

**ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES**

**THE ETHIOPIAN MEDIA LAW WITH PARTICULAR
REFERENCE TO THE BROADCASTING
PROCLAMATION NO. 178/1999**

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**JANUARY 2006,
ADDIS ABABA**

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**A THESIS SUBMITTED TO THE SCHOOL OF GRADUATE
STUDIES OF ADDIS ABABA UNIVERSITY IN PARTIAL
FULFILLMENT OF THE REQUIREMENT
FOR THE DEGREE OF MASTER OF ARTS IN
JOURNALISM**

BY MERON BERHANE

**JANUARY 2006,
ADDIS ABABA**

Acknowledgements

It is a pleasure to thank the many people who made this thesis possible.

I would like to gratefully acknowledge the enthusiastic supervision of Professor Andargachew Tiruneh during this work. I could not have hoped for a better advisor and mentor for my thesis.

I would also like to thank all those who helped me to complete this thesis. I am especially grateful to Nicola Jones, Markos Mekuria, Kenaw G/Selassie, Namrud Berhane, Gobena Daniel, Elsa T/Mariam, and Woyni W/Mariam. My utmost gratitude goes to Markos Retta without whom this would never have been a reality.

I am forever indebted to my parents for their understanding, endless patience and encouragement.

Lastly and most importantly, I thank God for his comforting hands during my dark days.

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Abstract

Freedom of expression devoid of any interference has been guaranteed to all by the Ethiopian Constitution. Rights of expression include the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of [her]/his choice” (Article 29 (2)).

In an effort to reconcile certain imperatives of public interest, however, the Constitution stipulates that some limitations may be imposed on freedom of expression (Article 29 (6)). However, the article further stipulates interference on such freedom is allowed only if there is a law which authorizes it, and it requires that such law cannot limit expression on account of content or point of view expressed.

This study attempts to examine critically the constitutionality of the Ethiopian Broadcasting Proclamation (EBP), through comparing it to literature on freedom of expression, and the principles of regulating broadcasting in regional, national and international legal frameworks within which the media in Ethiopia operates.

A close examination of the EBP apparently enacted in accordance with and for the realization of Article 29 of the Constitution, reveals that the conditions of limitation are not observed as they should be. The study critically analyzes the consistency of the EBP in accordance with the provisions of the Constitution, and identifies some contradictory and inconsistent clauses that enforce undue limitation on freedom of expression.

The limitation clauses under EBP include: blanket prohibition of religious and political parties, content restrictions, arbitrary revocation and confiscation, undue interventions on sponsored programs and media operations. Some recommendations are put forward in the final part of the study so that the EBP could play a role in the promotion of freedom of expression in the country.

CHAPTER ONE

INTRODUCTION

1.1 Research Problem and Background

The Ethiopian Constitution guarantees the right of all citizens to freedom of expression without any interference. The rights include “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of [her]/his choice” (Article 29 (2)). Ethiopia has also ratified international agreements pertinent to freedom of expression including the Universal Declaration of Human Rights, International Covenants on Human Rights and the African Charter on Human and Peoples’ Rights.

One important element in the promotion of freedom of expression is providing legal protection to the press. This protection is guaranteed under article 29 (4) of the Constitution stating “in the interest of free flow of information, ideas and opinions which are essential to the functioning of a democratic order, the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions”.

The Constitution further stipulates for the possibility of limiting rights, on condition that they are made “only through laws which are guided by the principle that freedom of expression and information cannot be limited on account of content or point of view expressed” (Article 29 (6)). Therefore interference is allowed only if there is a law which authorizes it; and such laws cannot limit expression owing to content or point of view expressed.

The Ethiopian Broadcasting Proclamation (EBP), apparently enacted in accordance with Article 29 of the Constitution, however, reveals that the conditions of limitation are not observed as they should, as it imposes limitations that seem to go beyond what is allowed by the Constitution, and that are not guided by the principle quoted above stated under Article 29 (6) of the Constitution.

The issue at the heart of this study is that some key limitation clauses of the Ethiopian Broadcasting Proclamation, No. 178/1999, stand inconsistent, if not contrary, to the constitutional provisions. Therefore the study is set to analyze the constitutionality of provisions of the Ethiopian Broadcasting Proclamation.

