtain license from the PTA and the FAB before import of any transmitting apparatus for broadcasting or CTV operation system; and
- (i) abstain from selling, transferring or assigning any of the rights conferred by the license without prior written permission of the Authority

4.3.2 Additional Requirements Of The Application

While inviting the parties to submit their applications the Authority will provide to the applicants guidelines for preparation of the application. These guidelines require the submission of some other documents and information to the Authority along with the application form. Following are the additional documents that the applicant must submit to the Authority:

4.3.2.1.Statement Of Qualifications

The applicants are required to submit, along with the application form, statement of qualifications (SOQ). SOQ entails the provision of information that whether the applicant qualifies for a license and fulfils the requirement of PEMRA. The companies shall submit a power of attorney or a copy of the company's resolution as evidence of the authority vested in the individual submitting the SOQ. The authorized individual shall certify each SOQ in the prescribed manner.

i. Qualifications For Submission Of Bid (Pre-qualification)

In order to be eligible to partake in the license auction, the applicant must be pre-qualified by the Authority. The applicant should not be a person who is prohibited, in the Ordinance, to obtain a license. The applicant should also not be disqualified previously by the Authority.

ii. Organization And Mandatory Contents Of SOQ

Once confirmed as eligible to bid for license, the applicant must then be qualified with regard to organizational and mandatory contents. This part of SOQ includes submission of documents relating to the potential licensee's organizational structure, management, financial and technical capabilities, project feasibility, future plans, and cross media ownership.

(a) The organizational structure section explains the profile of the applicant's company, including the names of the members/board of directors and their qualifications in addition to the nature of their roles and

responsibilities in the company.

- (b) The management capability section contains information about the applicant's experience and capability in managing the operation of radio station. The applicant must include the organizational chart and curriculum vitae of the personnel executing the station's primary management, professional, and technical functions.
- (c) The financial capability section explains the applicant's details of financial and operating background for the last three years. The applicant must show financial viability including a current statement showing any outstanding liabilities to any bank or financial institution, bank credit reference from at least 2 (two) banks acceptable to the Authority and any other relevant information required by the Authority.
- (d) The technical capability section provides information about the technical expertise and infrastructural capabilities of the applicant to manage a radio station.
- (e) Project Feasibility section details out complete project and scheme of the applicant to establish and operate the radio station.
- (f) Future Plans section includes the details of future planning of the applicant with regard to the radio station.
- (g) Cross Media Ownership section consists of information about the applicant's engagement or involvement with any other broadcast or print media along with an affidavit stating that the applicant has no such cross media ownership involvements.

4.3.2.2. Application Processing Fee

The applicant must submit an application fee (non-refundable) along with the application in accordance with the following Table.

Category	TV Broadcast Station	Radio Broadcast Station
International Scale Station	200,000	100,000
National Scale Station	150,000	70,000
Provincial Scale Station	100,000	30,000
Local Area/Community Based	70,000 [M] 25,000 [G]	25,000 [M] 10,000 [G]
Specialized Subject Station	25,000	10,000

4.3.2.3. Map Of City And Location Of Station

The applicant must include a description of the city and site/original location of perspective radio station.

4.3.2.4. Number of Copies Of Application

The applicant is required to submit 19 original copies of the application, accompanied by other required documents. Out of the 19 copies PEMRA retains 3, the remaining 16 are forwarded to the Frequency Allocation Board (FAB).

4.4. Evaluation of the Applications

The PEMRA takes into account certain factors, explained below, to short-list the applicants. The purpose of such evaluation is to determine whether, in the Authority's view, the applicant is a fit and proper entity to participate in the bidding process for obtaining of the license.

During the process of short-listing, the Authority considers:

1. that whether the applicant has economic viability to operate a radio station;
2. that whether the applicant is financially capable and sound to invest for the operation of a radio station;
3. that whether the applicant has professional background of successfully operating a radio station;
4. that whether the applicant is competent enough and equipped

- with relevant technical expertise for the operation of a radio station;
5. that whether the applicant holds infrastructural capability to manage the radio station;
 6. that whether the applicant has sound financial, management and technical track record;
 7. that the applicant has potential and tendency to gradually and consistently adopt the market advancements in the operation of radio station;
 8. that whether the applicant is contributing towards the emergency services for the citizens and fulfilling universal obligations of public service in accordance with internationally recognized standards;
 9. that whether the applicant is contributing towards the achievement of economic development of society;
 10. the extent of Pakistani share in ownership of the company who has applied for the license;
 11. the prospects of the technical progress and introduction of new technology in the operations of the radio station.

4.5 Stages Involved In Issuing License

After the short-listing of the applications, the PEMRA will initiate the process of issuance of license. During the process the Authority may require supplementary information or documentation from the applicants where it deems necessary.

4.5.1 Provincial/Local Approval

In order to understand and address the issues relating to provincial government regarding the establishment of new radio station(s), PEMRA invites representative of the respective provincial governments during the process of issuance of the license. For the purpose of issuance of licenses in Islamabad, there is no such requirement. The concerned province, through the representative, presents its concerns with regard to the proposed location

of the radio station for which the application has applied.

Within 100 days of receipt of the application for a license to establish a radio station, the Authority takes decision on it. Before taking a decision regarding the acceptance or rejection of the application, the Authority is under obligation to consider the view of the province(s). In addition, where the broadcast signals of a radio station have the potential to transmit outside the limits of the province in which the station is located, the Authority invites one or more representatives from each of the four provincial governments to express their viewpoints on the inter-provincial dimensions of the broadcast signals.

4.5.2 Public Hearing

To address the concerns of other stakeholders and issues related to the general public regarding the issuance of the license, the Authority may hold a public hearing during the process of provincial/local approval. The Authority shall also hold a public hearing to give the applicant an opportunity to respond to the observations made by the provincial government(s).

If any concerned provincial government objects to the issuance of a particular license, the Authority shall provide an opportunity to the applicant to appear in the Authority meeting and respond to the objections of the concerned province.

4.5.3 Bidding Process

While pursuing a free market approach for the opening up of the media sector, the PEMRA Ordinance requires qualified applicants to bid on available licenses. The bidding process involves only where the number of applications is higher than the number of licenses to be issued in a particular category or the area of coverage. In this situation, the Authority takes the decision on applications through an open, transparent bidding process and the highest bidders gets first of the licenses. For rest of the licenses in that particular category or area of coverage, the process requires other bidders for remaining licenses (in the same region) to match the highest bid in that

particular bidding instance. For example, B, C, and D are the highest bidders for three licenses in city X. B bids Pakistan Rupees 2.5 million, C bids Rs1.5 million, and D bids Rs1 million. B obviously receives license number one. Instead of C and D getting licenses two and three by paying Rs1.5 million and Rs1 million respectively, they are each supposed to pay Rs2.5 million for their respective licenses. In D's case, D is supposed to pay more than double the amount D actually bid if it wants the license.

4.5.4 Allocation of Frequency

The allocation of Frequency to the licensees is very important aspect for the establishment or operation of broadcast media. Frequency is a technical thing that involves the utilization of airwaves of a particular area or region. In addition to other purposes and usage, these airwaves are used to send messages, information, and programs from one place to another as a wireless system. Like every other state, government of Pakistan also has control over its airwaves. No one can transmit signals without the prior permission of the Government of Pakistan.

Likewise, the transmission of programs by new radio stations also requires the permission of the government in addition to the issuance of license by PEMRA for setting up a radio station. Such permission of the government to transmit the programs by a radio station is called the allocation of frequency. The frequency is to be allocated in a proper mechanism and in accordance with its availability and suitability for such radio station. All FM radio stations transmit in a band of frequencies between 88--108 megahertz. This band of the radio spectrum is used for no other purpose but FM radio stations.

