

LAWS OF SOUTH SUDAN

MEDIA AUTHORITY BILL, 2012

Bill No. 52

Juba, March 26th, 2012

LAWS OF SOUTH SUDAN

MEDIA AUTHORITY ACT, 2011

In accordance with the provisions of Articles 110 (n) and 55 (3)(b) read together with Article 85 (1) of the Transitional Constitution of the Republic of South Sudan, 2011, the National Legislature with assent of the President of the Republic of South Sudan hereby enacts the following:

Chapter I

Preliminary Provisions

1. Title and Commencement

This Act may be cited as “**Media Authority Act, 2012**” and shall come into force on the date of its signature by the President.

2. Repeal and Saving

- (1) Subject to the provisions of sub-section (2) of this section, provisions of existing legislation which are governed by this Act are hereby repealed and shall cease to operate in South Sudan; *provided that* any orders or regulations issued in accordance with such provisions shall continue in force until they are repealed or amended in accordance with provisions of this Act.
- (2) Any laws, regulations or institutions which affects or has responsibility over media, shall not be affected by the coming into force of this Act; *provided that* any such laws, regulations or institutions shall be deemed amended, repealed or terminated to the extent that they have been superseded, supplanted or are contrary to the provisions of this Act.

3. Purpose

This Act provides for regulation of the media in South Sudan with a view to promoting an independent media in the public interest. As a means to achieving these goals, this Act provides for establishment of an autonomous Authority to oversee the media industry in South Sudan; define the powers, functions and duties of that Authority; provide for the exercise of powers relating to the planning, management, and use of media services and incidental or related matters.

4. Authority and Application

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

5. Interpretations

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

- “*Advertisement*”** means any public announcement intended to promote the sale, purchase or rental of a product or service, to advance a cause or idea or to bring about some other effect desired by the advertiser for which a space or time has been given up to the advertiser in the media for a consideration;
- “*Advertising Code*”** means a set of standards governing a content which constitutes an advertisement;
- “*Annual Report*”** means the report prepared by the Authority pursuant to the provisions of section 21 of this Act.
- “*Assembly*”** means the National Legislative Assembly;
- “*Authority*”** means the Media Authority established under section 7 of this Act;
- “*Basic service*”** means the print, publication or minimum package of television or radio channels which subscribers to a media service may purchase;
- “*Broadcasting*”** means the dissemination of programmes, through terrestrial transmitters, cable, satellite or any other medium, for public consumption and for simultaneous reception, whether or not by subscription, through a radio or television receiver or other related electronic equipment, but does not include communications internal to a private organisation or government body such as internal press or closed circuit television or internal address systems, or Internet communications;
- “*Broadcaster*”** means an organisation that engages in broadcasting, whether a public service broadcaster, a commercial broadcaster or a community broadcaster;
- “*Broadcasting Frequency Plan*”** means a plan for the allocation of broadcasting frequency spectrum among the various uses such as television and radio,

national and local licences, public, commercial and community media;

“Broadcasting frequency spectrum” means that part of the electromagnetic wave spectrum which is part of the public domain and which may from time to time be assigned to be used for broadcasting but does not include other frequencies such as those used for telecommunication purposes;

“Media service” means a defined media service which consists of the press and publications or broadcasting of television, radio or sound material to the public, sections of the public, or subscribers to such service;

“Cable broadcasting” means the transmission by cables of broadcasting services including re-transmission by cables of broadcast signals;

“Commercial Media” means a profit media entity that is neither a public nor a community media service;

“Community Media” means a media which is controlled by a non-profit entity and operates on a non-profit basis, to a particular community that reflects the special interests and needs of that community, and which is managed and operated primarily by members of that community;

“Free-to-air” means terrestrial broadcasting without a direct charge for reception to the recipient;

“Government” means the Government of South Sudan

“Constitution” means the Transitional Constitution of South Sudan, 2011;

“Independent producer” means an individual or company who produces programmes for radio or television and who is not controlled by any individual broadcaster;

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

“Licensee” means an individual or organisation that has been granted a licence under this Act to provide a broadcasting service to the public;

<i>“Local content”</i>	means a broadcast material produced by a licensee who is a resident of South Sudan or by a company the majority of whose shareholdings are held by such residents, or a co-production in which the above mentioned persons have at least 50% financial interest but shall not include advertisements;
<i>“Media”</i>	means the way that people receive information or entertainment through the press, publications, television, radio or electronics;
<i>“Minister”</i>	means the Minister of Information and Broadcasting;
<i>“Ministry”</i>	means the Ministry of Information and Broadcasting;
<i>“President”</i>	means the President of the Republic of South Sudan;
<i>“Code”</i>	means a set of standards relating to general media content and practices;
<i>“Programme Schedule”</i>	means a plan indicating the general types of programmes proposed to be broadcast, the proportion of broadcasting time to be devoted to such programmes and to advertising, and the target audience, except that for cable or satellite services, it means a description of the basic service and all other services provided;
<i>“Public broadcaster”</i>	means a broadcaster established under separate law, subject to public ownership and having the mandate to broadcast in the public interest;
<i>“Satellite broadcasting”</i>	means the dissemination of a broadcasting service by means of satellite transmission;
<i>“Sponsorship”</i>	means the participation of a natural or legal person who is not engaged in media activities or the production of audio-visual works but who provides direct or indirect financing of a service with a view to promoting the name, trademark or image of that person;
<i>“State”</i>	means any of the ten States of South Sudan;

“Subscriber”	means a person who receives a broadcasting service at a specific location in exchange for a set fee without further transmission of that service to any other person;
“Technical code”	means a set of standards relating to general technical media matters; and
“Terrestrial broadcasting”	means the dissemination of a broadcasting service via the electromagnetic wave spectrum for direct reception by homes or businesses without needing equipment other than radio or television sets.

6. Guiding Principles

- (1) The right to freedom of expression, including the public’s right to a pluralistic media, is a fundamental human right, protected under Article 24 of the Transitional Constitution of South Sudan, 2011
- (2) The right to freedom of expression is also recognised under Article 19 of the International Covenant on Civil and Political Rights and under Article 9 of the African Charter on Human and Peoples’ Rights.
- (3) The Declaration of Principles on Freedom of Expression adopted by the African Commission on Human and Peoples’ Rights states that the regulatory authorities for the broadcast sector shall be independent and adequately protected from interference of a political or economic nature; that the appointments process for members of such Authority shall be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party and that such a Authority shall be formally accountable to the public through the Assembly
- (4) The Declaration of Principles on Freedom of Expression adopted by the African Commission on Human and Peoples’ Rights states that State and government controlled broadcasters shall be transformed into public service broadcasters, accountable to the public through the legislature rather than the government
- (5) Freedom of Information is fundamental to the fulfilment of Human Rights and essential in the fight against corruption
- (6) Article 32 of the Transitional Constitution of South Sudan, 2011 provides the right of access to official information and records, including electronic records in the possession of any level of government in South Sudan or any organs or agencies thereof
- (7) The Right of access to Information is also recognised under Article 19 of the International Covenant on Civil and Political Rights and under Article 9 of the African Charter on Human and Peoples’ Rights.