1.2 Objective of the Study

The general objective of the study is to advocate freedom of expression and its component freedom of the press, which is an essential element for the existence of a democratic society. To this end, the study aims at the promotion of a broadcasting regulation that meets international standards and is consistent with the 1995 Constitution. The study specifically identifies limitation clauses under the Ethiopian Broadcasting Proclamation that seem to go beyond what is allowed by the Constitution. The study thus attempts to answer if the limitation clauses under the Ethiopian Broadcasting Proclamation are consistent with the constitutional principle on freedom of expression.

1.3 Significance of the Study

The study has the following contributions to make:

- It will identify limitation clauses under the broadcasting proclamation that are inconsistent with the Constitution, and are not guided by the principle of freedom of expression.
- It forwards a set of principles and standards against which a broadcasting regulation can be examined.
- It could be used by campaigners, broadcasters, lawyers and others in their effort to promote a vibrant, independent broadcasting sector.

- It could also be a springboard for further researches as there are no full-fledged studies conducted on the subject.

1.4 Method

The study is a comparative analysis of the EBP in light of constitutional provisions. The EBP and Constitution are critically analyzed, as are relevant literature, journals, and articles. Comparative analysis entails five moments of reasoning: frame of reference, grounds for comparison, developing thesis, organizational scheme, and linking of the moments of comparison (Walk: 1998).

(1) Frame of Reference

The researcher places the two phenomena in this context to compare and contrast. The frame of reference may consist of an idea, theme, question, problem, or theory; a group of similar things from which one may extract information. Accordingly, the two phenomena, or to be exact, legal documents targeted for comparison are the Broadcasting Proclamation of Ethiopia and the Ethiopian Constitution. The best frames of reference are constructed from specific or clearly defined sources rather than the researcher's perception. In this particular study the various clauses or provisions targeted for study in their validation will be examined in light of the legal and ethical standards and milieu created by various international conventions, including the Universal Declaration of Human Rights, International Covenants on Human Rights and the African Charter on Human and Peoples' Rights and a document by Article XIX on the principle of drawing a broadcasting regulation.

(2) Grounds for Comparison

The second element in the process of comparative analysis is delineating the grounds or justifications for comparison and/or contrast. In this particular case the grounds for comparison are that the Ethiopian Constitution, as all constitutions, is the mother of all other legal documents in the country. The Constitution stipulates the possibility of limitations on the

rights on the condition that they are made “only through laws which are guided by the principle that freedom of expression and information cannot be limited on account of content or point of view expressed” (Article 29 (6)). Therefore interference is allowed only if there is a law which authorizes it; and such laws cannot limit expression owing to content or point of view expressed. Thus, the Broadcasting Proclamation of Ethiopia, as a legal material is expected to adhere to the principles stipulated in the Constitution. Thus, the grounds for comparison are rooted in the legal assumption that the principles and clauses in one of the phenomenon – the Broadcasting Proclamation of Ethiopia – should be consistent with those clauses and provisions in the other – the Ethiopian Constitution.

(3) Developing Thesis

The basis for comparison foresee the comparative nature of the relationship between the two phenomena, in this case, the Broadcasting Proclamation of Ethiopia and the Ethiopian Constitution. This nature of relationship, referred to ‘the thesis’ is usually captured in the hypothesis or study question brought out in the study. In other parlance, in any given comparative analysis the comparison would have a direction only if there is a given hypothesis in place. In this particular study the thesis, as indicated in the Research Problem is: some key clauses of the Ethiopian Broadcasting Proclamation dealing with limitations on the freedom of expression are not consistent with the provision of the Constitution of Ethiopia.

(4) Organizational Scheme

The organization of ideas in a given comparative analysis may follow two formats. The first is referred to as the ‘text by text’ scheme and the other is known as the point by point scheme. In text-by-text organizational scheme the researcher discusses the entire first phenomenon for comparison and then the other entire phenomenon. Usually, a text-by-text organizational scheme is used when the ‘thesis’ suggests that the second phenomenon for comparison is consistent and elaborates or supports the first phenomenon. The second organizational scheme – point-by-point – is usually used when the ‘thesis’ suggests that the two phenomena engage in debate or when the two are divergent, thus, the analysis in a point-by-point scheme draws

attention to the points of conflict. A point-by-point organizational scheme can prove to be redundant in its treatment of differences between the two phenomena if each point is brought forth alternatively or going back and forth from one phenomenon to the other. Thus, to avoid this tendency multiple arguments are grouped together to prove that a given inconsistency exists between the two phenomena, thereby cutting down on the number of times the researcher alternates from one phenomenon to the other. In this particular study, thus, point-by-point organizational scheme will be used to present the arguments in favor of the thesis.