Frequency Allocation Board (FAB), established under Pakistan Telecommunication (Re-organization) Act 1996, is exclusively responsible for the allocation of frequencies to the new broadcast stations. As mentioned earlier, the PEMRA forwards remaining 16 copies of the application to FAB through Pakistan Telecommunication Authority (PTA). On receipt of the applications, the PTA conducts necessary enquiry on the application and refers it to the FAB within thirty days from receipt of such application.

The FAB, within three months from receipt of the application, intimates the applicant about its status. Through this intimation, FAB informs the applicant that whether the desired frequency is available and whether it suits to a particular radio station. If the desired frequency is available and suits to the radio station, the FAB categorizes the relevant telecommunication services and allocates the frequency to the applicant. In case the desired frequency is not available or does not suit to a particular radio station, the FAB sends back the application to PEMRA for necessary changing.

4.5.5 Issuance Of License

Once the application is processed, concerns of stakeholders are properly addressed and availability of frequency is confirmed, PEMRA issues the license to the applicant after receiving the prescribed fee and security deposits. The Authority can initiate process of issuance of license simultaneously with the process of allocation of frequency by FAB; however, the license will be issued only after the frequency is allocated.

4.5.6 Fees And Security Deposit

At present, each successful applicant shall deposit the applicable license fee in accordance with the Table given below. In addition, the licensee shall also pay the Authority 5% of the gross revenue receipts for airing or broadcasting the advertisements on his system.

Category	License Fee	Annual Fee
International Scale Station	1,000,000	200,000+2%of gross revenue
National Scale Station	800,000	160,000+2%of gross revenue
Provincial Scale Station	500,000	100,000+2%of gross revenue
Local Area/Community Based	400,000[M] 100,000[G]	80,000+2%of gross revenue [M] 35,000+2% of gross revenue [G]
Specialized Subject Station	100,000	30,000+2% of gross revenue

4.5.6.1 Existing Fee For License

If the applicant fails to pay the license fee within the prescribed time, PEMRA can charge late payment surcharge from the applicant. The amount of the surcharge shall be 5% (minimum) to 15% (maximum) of the license fee. The Authority shall impose such late payment surcharge on monthly basis. The license will be cancelled in case the licensee failed to pay the surcharge and license fee.

Where the license is granted through a bidding process the applicant will pay fee for the license in accordance with the highest bid. It is important to note that PEMRA is authorised to revise the existing fee schedule for submission of application and issuance of license. The Authority is also empowered to completely substitute the existing fee schedule with a new schedule.

4.5.6.2 Security Deposit

The applicant, at the time of initial installation of a broadcasting station, shall also make security deposit equivalent to ten percent of the license fee in addition to the license fee. The security deposit shall be refundable after the expiry of one year of operation of the station to the satisfaction of the Authority.

5. Rejection Of Application

If it appears to the Authority while it processes the applications that issuance of the license to a particular person is not in the public interest,

PEMRA is authorised to reject the application. The Authority may record reasons of rejecting the application in writing. The Authority will also give the applicant an opportunity of being heard before refusing the grant of license.

The applicant has a right to file an appeal before the Authority in case where the Authority has rejected his/her application. The appeal can be filed within thirty days of issuance of the rejection/refusal order. The Authority shall decide the matter within forty-five days of the submission of the appeal.

The applicants also have a right to file an appeal to the High Court on the ground that the decision or order of the Authority is contrary to the provisions of the Ordinance, rules or regulations. The appeal to High Court can be filed within thirty days of the receipt of the decision or order.

Chapter 3

Due Diligence: Compliance Once Licensed

After many months, the licensing process is now complete. With the broadcast radio license in hand, the licensee now has one year to materialize his plans of setting up a radio station. Once on the air, the broadcast licensee must comply with relevant terms and conditions, in addition to the rules and regulations. Such compliance, in a business setting, is referred to as due diligence. Namely, the broadcast radio licensee is bound to comply with the Ordinance, the Rules, the Television & Radio Broadcast Regulations, and the Terms and Conditions of the license.

General Terms And Conditions

A licensee is subject to the laid down terms and conditions for obtaining the license. The terms and conditions not only regulate the conduct of the radio station but also the personal conduct of the license holder. The Authority is mandated to amend the license's terms and conditions. In case of a conflict between a term and condition of the license agreement and the Ordinance or Rules, the Ordinance or Rules will prevail.

By accepting the terms and conditions for obtaining the license, the licensee has agreed, in his personal conduct and of the radio station, to respect the sovereignty, security, and integrity of Pakistan. The licensee must also respect the national, cultural, social, and religious values and the principles of public policy as enshrined in the Constitution of Pakistan. The broadcast licensee cannot do anything that may harm the legitimate interests of other licensees.

The licensee cannot enter into arrangements that can hurt fair and effective competition amongst the license holders. Such a situation may arise where multiple license holders cooperate to injure another license holder by maligning or defaming him. Such unfair business conduct is typically referred to as unfair trade practices. To avoid such activity, the Authority can issue directives to the license holders to ensure fair competition.

The license period can be varied, with the approval of the licensee. The licensee can withhold the permission to change the duration of the license as long as such withholding does not affect the ability of the Authority to carry out its duties and obligations under the Ordinance and Rules.

The Authority can also vary the programming, such as language and programming mix, in addition to variations of the technical standards and specifications as long as the license holder consent to such changes.

Finally, the Authority can vary the license in any way it deems appropriate, as long as the license holder has been given a reasonable opportunity to air his concerns regarding the proposed changes.

License Fee, Annual Fee, And Maintenance Of Financial Records

Having already paid an application fee, security deposit, license fee (or auction fee), the broadcast radio license holder is also required to pay an annual fee to the Authority. The annual fee is based upon the type of broadcast radio license issued:

International Scale Station:	Rs200,000 + 2% of gross revenue
National Scale Station:	Rs160,000 + 2% of gross revenue
Provincial Scale Station:	Rs100,000 + 2% of gross revenue
Local Area / Community [Urban]:	Rs80,000 + 2% of gross revenue
Local Area / Community [Rural]:	Rs35,000 + 2% of gross revenue

Additionally, the license holder is also required to pay 5% of its gross revenues if the radio station is broadcasting advertisements.

The license holder must maintain accurate and up to date financial records for the Authority and in conjunction with record keeping requirements of all applicable laws, such as the Companies Ordinance. The Authority, upon reasonable notice provided to the licensee, is permitted to enter the radio station and inspect and examine all books, including the financial records, and can make copies of these books in order to carry out its functions as a regulatory authority.

The licensee is required to conduct an audit (also known as an annual report and accounts) by a certified chartered accountant and submit this

audit report to the Authority no later than three months after the end of the radio station's financial year. If the licensee is an incorporated entity, the Authority requires that the licensee submit a copy of its annual return as was filed with the Securities & Exchange Commission. If the licensee operating the radio station is not incorporated, the licensee must submit all relevant reports, returns, accounts, and any other relevant information that can act as a sufficient replacement to the financial information provided in an Annual Return.

The licensees must submit statements as to its annual gross revenue for each accounting period in a format specified by the Authority.

The license holder is also required to pay a spectrum / frequency fee to the PTA for the benefit of FAB. The amount of the fee payable annually is determined by the PTA and should be investigated as to its amount.

Technical Requirements Including Transmission Terms And Conditions

The licensee, in operating their radio station, must comply with technical requirements, such as equipment installation standards and signal quality. The licensee must also follow the technical requirements of FAB as to transmitting power and seek permission from FAB as regards the technical broadcasting equipment it plans to use. These must be read in conjunction with the exact requirements as specified with the relevant agency.