- (8) The Declaration of Principles on Freedom of Expression adopted by the African Commission on Human and Peoples' Rights provides that everyone has the right to access information held by Public Bodies as well as the right of access to information held by Private Bodies which is necessary for the exercise or protection of any right
- (9) Public Service Broadcasting is necessary to upholding and fulfilling the principles of universal access, equality and diversity in broadcasting and shall be aligned with the democratic values of the constitution to enhance and protect fundamental human rights.
- (10) The broadcasting system relies on use of radio frequencies that are public property, accordingly, radio frequencies shall be allocated in a fair and transparent process to promote public, commercial and community broadcasting
- (11) Public Service Broadcasting shall encourage the development of South Sudanese expression by providing a wide range of programming that refers to South Sudanese opinions, ideas, values and artistic creativity by displaying talent in radio and television programming.
- (12) Press and Broadcast Media. The law and regulations governing the media industry in South Sudan shall promote the following policies:-
 - (a) uphold constitutional principles, and in particular, respect for human rights, democracy and the rule of law;
 - (b) promote freedom of expression;
 - (c) encourage creative national media including licensing the broadcasting sectors, namely, public, commercial, and community broadcasters;
 - (d) promote a diverse range of quality media services which serve South Sudan's national languages, ethnic, religious and cultural communities;
 - (e) enhance the right of the public to know through promoting pluralism and a wide variety of programming on matters of public interest;
 - (f) prevent monopolisation of ownership and promote fair competition in the broadcasting media sector;
 - (g) promote accurate, informative and balanced programming ;
 - (h) encourage the provision of quality educational programming;
 - (i) promote the widest possible geographic distribution of broadcasting services, including by licensing national and local broadcasters;
 - (j) develop and promote broadcasting reflecting national and regional cultures and identity;
 - (k) promote the appropriate use of modern technology;
 - (l) enhance the overall financial and competitive viability of the press and broadcast media;
 - (J) promote national unity, peaceful coexistence and cohesion of the people of South Sudan; and
 - (k) promote social, economic and cultural development in South Sudan.

(13) Press Freedoms and Independent Media.

- (a) Free media representing all groups and divisions of society shall be protected as essential to democracy, giving independent scrutiny and comment on the workings of government and institutions, serving as the public's watchdog and advocate, providing a free flow of information and diverse opinions;
- (b) Mass media shall be protected from government interference and the interference of non-governmental authorities. Censorship of the media is forbidden;
- (c) Respect for religious, ethnic and cultural diversity shall be guaranteed under the principles contained within international human rights instruments; and inciting religious, ethnic or cultural intolerance shall be guarded against as an abuse of freedom of expression and media;
- (d) The rights of individuals shall be protected against hate speech, incitement to violence, defamation and intrusion of privacy;
- (e) Any provisions restricting freedom of expression and media shall be incorporated within the law, to be specifically and narrowly defined and subject to tests of necessity, proportionality and pressing social need as defined by courts;
- (f) Journalists have the right not to reveal the sources of information to whom they have promised confidentiality;
- (g) No government license shall be required of any individual practicing journalism as a profession. And no one shall require a government license in order to enter the practice of journalism as a profession;
- (h) All print media shall be self-regulating, Internet and electronic media expansion and use shall be encouraged and not to be restricted as a mass communication media;
- (i) Broadcast operators shall be required to seek licensing for the purposes of frequency allocation, and such licensing issued by the Media Authority , shall include a set of standards that take into account that the broadcast airwaves are a limited resource and are held in a public trust;
- (j) National and regional or State government broadcasting shall be transformed into public service broadcasters;
- (k) The public service broadcasters shall have editorial independence, and the Media Authority shall be responsible for ensuring that editorial independence of the Public Service Broadcaster is maintained, and that public service broadcasters adhere to modern democratic standards of public service broadcasting;

- (l) Truth is an absolute defence in defamation cases, and reporting in the public interest, reporting in good faith and in a fair and balanced manner shall be taken into account and are also defences;
 - (m) Journalists have the right to form professional associations to promote professionalism through training, education and the writing of codes of ethics and to advocate for editorial independence, the rights of journalists and the rights of an independent media, and the government shall have no role in this process;
 - (n) There shall be no statutory regulation of the print media, and a media complaints council shall be established, whose decisions shall be subject to due process and shall be reviewed and enforced by the relevant authority or agency;
 - (o) Any existing laws and legislation are to be applied in such a way that they do not contradict these principles;
 - (p) The Media Authority shall establish, where necessary, any other independent agencies and regulatory bodies in accordance with international standards and in fulfillment of the principles referred to in this Act, and the creation of independent news agencies shall be encouraged.
- (14) The Internet and New Media.
- (a). promote freedom of expression, open standards and open access;
 - (b). registration requirements shall adhere to and be consistent with the guiding principles, and shall neither impede competition nor be used to restrict market entry;
 - (c). information and content that is transmitted and made available over the Internet or any data network, in the form of text, software, music, images, and video shall be protected by copyright and may have specific conditions attached to its reproduction, transmission, and distribution. Those intellectual property rights shall be respected, as shall be the case for other media;
 - (d). information and content publishers on the Internet or suppliers shall not be licensed solely for the reason that they reside on the Internet;
 - (e). Internet service providers shall be able to offer Internet services without prior approval;
 - (f). Registration requirements shall be kept to an absolute minimum necessary for essential operation, and service providers shall be treated

- no differently than other businesses with regard to establishing a business;
- (g). Internet service providers shall be regarded as providing carriage for information and that function shall incur no legal liability imposed by the content that is carried;
 - (h). Internet service providers may also be suppliers of content and that content shall be subject to the policy regarding content; and
 - (i). to the extent that filtering of pornographic content or material is needed, Internet service providers shall be required to provide, upon request by the end user, filtering software for end user terminals, or equivalent filtering services applied by the service provider before reaching end user terminals.