(5) Linking of the Comparison

All argumentative studies, in general and comparative analysis, in particular, dwell on the linking each argument with the centrally held thesis. Such logical ties will present the arguments systematically and make it possible for the researcher to present the reasoning in a logical and reasonable fashion.

1.5 Limitation of the Study

The fact that there are no private broadcasters yet operating in the country has made it impossible for this writer to make use of case studies and practical examples in the course of demonstrating possible problems. Therefore the study had to rely on hypothetical examples and literature reviews.

1.6 Organization of the Study

The first chapter of the study gives a general background, describes the research problem; provides justifications for why the study had to be carried out and why it is significant; and explains the method used as well as limitations of the study.

The second chapter reviews different literatures on freedom of expression and the public's right to know including international provisions on human rights and freedom of expression. It also looks into how media laws can be used to curb freedom of expression. The study further

provides a set of principles summarized from Article XIX that could be considered in the formulation or examination of broadcasting laws.

The third chapter deals with brief history of media in Ethiopia within which it currently operates. To this end, it describes freedom of expression and limitations under the Ethiopian Constitution, the Criminal Code (414/2004), the Press Law (34/192) and the Ethiopian Broadcasting Proclamation (178/1999).

The fourth chapter analyzes limitation clauses of the EBP that violate the principles of freedom of expression and hence are inconsistent with the provisions of the 1995 Constitution. This part of the study will also look into how the provisions, in contradiction to the Constitution, affect the rights of citizens as they undergo the process of licensing as well as in the course of exercising the right during pre and post licensing stages.

Finally, the last chapter forwards concluding remarks and recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 Freedom of Expression, an Overview

Human beings need ideas in order to act and survive. Without ideas to guide their action, men are little different from wild animals that live by law of the jungle. These ideas also need to be expressed and become available to all. This process can be realized only when freedom of expression is guaranteed.

In this day and age, freedom of expression and its component - freedom of the press are recognized as among the most fundamental of human rights. Freedom of speech is an individual's right to express ideas without undue interference from the government (Robertson and Nicol: 2002). One's ability to fully exercise his or her freedom of expression is a precursor to the ability to protect and promote his or her other rights.

The notion of free press, which of course is integral to freedom of expression, has a long history. According to Keane, cited in Street (2001), the first argument for the free press was derived from the writings of the 17th century poet John Milton, who argued that, people had to be free to follow their conscience and be able to test their convictions against rival claims, thereby strengthening their faith. Any attempt to impose a particular view would be counter-productive. Mill also noted that "knowledge of the world depends upon constant cross examination of conventional wisdom. Dogmas couldn't be allowed to stand unexplored; they had to be subject to rigorous scrutiny. Only with the public demonstration of diversity and difference could ideas flourish and people cultivate their individual character" (1869: 43).

Moreover, Street (2001), deriving the concept of free press based on freedom of conscience and thought from the claims of writers like John Locke, Thomas Paine, and Mary Wollstonecraft, asserts that individuals have rights that have to be respected by a legitimate government. Rules have to be by consent, and this entails the right to dissent: the opportunity

to hold and express dissenting views. A state press or state censorship would be an infringement of these rights.

Mill quoted in Carter saw “freedom of thought discussion and investigation as ‘goods in their own right’ but more importantly society benefits from an exchange of ideas. People could trade their false notion for true ones. Such open discussion would necessarily mean that false as well as true ideas would be expressed....Government could not prescribe opinions or determine what doctrines or what arguments people should hear. Not even if the government and the populace were at one on an issue should coercion regarding freedom of expression be allowed” (2001: 39). Adding to this notion Emerson asserted that the system of expression in a democratic society is based on four premises: (1) Freedom of expression facilitates self-fulfillment; (2) It is an essential tool for advancing knowledge and discovering truth; (3) It is a way to achieve a more stable and adaptable community; and (4) It permits individuals to be involved in the democratic decision-making process (1970: 6-9).

The importance of a free press is most emphatically articulated in the famous anecdote of the former American president Thomas Jefferson, “where it is left to me to decide whether one should have a government without a newspaper or newspaper without a government, I would not hesitate a moment to prefer the later” (Mayer, 1995). It is now a cliché to assert that respecting freedom of expression and of the press is genuinely of great importance. Freedom of expression is one of the fundamental rights that individuals enjoy. It is fundamental to the exercise of democracy and the respect of human dignity.