The licensee must prominently display their broadcast license at the place of business. In addition, the licensee must obtain a license (separate from the broadcast license) from FAB before importing any transmitting equipment for a broadcast radio station. Before installing any broadcasting equipment, the radio station must receive the necessary permission from the municipal authorities or utility companies and must comply with all local regulations regarding such equipment installation.

The broadcasting equipment, including transmitters, receivers, and signals used by the licensee must meet the standards required by relevant local and international organizations. A licensee must make sure that all

broadcasting equipment, such as the station's antenna, is neither a safety hazard nor a nuisance to the life or property of the public. Also, the radio stations must comply with all relevant environmental standards in the region. The licensee must comply with requirements determined by the Civil Defense Authorities, the Civil Aviation Authority, and the Armed Forces as to the construction, erection, and installation of the radio station's transmitting antenna.

The Authority monitors signal quality of the radio station. An acceptable signal transmission is the one that satisfies the transmission quality standards, noise modulations, frequency drift, and voltage levels as specified by the Authority. If the license holder installed improper equipment or is discovered by the Authority to be using inferior equipment, the license holder must install acceptable equipment within 7 days after being notified of the problem.

A broadcast licensee must provide uninterrupted programming. The Authority does not allow for any excuses for sudden programming interruptions, except due to force majeure i.e. circumstances that are beyond the licensee's control, such as an electrical failure, or because the radio station's broadcasting equipment failed. A licensee cannot stop or suspend programming except due to problems beyond his control or with the permission of the Authority. If permission from the Authority has been received, the license holder must notify the Authority and the station's listeners 30 days before programming is stopped or suspended. A licensee must have standby power arrangements, such as an electrical generator, so programming interruptions due to electrical failures are kept to a minimum.

If the licensee wishes to close down the business (known as 'winding-up') of the radio station, prior approval must be obtained from the Authority at least 180 days before the closing of the operation. The licensee is not authorized to uplink or downlink services for which it is not licensed. The license holder is not authorized to uplink or downlink from unlicensed satellite operators. To downlink is to transmit from a satellite to a terrestrial terminal, such as a radio station. To uplink is to transmit from a terrestrial terminal, such as a radio station, to a satellite.

A licensee must ensure that proper security measures are in place to protect the radio station, on-line cameras, microphones, and transmitters from unauthorized access or control.

Control, Ownership, Assignment, And Transfer

As is the nature of any business, sometimes they are sold, partners are bought out, new partners join, or control shifts from one to another. Owning a radio station is no different. PEMRA provides for such business changes. All such business changes can occur, provided that permission is received or the proper notice is given to the Authority.

First, any changes regarding who controls the licensee must be reported to PEMRA. The Authority must be notified at least 15 days before the change of control takes place. Such changes commonly would involve a change in the membership of the board of directors of the company controlling the license. Prior permission of such changes is not necessary, as changes in the management of the licensee do not affect the status or ownership of the licensee or the company controlling the licensee.

The Authority must be notified of all changes in the persons who have acquired greater than a 2% interest in the licensee or in the corporate body in charge of the licensee. Similarly, the Authority must be notified of all increases in interest of 2% or greater in the licensee or in the corporate body in charge of the licensee, which the licensee found out about within 15 days of the increase in interest.

Second, there can be no merger or amalgamation of a radio station licensee with others without the prior approval of the Authority. Changes in ownership, either by transfer or by sale of shares or interest, as opposed to changes in management, require prior approval by the authority. If the company running the radio station is a listed company, then the Authority does not require prior approval or even notice of all changes in interest or control of the licensee that are less than 2%.

The license can be suspended for up to 3 weeks (21 days) if, after notice and a hearing, it is shown that the shareholder of the company controlling the licensee transferred the majority of shares or control to

persons not being shareholders in the company without permission of the Authority.

The broadcast license cannot be transferred, except by prior written approval of the Authority. To transfer a license involves the transfer of all the rights, duties, and obligations the license contains to a new person or corporate body. Under a transfer, the original broadcast licensee is no longer legally obligated to the Authority and instead the new party will assume the obligations and duties owed to the Authority. The transfer of a license will only be granted if the Authority is satisfied that the new party has genuine legal interest in the transfer, and that the new party will be able to comply with the rules, regulations, terms, and conditions of the license for the remainder of the license period.

An assignment of the license's rights is not permitted, except by prior written approval of the Authority. An assignment is not a transfer. Rather, an assignment works in the following fashion. In the broadcast license context, there is the original license agreement between the Authority and the original broadcast radio licensee. The original licensee, with the prior approval of PEMRA, assigns the license's rights and duties to a new third party. There is now a contract between the original licensee and the third party who agrees to assume the rights, obligations, and benefits of the broadcast license. Under an assignment of rights, PEMRA retains authority over and legal recourse against both the original licensee and the new party.

Monitoring By PEMRA And The Council Of Complaints

PEMRA is, after giving reasonable notice to the licensee, authorized to visit the radio station to inspect the facilities, equipment, and records. The radio station, as mentioned above, must keep proper financial records that must be submitted to the Authority. The Authority is authorized to enter the radio station to inspect, examine, operate, and test any equipment used in connection with the operation of the radio station.

In addition, the radio station must keep a copy of all programming and advertising aired by the radio station for a period of 30 days from its first date of airing. The Authority is authorized to request for examination or

reproduction a copy of such programming or advertising. The Authority is also authorized to request for production any script or transcript of programming aired by the radio station.

The Council of Complaints is also authorized to inspect the radio station. The Councils of Complaints has offices in Islamabad and within each of the provincial capital cities. The Council is recognized as an independent body working under the authority of PEMRA. Each regional office of the Council of Complaints is composed of five members, all must be eminent citizens and one must be a woman. The membership term of the Council is two years subject to renewal by the Authority.

The Council of Complaints is charged with carrying out the objectives and purposes of PEMRA and is supposed to meet on monthly basis. The Council can receive complaints in regards to any matter that concerns any licensee under the authority of PEMRA. The Council of Complaints will make recommendations to the Authority as to the appropriate action in regards to a licensee violating a Code of Conduct for programs and advertisements. Additionally, the Council of Complaints will continually and randomly monitor all aspects of a licensee's operation, including the radio station's programming content, and the maintenance of appropriate technical standards regarding transmission.

Any radio station that violates any of the regulations or who frequently receives complaints from the public regarding its service or programming could be called before either the Authority or the Council of Complaints to defend their actions. All complaints received by the radio station must be stored for a period of 2 years from the time the complaint was received and must be made available to the Authority upon request.

A radio station that violates any of the regulations or is in violation of the terms and conditions of the license, may be called upon, in writing, by the Authority to explain why their license should not be cancelled. The licensee must respond within 15 days after receiving the written notice from the Authority. Finally, after defending oneself before the Authority, if it is held that the licensee violated any provision of the Ordinance, Rules, or Regulations, or terms and conditions of the license, PEMRA can suspend

the license, cancel the license, impose a monetary fine in the amount that the Authority feels fit, or order imprisonment.