Chapter II

Establishment of the Media Authority

7. Establishment

- (1) There shall be established in South Sudan a Media regulatory body to be known as “The Media Authority” hereinafter called “The Authority”. The Authority shall be a public institution accountable to the public through the Assembly.
- (2) The Authority shall enjoy operational and administrative autonomy with a seal and corporate personality and the right to sue and be sued in its own name.
- (3) The Authority shall have all powers, direct or incidental, as are necessary to exercise its powers and perform its functions and duties in accordance with provisions of this Act.
- (4) The Authority shall be established as a regulatory agency for Broadcast media, and to regulate the transformation of State TV and Radio into Public Service Broadcasters.
- (5) The Authority shall consist of specialised committees including but not limited to: Press and Broadcast Complaints, Hearings Panel, Appeals Board, Legal Counsel, Complaints and Monitoring, Broadcast Frequency Licensing, Public Affairs and Education, and Engineering and Technical Standards
- (6) Press and Complaints Committee:
 - (a) shall promote and adopt codes of ethics and guidelines for professional conduct for print and broadcast journalists;
 - (b) shall promote the development of professional journalism through training and education;
 - (c) advocate for media freedoms and independence;
 - (d) provide counsel on broadcast licensing;
 - (e) promote the formation of media and journalist associations;

- (f) shall have initial jurisdiction over all complaints against the media and journalists, and resolves complaints through mediation or arbitration as necessary;
 - (g) hear testimony, dismiss complaints, and award limited sanctions, such as a requirement to print a correction or apology, or to be declared at fault and required to publish the findings of Board;
 - (h) shall refer cases of complaints that are deemed to be serious violations or that cannot be resolved through mediation or arbitration to the Director General to consider further action through a formal administrative hearing process;
 - (i) shall consist of seven members initially to be appointed by the Board, who shall not have any political, elective or appointive office and shall be selected through an open and transparent process.
- (7) Hearings Committee:
- (a) shall act as hearings body for formal complaints against the press and violations of the media codes of ethics and licensing system that could not be resolved by the Press and Broadcast Complaints Board under subsection (6) of this section;
 - (b) shall take testimony and come to decisions based on public hearings as to culpability, mitigating circumstances and aggravating circumstances, considering such things as public interest, truth, good faith, impact and degree of damage;
 - (c) shall comprise of a Chairperson, who shall be a media regulatory expert or practicing advocate and four other members;
 - (d) shall conduct hearings meetings as necessary in response to complaints and alleged violations of the media codes of conduct, regulations or broadcast licensing conditions; and
 - (e) shall deliver all decisions of the panel in writing.
- (8) Media Appeals Committee:
- (a) shall hear appeals against the sanctioning decisions of the Authority;
 - (b) shall deliver all decisions of the Board in writing, and such decisions shall be final and binding;
 - (c) the Chairperson shall be a sitting or retired judge or senior human rights lawyer; and
 - (d) shall sanction decisions that have been upheld on appeal to be enforced by the law enforcement agencies.
- (9) Complaints and Monitoring Committee:
- (a) shall be responsible for receiving and investigating complaints brought either generally or in the context of the law;
 - (b) shall convene the Press and Broadcast and Complaints council in order to resolve complaints at source;
 - (c) shall handle unsatisfied cases for handover to Legal Counsel for presentation to the Hearings Panel; and
 - (d) shall conduct media monitoring for accuracy-assessment but not for censorship.
- (10) Broadcast Frequency Licensing Committee shall:

- (a) be responsible for formulating and administering the licensing system for broadcasting; and
 - (b) shall consider and deal with applications for the available frequency in a given area through an open and transparent hearing process.
- (11) Public Affairs and Education Committee shall:
- (a) ensure maximum transparency for all Authority and agencies activities;
 - (b) conduct public education and awareness campaigns on the duties and responsibilities that are attached to Freedom of Expression;
 - (c) manage public expectations on the role of independent media in a democracy;
 - (d) promote awareness in the judiciary, the police and government officials in order that they understand their roles and responsibilities in supporting a free, open and democratic press; and
 - (e) shall establish regional offices as necessary for public outreach activities.
- (12) Legal Counsel shall:
- (a) be responsible for providing legal advice and for representing the Authority in cases brought before the Press and Broadcast Complaints Committee, the Hearings Panel, and the Media Appeals Committee on any occasion; and
 - (b) shall assist in drawing up broadcast licenses and associated codes of conduct.
- (13) Engineering and Technical Standards Committee shall:
- (a) be responsible for creating functioning frequency spectrum management plan upon which to base the broadcasting licensing system; and
 - (b) shall be responsible for setting technical standards, including for electronic media, satellite, digital, fibre optic, cable, and wireless delivery systems.

8 . Board of the Authority

- (1) The Legal powers of the Authority shall vest in its Board of Directors, hereinafter referred to as the “Board.” and decisions of the Board shall be transparent, impartial, and independent of external influence and in the best interest of the media industry.
- (3) The Board shall comprise of nine Members, at least three of whom shall be women. The members shall have relevant expertise including experience in the fields of media, law, technology, journalism, entertainment or business. They shall also be of high moral standards, integrity, impartiality and competence.
- (3) The Board shall elect a Chairperson and a Vice-Chairperson from amongst its members. The Chairperson shall preside over the meetings and activities of

the Board, and shall supervise the selection, hiring, or termination of service of the Managing Director.

9. Appointment of Members

- (1) Members of the Board shall be appointed by the President upon approval by the Council of Ministers
- (2) For the initial term on the Board, the Minister shall initiate the nomination procedure and submit a list of candidates to the National Council of Ministers for vetting. The list shall consist of twice as many candidates as the available posts.
- (3) Any person may be eligible for appointment to the Board if such person:
 - (a) is a South Sudanese national;
 - (b) does not hold an official position in, or is not an employee of a political party;
 - (c) does not hold a position in which he or she receives payment from or has direct or indirect significant financial interests in the media or telecommunication sector;
 - (d) is not declared bankrupt or insolvent; or
 - (e) has not been convicted of an offence involving fraud or dishonesty for which he or she has not been pardoned, unless five years have elapsed since the sentence was discharged.
- (4) Where, by virtue of a bequest, donation or other acquisition, a Member unknowingly obtains an interest referred to in sub-section (3)(c) of this section, such person shall, within a period of two months, either dispose of the interest or resign from his or her position as a Member
- (5) In any situation where the provisions of sub-section (3) (c) become applicable to a Member, he or she shall not take part in any decision-making process of the Authority until the relevant interest has been disposed of.
- (6) To assume the position of Member of the Board, a Member shall take the following oath before the Minister:

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

10. Tenure and Removal from the Board

- (1) The tenure of office of the Chairperson, Vice Chairperson and Members of the Board shall be four years and may be reappointed for one additional term only.
- (2) Notwithstanding the provisions of sub-section (1) of this section, four of the members of the initial Board, who shall be identified by vote, shall serve for an initial term of two years which shall count as a full term.
- (3) The President may remove the Chairperson, Vice Chairperson or a Member from the Board, upon recommendation of the Minister, on grounds of gross neglect of duty, incapacity or violation of the law.
- (4) Any Member who is removed from office pursuant to this section shall be provided with written reasons for removal.
- (5) The Vice Chairperson or a Member may resign from office by tendering a resignation in writing to the President, through the Chairperson and the Minister and, in case of the Chairperson, to the President through the Minister.
- (6) Where the Chairperson, Vice Chairperson or a Member is removed from office, resigns or dies, that Member shall be duly replaced under the same conditions and in the same manner in which such Member was appointed.
- (7) Where the Chairperson, Vice Chairperson or a Member is removed from office pursuant to the provisions of this section, written reasons for removal shall be served upon such Member.