Freedom of speech and expression consists primarily of the liberty of the public to hear and read what it desires. According to Nelson, “freedom of discussion must embrace all issues about which information is needed to enable members of society to cope with the existences of their period. It is essential to enlighten public opinion in a democratic state; it cannot be curtailed without affecting the right of people to be informed through sources, independent of the government, concerning matters of public interest.... Government must be prevented from assuming the guardianship of the public mind. Truth can be sifted out from falsehood only if the government is vigorously and constantly cross-examined...” (1993: 56).

Meanwhile the crucial role that a free press plays in a given society cannot be overemphasized. A free press stands as one of the great interpreters between the government and the people. Indeed dignity and liberty are very much at stake when freedom of the press is threatened (Padover: 1973). Noting the importance of freedom of expression and that of free press in a society for the development of democracy and the respect of human rights, almost all countries have provided protections to these rights in their constitutions. The most notable of all is the First Amendment of the American constitution, which superbly states that, “Congress shall make no law prohibiting the free exercise thereof, or abridging the freedom of speech or of the press” (Kallen, 1969:147). The press in the United States is regarded as a ‘Fourth Estate’ of government holding the executive, the legislative, and the judiciary branches accountable. Furthermore, several international and regional organizations have taken clear measures that guarantee freedom of expression.

2.2 International Provisions on Human Rights and Freedom of Expressions

The General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights (UDHR) on December 10, 1948. Following this historic act, the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories" (United Nations, 1948). Article 19 of the declaration, binding on all States as a matter of customary international law, guarantees the right to freedom of expression: “everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”.

This right is so fundamental that a number of voluntary international organizations have been set up in order to promote its implementation; one such organization is Article XIX. This organization, named Article XIX, devoted to promote, protect and develop freedom of expression and of the press, has come up with principles of exercising the right in

broadcasting. And the main focus of this study being the restrictions imposed on broadcasting, excerpts from that article are included at the end of this chapter.

Similarly, the International Covenant on Civil and Political Rights (ICCPR), adopted with the view to ensure that states carry out their obligation under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms. The ICCPR recognizes the right to freedom of expression, under its Article 19, in the following specific terms:

- (1) Everyone shall have the right to freedom of opinion;
- (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

The Covenant subjects freedom of expression to certain restrictions as “it carries special duties and responsibilities”. Such restrictions shall only be applied when provided by law and are necessary for “respect of the rights or reputations of others and protection of national security or of public order or of public health or of public morals” (Article 19 (3)). The law therefore shall prohibit any propaganda of war, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (Article 20).

At the continental level, the African Charter on Human and Peoples’ Rights guarantees the right to freedom of expression under Article 9 as follows:

- (1) Every individual shall have the right to receive information.
- (2) Every individual shall have the right to express and disseminate his opinions within the bounds of the law.

This continental Declaration further elaborates a number of principles and standards on freedom of expression and calls: ‘States Parties to the African Charter on Human and Peoples’ Rights should make every effort to give practical effect to these principles’ (Article 16).

The African Commission on Human and Peoples' Rights also declares 'Principles on Freedom of Expression in Africa' that state:

(1) Freedom of expression and information, including the right to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art, or through any other form of communication, including across frontiers, is a fundamental and inalienable human right and an indispensable component of democracy.

(2) Everyone shall have an equal opportunity to exercise the right to freedom of expression and to access information without discrimination (Part I).

According to the Principles "any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary in a democratic society". No one shall be subject to arbitrary interference with his or her freedom of expression (Part II).

Here it should be noted that the 1995 Ethiopian Constitution provides "All international agreements ratified by Ethiopia are an integral part of the law of the land and that the fundamental rights and freedoms specified in the Constitutions shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and international instruments adopted by Ethiopia" (Articles 9(4) and 13(2)).

Such is the context in which Article 29 of the Ethiopian Constitution - Right of Thought, Opinion and Expression should be understood and interpreted and hence the standard against which this study will examine the Ethiopian Broadcasting Proclamation 178/1999.

An equally essential right - closely related to freedom of expression and of the press - is the public's right to know then next part briefly discusses issues relating to the public's right to know and grounds for the formulation of media laws.