Enforcement Types Of Violations

Laws are only as effective as their enforcement. Pakistan has mostly suffered from poor enforcement of its laws. Whether PEMRA enforces its laws will have to be seen. Nevertheless, the Authority has addressed what constitutes illegal conduct and the subsequent penalties for violations. The Authority can investigate a licensee's broadcast station if any of the following occurs:

1. There is any violation of the terms and conditions of the license;
2. There is any violation of the laws of Pakistan;
3. The licensee failed to comply with the service provision and regulatory standards requirements;
4. The licensee failed to comply with any of the license's performance obligations;
5. The licensee failed to comply with any of the license's quality requirements, such as proper signal transmissions;
6. There is a partial or total interruption of the service for a continuous period of more than 240 hours (10 days) in the service area;
7. The licensee modified or tampered with the frequencies;
8. Repeated complaints by people of integrity as regards the quality standards as provided by the licensee;
9. Provision of the telecommunications service which are not authorized by the license;
10. The licensee failed to provide requested information to the Authority as required by the laws of Pakistan and the license conditions;
11. The licensee refused to allow or has impeded an inspection by the Authority or the Council of Complaints;
12. The licensee failed to maintain a proper accounting system.

A representative of the Authority, not lower in rank than an Assistant General Manager, may inspect and seize equipment based upon illegal broadcasting operations (referred to as 'pirate' radio stations) or a violation of the license conditions. Non-licensed illegal broadcasters found guilty by a court of violating any provision of the Ordinance could be subject to maximum 4-year sentence, monetary fines, and confiscation by the Authority of all the illegal broadcasting equipment.

Penalties - Apology, Monetary Fine, Jail, Reduction Of License Term

If the licensee violates the Ordinance, Rules, Regulations, or a term or condition of the license there can be various penalties. The licensee is entitled to a hearing before the Authority.

If the licensee is found to be in violation of a provision of the Ordinance, Rules, Regulations, or a term or condition of the license, the Authority may order the licensee to tender an unconditional apology. Failure to apologize could result in a monetary penalty, which cannot be greater than 3% of the revenue of the licensee during the most recently completed accounting period, if the station has never had such a penalty imposed before. If the first accounting period has yet to end, the Authority may penalize the licensee no less than 3%, but no greater than 5% of the revenue estimates from the continuing first accounting period.

If the license holder is found liable for a violation, the Authority may reduce the length of the license term to a term not to exceed 2 years. The Authority itself, without a judicial determination, can impose fines of up to Rs500,000 upon a licensed broadcaster for any violation of the Ordinance, Rules, Regulations, terms and conditions of the license, or the Code of Conduct. If the licensee is found guilty by a court of violating any of the provision of the Ordinance, the punishment can be up to 6 months in jail and / or a fine of up to Rs1,000,000 for the first-time offenders. Repeat offenders could be jailed for up to 3 years and / or a fined up to Rs2,000,000 million.

The Authority recognizes vicarious liability, meaning that through a

relationship created by an express or implied contract, one party (the agent) may act on behalf of another party (the principal) and bind that party by words or actions. PEMRA imposes agency liability in that any licensee or its controlling person or controlling company (the principal) may be liable for any of the offenses an individual employee (the agent), such as an on-air radio DJ, is held liable for.

Suspension

A licensee may be suspended for up to 3 weeks (21 days), after a notice and a hearing, if:

1. The licensee failed to pay the license fee and charges; or
2. By judicial decision it is determined that the licensee has violated the Ordinance, a rule, or regulation;
3. The licensee has failed to comply with any condition of the license;
4. If the shareholder of the company controlling the licensee transfer the majority of shares or control to persons not being shareholders in the company without permission of the Authority.

Cancellation

Any violation of the Ordinance, Rules, Regulations, or terms or conditions of a license may result in a cancellation of license if deemed necessary by the Authority or at the suggestion of the Council of Complaints. If the Authority believes that the licensee is in violation of any provision of the Ordinance, Rules, Regulations, or terms and conditions of the license, the Authority may cancel the license only after notifying the license holder that:

1. The Authority is satisfied that the licensee is in violation;
2. The Authority states specifically what the violation is believed to be;
3. If the license holder does not fix the violation within the specified time period provided by the Authority, the license will be cancelled.

Assisting In Enforcement

The Authority authorizes state agencies, such as the local police and the civil armed forces, to assist in the enforcement of the Ordinance, Rules, and Regulations.

Appeals

If the licensee is aggrieved by any order issued by an officer of PEMRA, the licensee has 30 days to appeal to the Authority. The Authority shall decide the appeal within 45 days of submitting the appeal.

If the any person, not only a licensee, is aggrieved by any order or decision by the Authority in that the decision or order is directly contrary to a provision of the Ordinance, Rules, or Regulations, the licensee can appeal to High Court, in the manner required by the High Court, within 30 days.

Renewal Of License And Renewal Fee

It appears at the moment that all the broadcast radio licenses are being issued for a period of ten years, though under PEMRA, license's can be awarded for five, ten, or fifteen years period. At least six months before the expiry of the original license term, the license holder can apply to extend the license for another period of years. The Authority will extend the license of a radio station if the following conditions are met:

1. The licensee performed satisfactorily during the current license period. The Authority may consult with the Council of Complaints in formulating its opinion in this matter;
2. The licensee paid to the Authority the renewal fee as determined by the Authority at the time of renewal; and
3. The licensee has met all terms and conditions of the license in addition to all new rules that have been imposed upon the licensee. In renewing the license, the Authority will consider such things as technological changes and condition of the marketplace.

Upon renewal, 10 years into the future for broadcast radio license holders, the licensee must pay a renewal fee and a percentage of the radio station's gross revenue. These amounts are to be determined by the

Authority at that time. Failure to pay the renewal fee on time will result in a surcharge of 5% of the renewal fee per month up to three months. If after 3 months, the renewal fee has still not been paid, the Authority will cancel the license.

The Authority may refuse extension of a license after the expiry of the original term, as long as the licensee is notified of such cancellation before the end of the third quarter of the license's duration. The Authority may refuse to extend the license beyond the current term only if:

1. The Authority believes that the licensee could not fulfill the terms and conditions required of a licensee;
2. The Authority determines to grant a new license that differs from the current licensed service; or
3. The Authority believes that the license should not be renewed because the licensee's direct or indirect use of improper funds to operate the station is not within the public interest. Such improper funding, though not defined, seems to include foreign-sourced funds or illegally earned funds.

Chapter 4

Contents Requirements

What Is Content-An Introduction

Every sound that goes on air either live through the microphone or a recorded transmission of a radio station constitutes content. It is the content that make available choices for the listeners i.e. which radio station to tune in and at what time. Therefore, it is the variety of the content that forms the basis of the competition by providing a broad spectrum of choices to the listeners. Any restriction on content would not only restrict the people's right to know but also affect the quality of information people are passed on, and ultimately their sense of judgement on important issues.

PEMRA has introduced an extensive range of laws that restrict the content new FM radio stations are allowed to air. This would, to a great extent, restrict the abilities and flourishing of the radio stations because such restrictions are potent of homogenizing the content of the radio stations, restricting the people's right to choose. Restricting content through laws is also problematic because of the enforcement aspect. There is always the possibility of selective enforcement of content restrictions. And then, with the fast evolving technological innovations, content restrictions are fast becoming irrelevant, if not redundant. The satellite television channels and the Internet are two such examples.

Above all, many of the terms that have been introduced to codify such restrictions are not well defined and not even universally applicable. For example, the parameters of 'pornography' and 'nudity' would be different in the United States from those in Pakistan. Therefore, such restrictions have the potential of encouraging self-censorship, resulting into an information-starved society that breeds ignorance and extremist attitudes.

In the following chapters an effort is made to examine various laws, including PEMRA laws that directly or indirectly affect the content of broadcasting stations.