11. Remuneration of Members

- (1) The Chairperson, Vice Chairperson and Members of the Board shall:
 - (a) receive sitting allowances; and
 - (b) shall be reimbursed for actual and reasonable expenses, including travel, accommodation and subsistence, incurred in the performance of their functions and duties as shall be prescribed by regulations.
- (2) The sitting allowances and other expenses shall be determined by the Council of Ministers on the recommendation of the Minister and in consultation with the Minister of Finance and Economic Planning.

12. Meetings of the Board

- (1) The Board shall, in accordance with provisions of this Act and regulations, adopt such rules in relation to meetings and other matters, as it deems necessary and appropriate to enable it perform its functions and duties.
- (2) The Board shall meet every three months and may have extra-ordinary meetings.

- (3) Meetings of the Board shall be convened by the Chairperson or in the absence of the Chairperson, the Vice-Chairperson in co-ordination with the Managing Director. The Board may also convene an-extra ordinary meeting within seven days upon a decision of the Chair or a written request by at least three Members of the Board.
- (4) All meetings of the Board shall be open to the public unless otherwise decided by the Chair.
- (5) The Chairperson, or in his or her absence the Vice-Chairperson, shall preside at all meetings of the Board.
- (6) The quorum for meetings of the Board shall be five members, save that the quorum for a meeting at which the Board is to determine an application for a media licence shall be seven Members.
- (7) Decisions at a meeting of the Board shall be adopted by a simple majority of the Members present and voting, and in case of a tie, the Chair shall have a casting vote.
- (8) The Managing Director of the Authority shall be the secretary of the Board and an Ex-officio Member, unless in any particular case, the Board directs otherwise.
- (9) Minutes of the meetings of the Board shall be kept in proper form and shall be confirmed by the Board at the next meeting and signed by the person who presided at that meeting.

13. Invitation to Meetings

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

14. Disclosure of Interest

- (1) A Member of the Board or of a Committee who has a direct or indirect interest in a matter under consideration by the Board or Committee shall disclose that fact and nature of his or her interest to the Board or Committee.
- (2) A disclosure under sub-section (1) of this section shall be recorded in the minutes of the meeting of the Board or Committee.
- (3) After the disclosure under sub-section (1) of this section, the Member in question shall not take part in nor be present during any deliberations of the Board or Committee, but may be counted as present for purposes of quorum of the Board or Committee.

15. Appointment of Managing Director

- (1) The Managing Director of the Authority shall be nominated by the Board in consultation with the Minister and shall be appointed by the Board.
- (2) The Managing Director shall be responsible for all management and administrative functions of the Authority.
- (3) The provisions of section 9 (3) of this Act shall apply in relation to appointment of the Managing Director.
- (4) The Board shall set the terms and conditions of service of the Managing Director in consultation with the Minister.
- (5) The Managing Director shall be the secretary and an *ex-officio* Member of the Board.
- (6) The Managing Director shall be answerable to the Board for the proper administration and management of the Authority in accordance with policy laid down by the Board.
- (7) The Board shall, in accordance with the approved budget and on the recommendation of the Managing Director, establish a Secretariat for the Authority with such staff as it considers necessary and appropriate to enable it perform its functions and duties.
- (8) The Managing Director shall, in accordance with the approved budget, recruit staff as may be required. Their appointment terms and conditions of service shall be in accordance with the Public Service law and regulations.
- (9) The Managing Director and employees of the Authority shall be impartial in the exercise of their functions and duties and shall, at all times, seek to promote media policy and Guiding Principles as set out in section 6 of this Act.

Chapter III

Functions and Powers of the Authority

16. Functions.

- (1) The Authority shall oversee media in South Sudan consistent with constitutional and international guarantees of freedom of expression and shall promote public interest in the media sector and, more specifically, to;
 - (a) issue licences for the provision of broadcasting services to the public;
 - (b) oversee the development and implementation of the Advertisement, the Programme and the Technical Codes;
 - (c) ensure that licence conditions are respected by the licensees;

- (d) investigate any breach of media or access to information laws on its own initiative or initiation by the Ministry, governmental entity or upon complaint of a third party and shall take appropriate action in accordance with provisions of this Act; and
 - (e) advise the Government on media related issues, policies and events.
- (2) The Authority shall be impartial in the exercise of its functions and duties and shall, at all times promote the media policy and Guiding Principles as set out in section 6 of this Act.
 - (3) To promote transparency in its functions, the Authority shall establish an official internet website where all public documents shall be posted, including media policies, plans, codes, tenders and decisions of the Authority.
 - (4) The Authority shall, subject to the provisions of this Act, have exclusive power in relation to its functions as set out in sub-section (1) of this section;.
 - (5) Without prejudice to the provisions of this section, the National Government shall have the power to set policy in relation to media in accordance with the principles set out in section 6 of this Act.

17. Powers of the Authority

- (1) The Authority shall have such powers as may be necessary for carrying out its functions and duties under this Act and the power to regulate its own procedures.
- (2) The Authority shall seek the assistance of the courts as necessary to bring proceedings to enforce provisions of this Act, the media and access to information laws of South Sudan, or an order of the Information Commissioner for the right of access to information.
- (3) The Authority may initiate legal action against any person or entity for violating a provision of an order or regulation issued by it, and it shall submit the complete file containing the alleged violation to the courts as appropriate.
- (4) The Authority may bring an action before any court of law for equitable relief to redress a violation by any person or entity of a provision or regulation issued under any of the Media and Right to Information Laws.
- (5) The court, pursuant to subsection (4) of this section shall have jurisdiction to determine any such action and may grant such relief as necessary or appropriate, including punitive damages; provided that criminal sanctions shall not be imposed for breaches of any provision of this Act.
- (6) A person injured because of a breach of the media and information laws or an order of the Authority may bring a civil action to seek damages or otherwise enforce that order under this subsection