2.3 The Public's Right to Know and Basis for Limitation

Indeed the right to expression belongs as much to the public as to those engaged in the very act of expression, such as journalists; however the net effect of the right to expression is that ideas reach the public. Hence it is worth mentioning here the right of the public to know in light of the overriding importance of information and the limitation thereof. Gauthier (2000) indicated that the public's right to know provides the moral basis for journalists' freedom to gather and disseminate information. According to Goodwin quoted in Gauthier "the public has a legal right to know what its government is doing and the press is the representative of the public in finding that out" (2000:198). Freedom of expression and that of the press is quite irrelevant without the public's right to know and the ability of the press to gather and disseminate information, thereby helping the public get the right information to participate in the decision making process. Barney argued that "in order for consistently intelligent social decisions to be made, adequate information to the individual produces greater awareness of alternatives in any decision making opportunity" (1986:65). More importantly, the public's right to know provides the opportunity for individuals to exercise their constitutional rights. According to Gauthier (2000) the right to know guarantees citizens access to any information relevant to political, professional, and personal decisions essential for the exercise of constitutional rights in a democratic society.

Emphasizing the need for the public's right to know, Article XIX states: "information is the oxygen of democracy. If people don't know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of that society. But information is not just a necessity for people-it is an essential part of good government. Bad government needs secrecy to survive" (1999: 1).

Consequently, the public's right to know remains the ground for journalists' freedom to gather and disseminate information so that the public can make knowledgeable decisions. However, given the power of the press to influence public opinion for the better or worse, the need for some sort of regulation is widely recognized (Center for Human and Democratic Studies: 2000). In an effort to balance journalists' freedom and responsibility several governments as

well as international and regional organizations have put limitations on the freedom of expression and of the press.

Robinson quoted in Robertson and Nicol argues “‘Free’ in it self is vague and indeterminate. It must take its color from the context. Compare, for instance, its use in free speech, free love, free dinner and free trade. Free speech does not mean free speech: it means speech hedged in by all the laws against defamation, blasphemy, sedition and so forth. It means freedom governed by law...” (2002: 2).

Even in the US where there is virtually no restriction on the press and freedom of expression is simply guaranteed, there are few legal boundaries put forth in statutes. “The restrictive laws are those thought necessary by legislatures or courts to serve three purposes: protection of Government and its processes, including judicial action, from violent disruption and unlawfully created disrespect; protections of individuals in good name, business reputation and right of privacy; and protection of the morals of the public and of its right not to be defrauded or deceived” (Encyclopedia Britannica, 1940: 455).

The International Covenant on Civil and Political Rights (ICCPR), a UN document ratified by most countries of the world, subjects freedom of expression to certain restrictions that shall only be applied when provided by law and are necessary for the “respect of the rights or reputations of others and protection of national security or of public order or of public health or of public morals” (Article 19 (3)). The law therefore shall prohibit any propaganda of war, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (Article 20).

From another perspective, freedom of expression is also said to be one of the most dangerous rights, for it empowers one to express discontent with the status quo and the desire to change it. As a result, it stands as one of the most threatened rights with governments all over the world constantly trying to curtail it (Price, 2002).

2.4 Media Laws and Freedom of Expression

A critical look at the legal and regulatory frameworks for the media is very crucial as there are several implications to the degree to which freedom of expression is guaranteed. One of the greatest dangers to freedom of expression in several transitional democracies in Africa has been the introduction of media laws that has been used to effectively curb the media's ability to report freely (Street: 2001). Though most governments in transitional democracies have paid-lip service to freedom of expression in various circumstances, in reality, they have curtailed and eroded such freedom through several laws and regulations. Ogbondah indicates, "Laws do not mean much if those who are supposed to adhere to them do not do so, nor if the legal acts are contradictory or ambiguous, thus creating the way for the authorities to evade their responsibilities toward the public or to take arbitrary actions against perceived wrongdoers. Therefore, it is necessary to highlight how far the constitutional promise is really fulfilled" (2003:62).

During the 1990's many countries in Africa have introduced constitutional reforms where in they have more or less recognized freedom of expression. The enshrining of these fundamental rights in a constitution is a very important step towards building a democratic order which respects of individual rights. The constitution being the supreme law of the land, in it freedom of the press and its constituent rights are given sanctity. While this has been considered major progress, most countries have introduced media laws that go against constitutional promises and paved the way for the government and authorities to take actions on every bit of reporting that critically challenged their position Nyamnjuh (2005: 169). A case in point is the 1990's media law of Cameroon which, according to Nyamnjuh was a marked improvement from previous measures but had a number of weaknesses as it devoted 35 of its 90 articles to repressive sanctions against the press. Munuz as cited in Nyamnjuh (2005) claims that the law treats journalists as people who were constantly seeking to jeopardize state interests or to harm other people. Among other things, Nyamnjuh argued that the law's repressive dimensions are compounded with more underhand measures that are not always easy to demonstrate. According to him these includes:

- (1) permanent or tacit refusal by public authorities to grant journalists access to administrative documents;
- (2) repeated seizure of newspapers, decided upon without notification in writing by the administration;
- (3) repeated violation by the forces of law and order, acting without the authority of a judge, of newspaper offices and printing press premises;
- (4) banning of certain papers shortly before an electoral campaign (2005: 169).