The Legal Regime On Content In Pakistan

As numerous FM channels become operative in Pakistan, the extensive laws promulgated by PEMRA relating to what can and what cannot be broadcast is becoming a major challenge for the stations. These content restrictions affect everything from programming to the advertisements. Currently the radio stations are supposed to air certain types of programming approved by PEMRA called a “Local Mix” The specifics of the mix will be discussed subsequently. Moreover, the content restrictions set out in PEMRA's Ordinance, Rules and regulations supplement the already existing laws that have a profound impact on broadcast radio. Such laws cover defamation, sedition, blasphemy, pornography, obscenity, and copyright. The radio stations are obligated to inform the Authority of any court proceedings that involve these matters.

The types of restricted contents can be categorised into religion, national security/interest, judiciary and armed forces, public morality, public service, and fair play. A provision of the Constitution of Pakistan contains a good example of such restrictions. The Constitution grants to every citizen the right to the freedom of speech and expression. It also guarantees the freedom of the press, but restricts the same on the following grounds:

1. In the interest of the glory of Islam or the integrity,
2. To maintain the integrity, security, or defence of Pakistan or any part thereof,
3. Friendly relations with the foreign states,
4. Maintain public order,
5. To preserve decency or morality,
6. Contempt of court,
7. To prevent commission of or incitement to an offence.

Religion

Being the state religion of Pakistan, Islam's profound impact on the constitution cannot be ignored. As mentioned earlier, the constitutionally guaranteed freedoms of speech and that of the press are subject to “any reasonable restrictions imposed by law in the interest of the glory of Islam”.

The constitution also declares Islam as the state religion, and hence the Islamic Republic of Pakistan. However, with such laws open to a range of interpretations there is always a possibility of these being misinterpreted or selectively enforced. In that case, the individual broadcaster is exposed not just to censorship, but also to undue personal risk.

In this context, the ideology of Pakistan has become an important factor. An undertaking attached to the license application requires not only the programming of the station but also the station owner himself to respect and safeguard the ideology and religious values of Pakistan. The State of Pakistan aspires to Islamic values for its ideology. Therefore, no broadcaster has the right to criticise, challenge or question Pakistan's independence in any way. In the undertaking contained in the license application, the applicant pledges that he or she will “respect the sovereignty, security, integrity and ideology of the Islamic Republic of Pakistan”.

Similarly, the Authority at present restricts religious programming, which is being limited to *Qirat* (recitation of the Holy Qur'aan), its translation and *Hamdo-Na'at* (the recitation of the praise for the God and the Prophet Muhammad (PBUH)). Islam is not the only protected religion though. The licensee is to ensure that the programming does not contain “abusive treatment of religious views” about people from other sects or religions. This ban aims at preventing a broadcast that has the potential of triggering religious or sectarian controversies or even riots. The Licensee through his programming is obligated to show sensitivity and respect to all ethnic groups and minorities in Pakistan. This law also means that the radio station cannot air such programming or advertisements about religious ceremonies at mosques or shrines in such a manner as to disrespect any religion.

Similarly, the media is restricted from publishing any picture purporting to be the face of Prophet Muhammad (PBUH), or God, or any of the Prophet's companions. By same reasoning the radio stations are also restricted to even air any comment relating to such pictures. Such an act is considered as highly offensive. The broadcaster is similarly obligated to ensure that the programmes and advertisements do not discriminate against

any one on the basis of his religion, sect, or ethnicity.

Religion determines to a great extent the moral and social parameters within which the broadcast stations have to operate. As per the Code of Conduct outlined by PEMRA, the Radio stations are prohibited from airing programming, which glorify “non-Islamic values like adultery, lustful passions or alcoholic drinks.” This means no advertisements about alcohol or programs depicting people showing affection in public.

Public Morality/Social Values

The law also prohibits, the graphic description of acts of savagery and cruelty meted out toward other living beings. No broadcast can contain explicit description of acts of cruelty like details of an act of murder, which might include a horrifying scene of crime or even sounds of a dying victim. For example, airing details about method or instrument used to kill a person.

The laws relating to the broadcast of pornographic or obscene material is a major issue that the broadcasters will be facing in Pakistan. There are, of course, no visuals involved in radio, but even the remarks or sounds on a radio station that arouse sexual feelings are banned under a morality argument. For the radio stations, laws on pornography apply to the word of mouth that describes or hints at a scene or a situation in a seducing manner arousing listeners. This may include describing someone naked even if that someone happens to be a murdered victim's naked body found dead on a roadside. Describing the victim as naked will not be nudity but an indecency. Therefore, no references to the acts of nudity, direct or indirect, can be made while being on-air.

Nudity is defined as displaying human figure in the nude or indecorous clothing in a manner that provokes lustful passions. For a radio station, nudity would include a graphic spoken description of a rape scene, sexual act, or an act of perversion, abortion, childbirth and even surgical operations beyond the limits of decency. Given the circumstances, an overstretched interpretation of these laws cannot be ruled out. This law, however, does not apply to technical or scientific documentaries intended for specialized

audiences. Therefore, all radio programming or advertising that is defined as pornographic, vulgar in contents is banned, be it through in a dialogue, song, speech, dance, joke or a verbal gesture.

Similarly, a program that denigrates men or women, through the depiction that has the effect of being indecent or derogatory, is banned. This particularly holds true for advertisements where the advertisers introduce female performers to promote products. As such there are plenty of grey areas in such situations. The advertisements shown on the state run TV in particular do not completely follow this rule.

This also brings us to varying standards of cultural values, morality and good manners in different parts of Pakistan, which the broadcast must show respect for. For instance anything against the social values and laws of a tribal area in the country's Frontier province will attract strong reaction the tribal people, if not from the government. In some of the tribal areas Pakistani laws do not apply as they have the laws of their own enforced through respective traditional methods like the 'Jirga' (council of local elders) system. PEMRA's Code of Conduct also demands of the radio stations to be respectful to parents, or elders, sanctity of home and family and marital harmony.

The licensee is also required through his programs and advertisements to emphasize on promotion of national integration and harmony among various communal groups. This includes, among other things, being respectful toward the national flag in the broadcast. Criticism of important historical personalities may be considered as against the ideology or integrity of Pakistan. These personalities include national heroes decorated with highest national awards. It is in this context that PEMRA has been empowered to issue guidelines regarding, what is described as, a minimum Pakistani content in the programs.

National Security/ Foreign Policy/Anti-State Broadcast

The concepts of security, integrity and sovereignty of Pakistan dominates the content regime. Once again, in the undertaking attached to the license agreement, the licensee pledges in person to “respect the

sovereignty, security and integrity of the Islamic Republic of Pakistan.”

Since 1947, Pakistan and India have fought three wars - two of them in the disputed Kashmir territory. The military in Pakistan has ruled the country for most of its fifty years of existence, in the process defining and interpreting the term national security. Under these circumstances, the issue of national security has always dominated Pakistan's socio-political and legal framework.

The government and PEMRA are authorised for the same reasons to issue directives, which are binding on the licensee. In a broader sense if this is applied to a radio station the national security concern may arise from a news report that is considered as giving out of national secrets or supporting a rebellion in any part of the country. The radio broadcasters will have to be careful of what they say, as the same might be construed as revealing official secrets. The Official Secrets Act of 1926 requires the accused person to prove his innocence and until that happens he is considered guilty. This is despite that such rules are rarely invoked.

Similarly, any broadcast, which may be seen by the government or the Authority as having the potential to encourage or promote sentiments that challenge the very existence of Pakistan as an independent state is also banned. Programming or advertising thought of as promoting or supporting what may be described as sedition, anarchy, or violence in Pakistan are also banned. Sedition may mean criticizing the state or even the head of state. Similarly, anarchy may be caused by even a truthful account of an event like a riot. Although criticism of head of state is not rare in the private media this laws is not frequently invoked.