18. Investigations

- (1) The Authority may conduct investigations and hold hearings as necessary to discharge its functions and duties under this Act and all complaints shall state the facts that are the subject of the violation.
- (2) If the investigation reveals a breach of the media and access or right to information laws of South Sudan, or of an order of the Information Commissioner, the Authority shall take appropriate action reasonably necessary to compel compliance with this Act or may impose a fine in accordance with a published schedule of fines imposed for similar breach.
- (3) The Authority shall take action only after giving the breaching party notice of the investigation and an opportunity to respond.
- (4) The Authority shall make a written report of each investigation and shall provide a copy of the report to the party who is being investigated.
- (5) Pursuant to subsection 4, the report of the investigation shall include the findings, conclusions, and order of the Authority.
- (6) The Authority shall have the investigation reports published for public use, and such published report of the Authority shall be acceptable evidence of its contents

19. Committees

- (1) The Board may establish such committees as it deems necessary for efficient and effective discharge of its functions and duties. The committees shall consist of two or more Members and such other persons as may be required or desirable.
- (2) The Board may delegate any of its functions and duties under this Act to any of its officers or committees.
- (3) Persons who are disqualified by provisions of this Act from being Members of the Board shall be deemed disqualified from being appointed to the committees.

20. Limitation of Liability

- (1) No Member of the Board, officer or employee of the Authority, shall be liable for any act or omission committed in the exercise or performance of their functions and duties with the Authority; *provided that* such acts or omissions were done in good faith and are not resulting from willful neglect.

Chapter IV

Funding and Reporting of the Authority

21. Sources of Funding

- (1) The Authority shall be funded through a budget approved in accordance with the budget procedures established by Government.
- (2) Without prejudice to the provisions of sub-section (1), the Authority may receive funds from other sources including the following sources; provided that such funds shall be applied in conformance with requirements of the *Public Finance Management and Accountability Act, 2011*:
 - (a) license fees paid by broadcasters under this Act;
 - (b) fines collected by the Authority in the performance of its right to apply enforcement measures;
 - (c) grants from local or foreign bodies
 - (d) grants from government
 - (e) loans and money received from other legitimate sources
- (3) For each year, the Authority shall submit a budget for the Government's approval within a reasonable period before the beginning of the following financial year.
- (4) When grants or donations are given to the Authority for specific tasks or projects in public interest, they shall be accounted for separately and distinguished from the approved budget and they shall be applied in accordance with requirements of the *Public Finance Management and Accountability Act, 2011*.
- (5) All funds of the Authority shall be deposited into the Board authorised bank accounts of the Authority.

22. Audit and Annual Report

- (1) Within four months after the end of each financial year the Managing Director shall prepare and submit to the Board a report of activities of the Authority during that financial year (Annual Report).
- (2) The Authority shall maintain accounts of all monies received and spent by it and shall, within four (4) months after the end of each financial year, submit to the Board a statement of accounts in conformity with requirements of the *Public Finance Management and Accountability Act, 2011* and audited by the Auditor General or designee, for its consideration.
- (3) The Board shall, through the Minister, submit the Annual Report and audited accounts to the Authority of Ministers and the Assembly as soon as practicable but not later than six months from the beginning of the financial year.

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

Chapter V

Frequency Planning and Licensing

23. Broadcasting Frequencies

- (1) The National Communication Authority established under the Communication Act shall, in consultation with the Authority, interested stakeholders and relevant Government institutions, develop and from time to time revise the Broadcasting Frequency Plan which shall include a locator map, in order to promote optimal use of the broadcasting frequency spectrum and the widest possible broadcasting diversity.
- (2) The Broadcasting Frequency Plan shall ensure that, in accordance with the broadcasting policy and Guiding Principles as set out in section 6 of this Act, the broadcasting frequency spectrum is shared equitably and in the public interest with consideration of the following categories:
 - (a) Public Broadcasters;
 - (b) Commercial Broadcasters;
 - (c) Community Broadcasters;
 - (d) Radio and Television Broadcasters
 - (e) Local Broadcasters;
 - (f) Regional Broadcasters; and
 - (g) Broadcasters whose geographic area of coverage extends to the whole of South Sudan.
- (3) The Broadcasting Frequency Plan, along with any revisions to it, shall be posted on the Authority's official website and shall be published and disseminated widely;
- (4) The Broadcasting Frequency Plan may reserve certain frequencies for future use for specific categories of broadcasters in order to ensure diversity and equitable access to frequencies over time.

24. Broadcast Licence Requirements

- (1) It is prohibited to provide a broadcasting service except in accordance with a valid broadcasting licence.
- (2) The Authority shall have exclusive responsibility in relation to issuance and renewal of licences.
- (3) The Authority shall maintain a register of licences, which shall be posted on the official website, of the Authority and shall be available for public inspection.

25. Tender Licence Applications

- (1) The Authority shall from time-to-time determine whether it is in the public interest, based on the Broadcasting Frequency Plan, Broadcasting policy, interest by potential Broadcasters and market capacity, to issue a competitive tender with a view to issuing additional licence to provide a broadcasting service
- (2) The Authority shall adopt regulations setting out types of licences and the process to be followed in submitting an application and a description of what information must be provided, as well as a schedule of the annual licence fees established in accordance with the provisions of section 37 of this Act.
- (3) Where a tender is issued pursuant to the provisions of sub-section (1) of this section, the Authority shall post a notice to that effect on the official website and publicise the notice widely through available media outlets. The notice shall include all relevant information about the proposed licence, including the deadline for receipt of applications, application fee and the annual licence and renewal fees.
- (4) Any such tender shall require applicants to provide, in relation to the proposed broadcasting service, at least, the following information:
 - (a) the ownership structure;
 - (b) evidence of incorporation and establishment as a legal entity;
 - (c) the sources of finance and the proposed financial plan over the period of the licence;
 - (d) the organisation and management structure, including the personnel and expertise available to deliver the service;
 - (e) the programme schedule or, in the case of a cable or satellite service, information about the channels proposed to be provided within the basic service, as well as any other channels which may be purchased; and,
 - (f) the technical facilities for delivery of the service.
- (5) An application for a broadcast license shall be published on the website of the Authority at least 60 days prior to a public hearing at which license

applications are assessed by the Authority, provided that publication shall not involve sensitive commercial or other information tendered by the applicant.

26. Non-tender Licence Applications

- (1) In absence of a call for applications pursuant to the provisions of section 25 of this Act, the Authority may receive applications, to provide a broadcasting service.
- (2) Any licence application under sub-section (1) of this section shall include the same information as is required for tender licence applications pursuant to the provisions of section 25(4) above.

27. Assessing Licence Applications

- (1) The process for assessing licence applications shall be fair, non-discriminatory and transparent.
- (2) The process of assessing licence applications shall include consideration of the application by the Authority at a public hearing and shall accord anyone opportunity to provide written comments on the application. Public hearings may be held in the area of geographic reach of the proposed broadcaster.
- (3) The Authority shall take the following into consideration in deciding whether or not to issue a broadcasting licence to an applicant in accordance with section 25(2);
 - (a) the technical capacity of the applicant to deliver a quality service taking into account the nature of the proposed service;
 - (b) the nature and extent of financial resources of the applicant and the financial viability of the proposal;
 - (c) the effect of licensing the proposed service in terms of concentration of ownership, cross ownership and fair competition and, where the applicant is not a South Sudanese, the percentage of shareholding by South Sudanese Nationals;
 - (d) promotion of the widest possible diversity of services taking into account the proposed Programme Schedule, demand, the need for that service and the broadcasting services already being provided in that area;
 - (e) the need to promote locally produced programming which serve the needs and interests of the people of South Sudan; and,
 - (f) the need to promote broadcasting produced in the different regions, states, and languages, and by the diverse cultures of South Sudan.
- (4) The Authority shall provide written notice of its decision to all applicants for broadcasting service licences. Where an application is rejected, this notice shall include the reasons for rejection and information regarding the applicant's right of appeal.
- (5) A broadcasting license shall not be issued to a political party or to a body which is substantially owned or controlled by a political party;

- (6) A licence may be issued to:
 - (a) an individual who is a citizen or resident of South Sudan;
 - (b) an entity which has a recognised legal status or registration in South Sudan; or,
 - (c) an entity which is not subject to majority control by non-citizens or non-residents.
- (7) Upon decision by the Authority on an application under sub-section (4) of this section, the Authority shall cause notice of that decision to be posted on its official website.
- (8) All applications for a broadcast license shall be published on the Authority's official website and Gazette at least 60 days prior to the public hearing at which license applications will be assessed provided that such publication shall not involve sensitive commercial or other information tendered by the applicant

28. Licence Frequency

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

29. Licence Renewals

- (1) An application for renewal of a licence shall be made in accordance with conditions set out in the licence, provided that in the absence of such conditions, the application shall be presented to the Authority three months before the date of expiry of the existing licence.
- (2) A licensee shall be entitled to have a broadcasting service licence renewed, provided that the Authority may refuse to renew a licence where the licensee has operated in a significant breach of its licence conditions or where refusal to renew the licence is clearly in the public interest, based on broadcasting policy and Guiding Principles as set out in section 6 of this Act.
- (3) At the time of renewal, a licensee may propose amendments to the licence conditions and the Authority may accept or reject the proposed amendments, except amendment that are imposed by the Authority on its own which shall satisfy the conditions set out in section 39 of this Act.
- (4) The Authority may, when considering an application for renewal of a licence, require such new or additional information as it deems necessary.
- (5) If at the date of expiry of a licence the Authority has not yet decided in respect of an application for renewal, the licence shall continue to be in effect until the application for its renewal is granted or rejected by the Authority.

- (6) The Authority shall provide the licensee with written reasons, in advance of a final decision, of any proposed decision not to renew the licence and shall give the licensee an opportunity to make oral or written representations.
- (7) Where the Authority does not renew a licence, it shall provide written reasons for its refusal.

Chapter VI

General Licensing Conditions

30. Licensing

- (1) A Broadcast Licence shall not be transferable to a third party without the prior approval of the Authority.
- (2) Compliance with all the matters specified in the licence application, including the Programme Schedule, shall be deemed to be licence conditions.
- (3) Terrestrial broadcasters shall keep all master recordings of all the programmes and advertisements they broadcast for at least twenty-eight days after they have been broadcast, provided that where specific broadcast material is the subject of a dispute, the relevant broadcaster shall, at the request of the Authority, keep a master recording of that broadcast material until the dispute is fully resolved.
- (4) Satellite broadcasters shall keep a register of the programme channels and advertisements distributed for at least twenty-eight days after they have been distributed, provided that where specific broadcast material is the subject of a dispute, the broadcaster shall keep a record of it until the dispute is fully resolved.
- (5) If a service is not initiated within six months from the date specified in the licence for the commencement of the service, or if a broadcaster fails to broadcast for six months without a valid excuse, that licence shall automatically lapse.
- (6) Licences shall be valid for the following periods:
 - (a) 4 years for a community broadcasting licence;
 - (b) 5 years for a commercial radio broadcasting licence; and,
 - (c) 7 years for commercial television broadcasting licences
- (7) Licensees shall report annually to the Authority on their activities, including the observance of the licence conditions.

31. Copyright

- (1) Broadcasters may only broadcast programmes which they produce or for which they hold broadcasting rights; Copyright shall be clearly indicated as part of the credits displayed with each broadcast programme.
- (2) The name of the producer of every broadcast programme shall be printed, displayed or read out at the beginning or end of the programme.

32. Undue Concentration of Ownership

- (1) No legal or natural person shall exercise direct or indirect control over more than one national free-to-air television service.
- (2) No legal or natural person shall exercise direct or indirect control over a national free-to-air broadcasting service and a national newspaper.
- (3) For purposes of this section, financial or voting interest of 40% or more shall be deemed to constitute control.
- (4) The provisions of sub-section (1) of this section, shall not apply to a national public broadcaster.

33. Local Content Requirements

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

34. Licence Fees

- (1) The Authority shall, from time to time as it deems necessary and after consultation with the Minister and the Minister of Finance and Economic Planning, and after taking into consideration market considerations, produce a schedule of the applicable annual licence fees setting out the rates for various types of broadcast media services.
- (2) The schedule of applicable annual licence fees shall be widely publicized over domestic media outlets and published on the website of the Authority.
- (3) The schedule of applicable annual licence fees shall be placed before the Assembly by the Minister of Finance and Economic Planning for consideration.

- (4) For purposes of sub-section (1) of this section, the Authority may classify licensed services by:
 - (a) tier (public, commercial or community);
 - (b) type (radio or television, terrestrial, free-to-air, subscription, press or publishing satellite or cable and analogue or digital); and,
 - (c) scope (national, regional, local or according to the number of subscribers).
- (5) Licensees shall be required to pay the applicable annual licence fees for each broadcasting service they operate.

35. Additional Terms and Conditions

- (1) The Authority may from time to time, adopt regulations setting out general licence terms and conditions for different types of licensees.
- (2) The general licence terms and conditions may include, among others:
 - (a) the period prior to the expiry of a licence during which an application for renewal shall be submitted;
 - (b) the minimum amount of programming to be commissioned from local independent producers; or,
 - (c) the categories of information that shall be provided by the licensees in their annual reports to the Authority pursuant to the provisions of section 30 (7) of this Act.
- (3) The Authority shall publish such regulations widely, including on its website.