In this regard the federal government has the power to require of an editor, publisher or printer to disclose the name of a confidential source of the information and to prohibit the publication or the broadcast. The existing laws consider such a broadcast as a danger to the defense, external affairs, or security of Pakistan.

Radio stations may air foreign programming relating to sports, health, and education. However these can be proscribed if the Authority thinks that the content of any such program or service prejudices the security and

sovereignty of Pakistan, the public interest or order, national harmony, or is against good taste or decency. The government makes the same argument to defend its ban on the Indian TV channel ban. Even foreign policy becomes a factor in determining the content of a radio station. Any material, which may be interpreted by the Authority as detrimental to Pakistan's relations with a friendly country, is not to be aired.

Such prohibition extends to programming and advertising that contain what is construed as propaganda in favor of a foreign state relating to dispute involving Pakistan. Similarly a radio stations cannot air anything that might be considered as negative propaganda against a friendly state intended to impair Pakistan's relations with that state.

Judiciary & Armed Forces

The PEMRA laws protect the judiciary and the armed forces from public criticism. Once again, the Constitution while providing for the freedom of speech qualifies that the freedom will be subject to, amongst other things, "security or defense of Pakistan." This is interpreted as a total prohibition from criticizing the armed forces. This content restriction is extended to programming that, for instance, brings into disrepute the armed forces as an institution.

In the same manner programs or advertisement containing anything that might be interpreted as contempt of court cannot be aired. This mainly deals with the court reporting for the FM stations and also any other program or advertisement containing remarks about judiciary or its functions. The radio station cannot run a program, which contains derogatory remarks against the judiciary and what is described as the integrity of the Armed forces of Pakistan. Such a protection includes investigative reports against any army official or the judge who might even be performing his functions outside the preview of the two institutions.

The judiciary in particular has been protected in the special Contempt of Court law, which also applies to the broadcasters. Going by the definition anyone disobeying or disregarding any court order could be held in contempt of court. For broadcast radio stations, a court order includes a

direction to the broadcaster relating to the content of a program or advertisement. In case the broadcaster fails to comply with the court order, he or she then may be charged with contempt of court. Failure to follow order of the court such as gag orders will amount to “civil contempt.” Gag orders are those, which ban a broadcast before it takes place.

Similarly, an FM licensee will also have to be sure that he is able to fulfill any undertaking that he or she is bound to fulfill under the court order, failing which the contempt charges will lie. If, in a program, a speaker or a guest makes a remark about the judiciary that is interpreted as bringing the judiciary's authority into disrespect or disrepute, he (along with the station) or she may be charged with the contempt of court. The radio stations cannot even air any remarks that is seen as bringing into disrespect what is said to be “the administration of law”, an overstretched interpretation of which would bar criticism of, for instance, the law enforcing agencies. This term is in addition to the “administration of justice.”

The contempt law does allow what says a fair comment, for instance, about a case decided. However, the radio station however cannot give a report or air a comment about an issue, which is pending before a court of law because that may amount to an interference with or obstruction of justice. Obstructing the course of justice may include failure on the part of the broadcaster to reveal sources of information, described as “criminal contempt.”

Similarly, scandalizing a judge in relation to his office by airing stories about his personal conduct is considered as a "contempt of court." This is described as “judicial contempt.” Contempt of court statute gives various defenses to the broadcasters, including the option of extending an unconditional apology and broadcasting the same. The other defenses include:

1. Broadcast station gives an accurate account of what transpires in court;
2. Broadcast station gives fair criticism of judge made in good faith;
3. Broadcast station gives an academic critique of a judgment;

4. Radio station reported a discussion of parliament or of a matter of public importance without criticizing a judge.

Public Service

PEMRA has stated its objective in its Ordinance, 2002, which it says is based on the public service intent. The objective is to develop broadcast media in order to enlarge the choice available to 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.

The public service rationale gives PEMRA considerable power over programming content. Through the imposition of mandatory types of programming, PEMRA plans to fulfil its public service objectives. Must carry programming relate to s education, mass awareness, advertising, emergency alerts like those on law and order matters, and public service announcements.

Such public service programming may be provided by the Authority, the government, or it is produced by the radio broadcasting station itself these include a list of programs called as “local mix” which the Authority has offered to the FM stations. The local mix focuses on education, entertainment, sports, science, and technology, environment, health, population welfare, agriculture and such other subjects of local interest.

The Authority is authorized to direct the radio stations to produce educational programming on a one-month's notice. The licensee must acquire some of the educational programming from other producers at the direction of PEMRA. The licensee or station will even be required to finance such programs at times. In such case the Authority will specify the number of hours devoted to education programming annually. Every week specific number of hours will have to be devoted to school programs, which will be broadcast during school hours for promotion of curricular and extra-curricular activities in school. Such programs are supposed to be of high quality and will be scripted so that the students of each particular area can understand the programming.

The licensee will also produce mass awareness programs of public service nature. Such mass awareness programs or advertisements may include issues like health, education. For such programs the licensee will receive guidelines from the Authority. The guidelines may include the subject matter, and duration and the number of time such mass awareness program will have to be played. The announcement the Authority will provide that must be aired as well.

The stations are required to carry government-produced announcements as well. These may be announcement of any kind including job announcements or public warnings. The timings of the announcements will be decided by the Authority, which might mean interruption of any programme at time. The licensee can mention the fact in the announcement that it is being done on the direction of the Authority.

A declared emergency will also give sweeping powers to the Authority or the government to determine the broadcast content. . During an emergency, the Licensee will have to relay the broadcasts of the national broadcasters like PTV or Radio Pakistan. These may include news or current affairs being aired on the state run radio and Television. The broadcaster must ensure proper arrangements to receive emergency related messages from the Authority or the Government. He is also required to follow standard procedure for broadcast in the times of an emergency, the procedures to be specified by the Authority.

The licensee is required to broadcast or distribute programmes in the public interest. The Federal Government or the Authority will specify such programmes. However, the duration of such public interest programming cannot exceed 10 % of the total of programming aired in twenty-four hours. The broadcaster is allowed, of course, to broadcast or distribute such public interest content for More than 10 % if so chooses.

The public interest also brings exemptions for the broadcasters. PEMRA ordinance empowers the Authority to grant exemptions from any provisions of the ordinance, where the Authority is of the view that such exemptions serve the public interest. This may mean some concessions but then withdrawal of the same provided in the law. The Maintenance of

Public Order (MPO) also applies to the broadcast section. This law empowers the government or a district judge⁴ magistrate, to issue an order prohibiting the publication (or broadcast) of any material. The judge can also direct a publisher (or a broadcaster) to publish (or broadcast) any material supplied by the government. Such an announcement or programme for instance will have to be aired within the given time and in the manner prescribed.

The judge can also issue gag orders, close down a station, or a press for a specified period. The judge can also orders for the disclosure of a confidential source and other relevant material. Similarly, the Code of Conduct outlining the “dos and don'ts” explicitly bans anything which promotes anti-national or anti-state attitudes or which tends to glorify crime or criminals. This includes glorifying black marketing, smuggling, bribery, corruption, or any other social evil. Similarly no programming or advertising is permitted which promotes or supports violence.

Fair Play

For the purpose of this section, by fair play we mean respecting rules of the game, which include truthful presentation of the facts, impartiality, and avoiding defamation. The law bars a licensee from committing an act that may include broadcasting controversial content that is likely to harm the legitimate interest of other licensees. A broadcaster is not supposed to favor or discriminate against an advertiser in accepting advertising. In this regard equal opportunities is to be provided to all advertisers under PEMRA.