36. No Retroactive Application for a Licence

Changes in licence conditions pursuant to sections 34 and 35 of this Act, shall not apply retroactively to broadcasters licensed under provisions of this Act.

Chapter VII

Specific Licence Conditions

37. Licence Conditions

- (1) The Authority may attach such specific conditions to broadcasting service licences as it deems necessary to promote broadcasting and in accordance with the Guiding Principles and media policy as set out in section 6 of this Act.
- (2) The conditions to a broadcasting service licence in particular shall, *inter alia*, be as follows:
 - (a) set the minimum number of hours to be broadcast on a daily, weekly or annual basis;
 - (b) set minimum local content requirements over and above the minimum specified in this Act;
 - (c) specify maximum amounts of repeat programming; or,

- (d) specify the language or languages in which the programmes are to be broadcast and in what minimum proportions.

38. Amendment of Licence Conditions

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

39. General Restriction on Specific Licence Conditions

Specific licence conditions shall not be imposed under sections 35, 37 or 38 of this Act, unless they:

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

Chapter VIII

Advertisement, Programme and Technical Codes

40. Advertisement and Technical Codes

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

41. The Advertisement Code

- (1) The Advertisement Code shall address a range of issues relating to print and audio-visual advertising, including the following:
 - (a) all advertisements shall be clearly identified as such;
 - (b) no printer or publisher or audio-visual licensee shall advertise medicines which are available only with a prescription;
 - (c) no printer or publisher or audio-visual licensee shall advertise or promote illegal products, and contents that tend to corrupt public morals and,
 - (d) the maximum space, daily and hourly advertising which may be carried by different licensed broadcasting services, shall in no case exceed 20% of total daily programming.
 - (e) No broadcaster shall carry any advertisement for or on behalf of any political party or candidate for election to political office, except in accordance with the section or in accordance with the law and regulations governing elections
- (2) Subject to the provisions of Elections law or any regulations issued thereunder, the Authority may adopt regulations regarding political advertisements during elections, provided that any such regulations shall be based on the principle that parties and candidates shall be granted equitable and non-discriminatory access to media services
- (3) The Advertisement Code shall set out rules regarding programme sponsorship.
- (4) For the purposes of this Act, sponsorship shall not be deemed to constitute advertisement.

42. The Programme Code

- (1) The Programme Code shall address a range of issues relating to programming including, among others, the following:
 - (a) balance and impartiality in news and current affairs and programming and the duty to strive for accuracy in these programmes;
 - (b) protection of children;
 - (c) classification of programmes, including films, according to the recommended age of viewers;
 - (d) the terms, conduct and editing of interviews;
 - (e) the use of covert recording and subterfuge;
 - (f) keeping within accepted boundaries of taste and decency, including in relation to the portrayal of sexual conduct and violence, and the use of strong or abusive language;
 - (g) the coverage of crime and anti-social behaviour;
 - (h) distinguishing between factual material and comment;
 - (i) the treatment of religion, ethnic, religious and cultural communities and relations, gender issues, minors and people with special needs;
 - (j) respect for privacy; and,
 - (k) the use of subliminal images or sounds.

- (2) In developing and implementing the Programme Code, the Authority shall have due regard to the rightful place in a pluralist democratic society of robust and open debate, free expression of personal views, of the need for original, innovative and stimulating programme-making and of the potential for achieving proper balance over a series of programmes, or over time, rather than in every individual programme.

43. The Technical Code

- (1) The Authority shall, in consultation with the Ministry, the Ministry of Telecommunications and Postal Services, broadcasters, journalists and other media service providers and interested stakeholders, draw up, and from time to time review and amend the Technical Code for broadcasters.
- (2) The Technical Code shall address a range of issues relating to general technical broadcast standards and formats.
- (3) The Technical Code shall be published and widely disseminated and every licensee shall be provided with a copy.
- (4) The Authority, in coordination with the Ministry and Ministry of Telecommunications and Postal Services, shall monitor compliance by broadcasters with the Technical Code.

44. Compliance

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

Chapter IX

Breach of Licence Conditions

45. Complaints and Monitoring

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

46. Investigations

- (1) Where the Authority conducts an investigation pursuant to the provisions of section 45 of this Act, it shall provide the licensee with adequate written notice

of any allegation of breach and with a reasonable opportunity to make representations. In the case of a complaint, the Authority shall also provide the complainant with a reasonable opportunity to make representations.

- (2) The Authority shall, apart from justified exceptional circumstances, come to a decision in relation to a complaint within sixty days from the date of its receipt.
- (3) Where the Authority decides that a licensee is in breach of the Advertising Programme or Technical Code or any other licence condition, it shall publish its decision that shall include the reasons for its decision, sanction, if any, to be imposed pursuant to section 47 of this Act, and notify the licensee of the right to appeal the decision. The Authority shall provide the licensee and, where appropriate the complainant, with a copy of its decision.

47. Sanctions

- (1) Where the Authority determines that a licensee is in breach of the Advertisement, Programme, Technical Code or other licence condition or provision of this Act, it may apply one or more of the following sanctions:
 - (a) issue an internal instruction to the licensee;
 - (b) issue a written warning to the licensee;
 - (c) order the licensee to issue a broadcast or press statement, correction or retraction at a specified time and in a specified form; or,
 - (d) order the licensee to take such action or desist from taking such action as it deems necessary to rectify or prevent repetition of the breach.
- (2) In case of a repeated breach of licence conditions, the Authority may order the licensee to pay a fine not exceeding 2% of the licensee's total revenue for the previous year, provided that such fines shall be paid to the Authority for deposit into an appropriate Authority account.
- (3) In case of a repeated and gross breach of licence conditions, the Authority may order the suspension of part or all of the Programme Schedule of a licensee, or terminate its licence.
- (4) For breach of a rule relating to broadcast service content, the Authority shall not impose the sanctions provided for in sub-section (2) or (3) of this section, except as shall be decided by Members of the Board and where other, lesser sanctions have failed to prevent further breach.
- (5) Where anybody or entity deliberately carries on an unlicensed broadcasting activity in contravention of the provisions of section 24(1) of this Act, or deliberately transfers a broadcasting licence in contravention of the provisions of section 30(1) of this Act, the Authority may order the termination of that broadcasting activity, impose a determinable fine on the offending person or entity, or the confiscation of the equipment used in the illegal activity.
- (6) Failure to comply with an order of the Authority under this section shall be construed as contempt of court and, where a licensee fails within a reasonable

period to comply with such an order, the Authority may request the Public Attorney to institute contempt proceedings against that licensee.