The proceedings of the parliament have to be reported through a fair account. This will not apply to those portions of the proceedings, which are expunged by the speaker of the house or the chairman of the senate. A Radio station is also expected to display “due impartiality” in matters of social or industrial controversy, which must be presented in an impartial and objective manner. Such programming should not broadcast any misleading information. In this context, comments against a person could be found to be defamatory. For the FM stations something said or done on the live microphone might trigger a defamation or to be specific for a broadcaster a

slander suit. For broadcast sector, defamatory statements tend to be oral. This is called slander.

Defamatory statements are statements, which are false and injurious to the reputation of another person, such as exposing a person to hatred, ridicule, or contempt. In other words, defamation a person subjects to a loss of goodwill and confidence in which others hold him under false pretenses. The civil defamation law provides many defenses to a broadcaster: The statement is true. Truth is an absolute defense. Secondly, if the broadcaster did not say the defamatory words even then he is not liable to be charged. Or for that matter if the plaintiff had given permission for the statement in question to be aired. Similarly, if the broadcaster offered to apologize on-air and the plaintiff rejected this proposal then the plaintiff's case before the court is weakened.

The broadcaster can also defend him or she on the grounds that the statement complained of was of public interest and was fair comment broadcast in good faith and was not an assertion of fact by the broadcaster. The statement in question can also be covered by an absolute or qualified privilege. An absolute privilege is statements by the government ordered to be published. This means if broadcaster states them, he is not liable for defamation; A qualified privilege is the fair and accurate reporting of parliamentary or judicial proceedings, which were open to the public.

Copy Rights

The copyright issue is the most sensitive one. Although repeated reference is made in the local laws, particularly the PEMRA laws, there is no solid mechanism for the enforcement of copyrights in Pakistan, particularly in the emerging private broadcast industry. This is in spite of Pakistan's international commitment under the World Trade Organisation's (WTO) agreement, for which Pakistan, like many other third world countries, also faces a deadline of January 2005.

Copyright is also an important factor determining the contents of the FM stations. The law, in principle, encourages genuine creativity and discourages illegal piracy that deprives the real owners of a creative work

their due credit, in this way encouraging free and fair competition. In the context of FM stations in Pakistan the copyright laws are non-existent as the new FM stations consider it normal to use pirated music and software for their programming content. This is in spite of the fact that the licensees here undertake to abstain from broadcasting or distributing any program or advertisement in violation of copyright or other property right. Copyright violation in a work has been defined here as any person without the consent of the owner of the creative work re-creates or uses the same without permission from the original owner.

Copyright law requires from the licensee to be responsible for ensuring that the unauthorized or copied versions of a foreign or local programs is not broadcast or distributed. A program, content producer, or a songwriter will have to register his or her product with the office of the Registrar. The Registrar enters the name of the program and its owner in a register after an application on a prescribed form.

A person is said to have infringed the copyright if he reproduces through making CDs of or pirating digitally or selling a program content without the permission of the copyright. In the copyright laws, as amended in 1992, protection has been extended to computer software, periodicals, video films and all kind of audio-visual works. It was originally available to literary, dramatic, musical, artistic, cinematographic and architectural works, books, photographs, newspapers, engravings, lectures, records and sculptures.

The manner in which the copyright is breached has also been extended. Entirely new offences have been created through the Amendment Act, which include penalties for publishing collections or compendiums of work (literary, dramatic, musical, artistic, cinematographic works and a record), which have been adapted, translated or modified in any manner without the authority of the owner of the copyright.

The period of copyright of a literary, dramatic, musical or artistic work (other than a photograph) is the life of the author and 50 years thereafter. In the case of a cinematographic work and a photograph, copyright subsists until 50 years from the beginning of the calendar year from publication of

the work.

PEMRA law protect the Authority or any of its official from liability for any offence, damage or other injury, which anyone may suffer because of the negligence, or violation of any law including the copyright laws. There are some exceptions to the copyright law as mentioned in the Motion Picture Laws, which also apply to the FM stations, as per PEMRA laws where in suitable cases prohibition will not apply in the local production of for instance a well known classics or folk where the producer of that himself produces or authorizes another person to do so.

Advertising

Advertising, similar to programming, must comply with all relevant laws of Pakistan including PEMRA. Besides the above-mentioned restrictions the content, advertising has special rules to follow as well.

The Authority is empowered to issue different kinds of guidelines relating to advertising this may include the maximum time given to advertisement in any hour, and the minimum time interval that must elapse between any two advertisements. The licensee is required to keep the duration of the advertising breaks reasonable. The quality of sound of the advertisement has to be kept to a respectable standard. The advertisement cannot be overly noisy and disproportionately lengthy. The PEMRA Regulations have set the duration of an advertisement break as not more than minutes continuously and there must be at least a 15 minute of programming between successive advertisement breaks. This means a maximum of 3-minutes of Ads in 15-minutes of programming.

The licensee is required under the law to retain recording of every program and advertisement for a period of thirty days from the date of first airing. The advertising should not mislead the public about a product as to its effects on human health. The advertisement should not contain that make people believe the product has certain special proportion, which are otherwise impossible to verify. Radio stations cannot air advertising during children programming, which encourage them to buy goods of certain brand in large number.

Advertisements must also sound different from ordinary

programming in order to help the listener distinguish between news and advertising. Thus, advertising should not take the form of a news or documentary program. PEMRA has also reserved for it self a daily quota of advertising space on the radio stations. For the purpose of publicizing its regulatory functions, PEMRA may demand air time at no cost. However, the law states that such advertising will not exceed 10% of the radio stations daily programming.

Conclusion

Regardless of the extent to which PEMRA will be able to strictly enforce the content restrictions or the fact that a few of the restrictions form part of the international practice, it is the language of the laws and the way they might be enforced in future that threatens the prospects of an open and diverse media in Pakistan. It is difficult to say how this content regime may be shaped in future when more radio stations join in, but surely the fast developing media technology at the international level will leave little room for such media laws to stay on.

The enunciation and enforcement of media related laws in Pakistan will require people of such caliber in the legislative, judicial and enforcement bodies who are fully conscious of the need to develop a society that is well informed. The content is going to be a key factor in the law making on media. For now the only hope for the new private radio stations is that the laws on content will not be rigidly enforced just like many other laws in a country like Pakistan, which are rarely enforced.

APPENDIX I

CODE OF CONDUCT FOR MEDIA BROADCASTERS/CABLE TV OPERATORS

(See rule 24)

Programs:-

- (1) No program shall be aired or distributed which:
 - (a) Passes derogatory remarks about any religion or sect of community or uses visuals or words contemptuous of religious sects and ethnic groups or which promotes communal and sectarian attitudes or disharmony;
 - (b) Contains anything pornographic, obscene or indecent or is likely to deprave, corrupt or injure the public morality;
 - (c) Contains an abusive comment that, when taken in context, tends to or is likely to expose an individual or a group or class or individuals to hatred or contempt on the basis of race or caste, national, ethnic or linguistic origin, color or religion or sect, sex, sexual orientation, age or mental or physical disability;
 - (d) Contains anything defamatory or knowingly false;
 - (e) Is likely to encourage and incite violence or contains anything against maintenance of law and order or which promotes anti-national and anti-state attitudes;
 - (f) Contains anything amounting to contempt of court;
 - (g) Contains aspersions against the Judiciary and integrity of the Armed Forces of Pakistan;
 - (h) Maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country;
 - (i) Is against basic cultural values, morality and good manners;
 - (j) Brings into contempt Pakistan or its people or tends to undermine its integrity or solidarity as an independent and sovereign country;
 - (k) Promotes, aids or abets any offense which is cognizable under the Pakistan Penal Code;
 - (l) Denigrates men or women through the depiction in any manner of the figure, in such a way as to have the effect of being indecent or

- derogatory;
- (m) Denigrates children;
 - (n) Contains anything which tends to glorify crime or criminals; or
 - (o) Contains material which may be detrimental to Pakistan's relations with friendly countries.
- (2) Particular care should be taken to ensure that programs meant for children do not contain objectionable language or are disrespectful to their parents or elders.
- (3) Programs must not be directed against the sanctity of home, family and marital harmony.
- (4) While reporting the proceedings of the Parliament or the Provincial Assemblies, such portion of the proceedings as the Chairman or the Speaker may have ordered to be expunged, shall not be broadcast or distributed and every effort shall be made to release a fair account of the proceedings of the Parliament or the Provincial Assemblies.