Chapter X

The Media Appeals Board

48. Establishment of the Media Appeals Board

- (1) A Media Appeals Board is hereby established to exercise functions related to appeals of decisions made by the Board or the Managing Director.
- (2) The Media Appeals Board shall be independent in exercising its functions and duties.
- (3) The Media Appeals Board shall adjudicate on appeals of parties that are directly affected by decision regarding:
 - (a) granting, denying, non-renewal or revocation of broadcasting licenses;
 - (b) imposition or modification of broadcasting license conditions, excluding conditions relating to frequency allocation or any other technical criteria;
 - (c) imposition of sanctions; and,
 - (d) such other matters as may be provided for in an administrative direction, or regulations.
- (4) Deliberations and decisions of the Media Appeals Board shall:
 - (a) be in accordance with the laws of South Sudan and internationally recognised broadcasting best practices and human rights standards;
 - (b) respect democracy and the rule of law; and,
 - (c) protect freedom of expression.
- (5) The Media Appeals Board may uphold, modify or rescind any decision of the Board or Managing Director regarding the appeal.

49. Appointment of Members of the Media Appeals Board

- (1) The Media Appeals Board shall comprise of three (3) members who shall have relevant knowledge and experience and shall have the required qualifications to be nominated to the Media Appeals Board.
- (2) Members of the Media Appeals Board shall be nominated by the Minister on the basis of a list of candidates submitted by the Board of the Authority that shall comprise twice as many candidates as the posts available. The nominees shall be appointed by the President.
- (3) A person shall be eligible for appointment to the Media Appeals Board if he or she:
 - (a) is a South Sudanese citizen;

- (b) does not hold a position where he or she, receives payment from or has, directly or indirectly, significant financial interest in media or telecommunications;
 - (c) is not declared bankrupt or insolvent; or
 - (d) has not been convicted, after due process, of a violent crime or of dishonesty, for which he or she has not been pardoned, except where five (5) years have passed since the sentence was discharged;
 - (e) is not a holder of an office in, or employed by a political party;
 - (f) is not a holder of an elected office at any level of government
- (4) Members of the Media Appeals Board shall not use their positions for their personal benefits or for the benefit of any other party or entity.
- (5) Members of the Media Appeals Board shall not be allowed to request or receive instructions from the Authority in course of exercising their duties

50. Tenure and Removal

- (1) The tenure of office of members of Media Appeals Board shall be three (3) years and may be renewed for two additional terms in accordance with the procedures set out in section 49 of this Act.
- (2) The President may remove a Member from the Media Appeals Board on the recommendation of the Board of the Authority through the Minister, where that member:
- (a) becomes, by virtue of section 49(3) of this Act, ineligible for appointment to the Media Appeals Board;
 - (b) commits a serious breach of his or her functions and duties under this Act;
 - (c) is no longer able to perform his or her functions and duties effectively due to incapacity; or,
 - (d) fails, without valid excuse, to attend meetings of the Media Appeals Board for more than three consecutive meetings.
- (3) Any Member who is removed from the Media Appeals Board pursuant to the provisions of this section shall be served with written reasons for his or her removal.
- (4) A Member may resign from the Media Appeals Board upon delivery of written resignation to the President through the Chairperson of the Board of the Authority and the Minister and if it is the Chairperson, directly to the President through the Minister.
- (5) Where a Member is removed from the Media Appeals Board, resigns or dies, he or she shall be duly replaced under the same conditions, and in the same manner, in which the removed, resigned or deceased member was appointed.

51. Procedures of the Media Appeals Board

- (1) The Chairperson of the Media Appeals Board shall convene the first meeting of the Media Appeals Board no later than thirty days following the appointment of all the Members of the Media Appeals Board.
- (2) The Media Appeals Board shall, subject to the provisions of this Act, adopt such rules in relation to meetings and other matters, as it deems necessary and appropriate to enable it to perform its functions and duties. Its business shall be conducted in accordance with such rules to guarantee fair and impartial proceedings.
- (3) Rules of the Media Appeals Board shall include provisions governing procedures for submitting appeals to be reconsidered and investigated by the Media Appeals Board, and the types of evidence that may be admissible during hearings.
- (4) Rules of the Media Appeals Board and amendments to them shall be adopted by unanimous vote of the Media Appeals Board and shall be posted on the Authority's official website and made available for public inspection.

52. Lodging of Appeals

- (1) Appeals shall be submitted to the Media Appeals Board within thirty days of receipt of a decision set forth in section 47(1) of this Act.
- (2) An appeal shall be made in writing and shall be accompanied by such documentation or other evidence as may be required by the Media Appeals Board in accordance with the provisions of section 51(2) of this Act.
- (3) The Media Appeals Board shall take into consideration only appeals grounded on relevant information which was not available in the course of making decision by the Board, or any substantive or procedural mistake made by the Authority in the course of making its decision.
- (4) The Media Appeals Board may, without hearing, reject appeals not grounded on either procedural or substantive error, or appeals that are determined by the Media Appeals Board, pursuant to provisions of section 51(2) of this Act to be invalid, malicious or without basis.

53. Decisions of the Media Appeals Board

- (1) The Media Appeals Board shall issue its decision in writing in relation to any appeal. The decision shall be distributed to the parties involved, and disseminated to the public by the Managing Director.
- (2) Decisions of the Media Appeals Board shall be final and subject to review only by the Supreme Court of South Sudan in accordance with applicable law.

54. Funding of the Media Appeals Board

- (1) The Media Appeals Board shall be funded through the approved budget of the Authority in accordance with budget procedures established by the Government.
- (2) Without prejudice to the provisions of sub-section (1) of this section, the Media Appeals Board may have additional funds provided through grants from local or foreign bodies subject to approval by the Board of the Authority, in consultations with Ministers of Information and Broadcasting Telecommunications and Postal Services and Finance and Economic Planning.

Chapter XI

Miscellaneous Provisions

55. Existing Broadcasting Services

- (1) Within two months of its establishment, the Authority shall initiate a review of all existing broadcasting services with a view to deciding whether or not to issue these services with valid licences under section 26 of this Act. The review shall be concluded within twelve months of establishment of the Authority.
- (2) Notwithstanding the provisions of this Act, any agreements or licences to provide broadcasting services in force prior to the date of commencement of this Act shall be deemed to be valid broadcasting licences for the purposes of this Act, unless the Authority, in exercise of its functions and duties under sub-section (1) of this section decides otherwise.
- (3) Where an agreement or licence referred to in sub-section (2) of this section under which an existing broadcaster does not specify the type or number of broadcasting services which may be provided, the number or types of such services shall be deemed to be the services being provided at the time this Act came into force.

56. Rules and Regulations

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