Advertisements:-

- (1) Advertisements aired or distributed by a broadcast or cable TV station shall be designed in such a manner that it conforms to the laws of the country and is not offensive to morality, decency and religious feelings or religious sects of the people of Pakistan.
- (2) No advertisement shall be permitted which:
 - (i) Promotes or supports sedition, anarchy or violence in the country.
 - (ii) Is against any provisions of the Constitution of Pakistan or any other law for the time being in force.
 - (iii) Tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way.
 - (iv) Glorifies adultery, lustful passions or alcoholic drinks or the non-Islamic values.
 - (v) Distorts historical facts, traditions of Pakistan or the person or

- personality of a national leader or a state dignitary.
- (vi) Fans racial, sectarian, parochial, regional or class hatred.
 - (vii) Promotes social inequality, militates against concepts of human dignity and dignity of labor
 - (viii) Is directed against sanctity of home, family and marriage.
 - (ix) Is wholly or mainly of a religious or political nature
 - (x) Contains references that are likely to lead the public to infer that the product advertised or any of its ingredients has some special property or quality which is incapable of being established.
 - (xi) Contains indecent, vulgar, or offensive themes or treatment.
- (3) The goods or services advertised shall not suffer from any defects which are harmful to human health. Misleading claims about the goods shall not be made.
 - (4) No advertisement which is likely to be seen by children in large numbers should urge children directly to purchase goods of a particular brand or ask their parents to do so.
 - (5) All advertisements must be clearly distinguishable as such and be separate from the programs and should not in any manner take the form of news or documentary.



Appendix II Application Form

NON-TRANSFERABLE
Ref. STV- _____/_____

APPLICATION FORM
[See rule 8]
(To be submitted in duplicate)
Form of application for issuance of license for
a Satellite Television Broadcast Station

Please read the following before filling in the Application Form:
 Given complete answers, use extra sheets if required, attach copies of other relevant documents, if required, to illustrate an answer;
 Use the typescript or write in black ink in CAPITAL letters
 Please attach documentary evidence of your authorization to act on behalf

To
 The Pakistan Electronic Media Regulatory Authority,
 Islamabad.

1. **1.1 Name/Title of applicant** [Company] _____
 1.2 Name & National Identity Card No. [Of Company's CEO] _____

 1.3 Registration No.) for corporate body) _____
 1.4 National Tax No. _____
 1.5 Date of establishment/incorporation _____
 1.6 Business Address _____
 1.7 Mailing Address [if different from above] _____
 1.8 Telephone No. _____ Cellular No. _____
 1.9 Fax No. _____ E.mail Address. _____
 1.10 Web-site _____
2. 2.1 What is (or will be) the Location of applicant's head office ?

 2.2 Where are editorial policy/ decision about programmes made?

 2.3 Does the applicant have (or will it have) offices outside Pakistan? If so,
 please specify the countries

3. **Category of licence required** [See rule 6] International Nationality,
 Provincial Local Area/Community based, Specialized Service,
4. **Duration of Licence:** _____
5. **Projected date of first transmission** _____

6. **Amount of the application fee paid [See rule 9]** _____
 Bank Draft/Pay Order No. _____

7. (Attach copy of the payment document) _____

Program Concept and Policy:

(Attach note on the principles that will determine programs' content and the types of programs proposed to be produced, commissioned or distributed)

7.1 Proposed Language of the Programs:

S. No.	Languages	Hours, Minutes per week
1	Urdu	
2	English	
3	Regional	
4	Others (Please Specify)	

7.2 The Program Mix which he Applicant plans to adopt:

S. No.	Program Category	Hours, Minutes per week	Percentage
1	News		
2	Religious		
3	Educational		
4	Current Affairs		
5	Children/Youth		
6	Foreign		
7	Drama		
8	Music (Classical, Folk, Light)		
9	Others (Please Specify)		

8. Organizational set-up:

8.1 Details regarding Ownership/Control of the Company:

[Information regarding CEO, Directors and Shareholders]

S. No.	Name	Father/ Spouce's Name	Home Address	Nationality	Position in the Company	NIC No.	Extent of Share-holding	Financial Interest in any Print and/or Electronic Media.

(Attach organizational chart/Financial standing/position)

Technical Information:9.1 **Site Information**

a.. Name of station_____

b. Address of the site_____

9.2 **Equipment Date**_____

[Please attach details]

9.3 **Satellite Information**

Name of Satellite & Transponder	Please check the appropriate boxes			
	<input type="checkbox"/> Encrypted	<input type="checkbox"/> Analogue	<input type="checkbox"/> C-Band	<input type="checkbox"/> Free-To-Air
	<input type="checkbox"/> Unencrypted	<input type="checkbox"/> Digital	<input type="checkbox"/> KU-Band	<input type="checkbox"/> Subscription
	<input type="checkbox"/> Compressed		<input type="checkbox"/> KA-Band	

9.4 **Supplementary information** (if any): __________
_____10. **Financial aspects:**

S. No.	Source of Funding	Yes/No
1	Self-Financing	
2	Government Grants	
3	Foreign grant/assistance	
4	Advertising	
5	Others (please specify)	

(Cash flow statement for 5 years, Pay-back period, expected return on investment) Attach details

11. **Socio - economic effect:**

(Attach brief note on the social benefits or objectives sought to be achieved by the project)

12. **Project Feasibility**_____

[Please attach details]

UNDERTAKING

I/We _____ the applicant(s) do hereby declare that the above facts are correct in all respects. I/We also undertake to:

- (a) respect the sovereignty, security, integrity and ideology of the Islamic Republic of Pakistan;
- (b) respect the national, cultural, social and religious values and the principles of public policy as enshrined in the Constitution of the Islamic Republic of Pakistan and to safeguard the ideology of Pakistan;
- (c) ensure that programs and advertisements do not encourage violence, terrorism, racial, ethnic or religious discrimination, sectarianism or hatred or contain pornography or other material offensive to commonly accepted standards of decency;
- (d) comply with rules and regulations made under the PEMRA Ordinance and the Code of Conduct annexed to this form;
- (e) broadcast programs 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;
- (f) comply with the codes of program and advertisement conduct approved by the Authority;
- (g) abstain from broadcasting any program or advertisement in violation of copyright or other property right;
- (h) obtain licence from the PTA and the FAB before import of any transmitting apparatus for broadcasting; and
- (I) abstain from selling, transferring or assigning any of the rights conferred by the licence without prior written permission of the Authority.

Place _____

Date _____

Signature of Applicant

RECEIPT

Received Application Form, along with Application Processing Fee, amounting Rs.

_____ through Pay Order/Bank Draft No. _____

From _____

For

Pakistan Electronic Media Regulatory Authority

Islamabad.



Internews Pakistan

H # 315, St # 17, E-7,
Islamabad, Pakistan.

Tel: 92 51 2877984-5, Fax: 92 51 2870969

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