Needless to say, recognition of the freedom in the constitution or statutes is not enough for the exercise of freedom to reach its goals. Hence, government's should give adequate legal protection to the press as a vital institution for the public, while enhancing the public trust in government. On the other hand, a government should limit its interference as much as possible to sine-qua-non situations. Accordingly, while the promotion of freedom of the press is undoubtedly essential to the existence of a democratic society, it is worth emphasizing that one important element in the promotion of such freedom is to provide legal protection to the press.

Since the main purpose of this study is to look into the exercise of freedom of expression in relation to broadcasting laws and the provisions in the Constitution, the following section deals with an excerpt from a document by Article XIX on the principle of drawing a broadcasting regulation which aims at promoting a vibrant, independent broadcasting sector that serves the society.

It is my firm belief that this set of principles in this publication is of paramount importance in the examination and formulation of regulatory broadcasting laws. Accordingly, I have summarized the most pertinent principles that contribute towards the subject of this study.

2.5 Principles on Freedom of Expression and Broadcasting Regulation

Article XIX, a non-governmental, charitable international organization, which is devoted to promote, protect, and develop freedom of expression and of the press, have come up, after a

series of study, analysis and experience all over the world, with broadcasting regulation principles in March 2002 under the title 'Principles on Freedom of Expression and Broadcast Regulation'.

According to Article XIX, the principles therein are part of an international standard aimed at promoting and protecting independent broadcasting while ensuring that it serves the interest of the public. It is also geared to be used by campaigners, broadcasters, lawyers, judges, elected representatives, and public officials in their effort to promote a vibrant, independent broadcasting sector.

The point of departure is of course the same Article 19 of the UDHR, which the document details in the context of broadcasting as follows:

- (1) Everyone has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, orally, in print, in the form of art, through the broadcast media or through any other media of his or her choice;
- (2) The right to freedom of expression includes both the right of broadcasters to be free of State, political or commercial interference and the right of the public to maximum diversity of information and ideas in broadcasting;
- (3) Broadcast content should never be subject to prior censorship either by the government or by regulatory bodies. Any sanctions for breach of regulatory rules relating to content should be applied only after the material in question has been broadcast.

Eligibility to Licensing

On the basis of the principle that everyone has the right to freedom of expression, the document states that: there should be no blanket prohibition on awarding broadcasting licenses to applicants based on either their form or nature, except in relation to political parties, where a ban may be legitimate. In particular, applicants should not be required to have a particular legal form, such as incorporation. Nor should certain types of applicants, such as religious

bodies, be subject to a blanket ban on receiving licenses. Instead, the regulatory body should have the power to make licensing decisions on a case- by-case basis (Principle 20 (1)).

The principle ensures the right of any individual or group to exercise its freedom of expression and of the press in accordance with and observance of the general principles of freedom of expression, which state that “everyone has the right to freedom of expression, which includes the freedom to seek, receive, and impart information and ideas of all kind”. This principle should apply as a basis for all stakeholders and regulatory frameworks of broadcasting for the respect of freedom of expression and of the press.

Content Restrictions

Another important principle aimed at the right to freedom of expression is Principle 23 (1) that states “broadcasting laws should not impose content restriction of a civil or criminal nature on broadcasters, over and above, or duplicating, those that apply to all forms of expression”. Since the media represents an independent source of knowledge and information and also transmits information through various processes of news-making and interpretation, content restriction of civil or criminal nature should not exist. “Any content rules should be developed in close consultation with broadcasters and other interested parties, and should be finalized only after public consultation. Agreed rules should be set out clearly and in detail in published form. The rules should take into account the different circumstances of the three tiers of broadcasting and the two types of broadcasters” (Principle 23 (3)). Moreover, Principle 2(1) of the document states that: “...programming decisions are made by broadcasters on the basis of professional criteria and the public’s right to know. It should be up to the broadcasters not the government, regulatory bodies or commercial entities, to make decisions about what to broadcast”.

According to the document, content obligations may be placed on commercial and community broadcasters but only where their purpose and effect is to promote broadcast diversity by enhancing the range of material available to the public. Such obligations are not legitimate where they have the effect of undermining broadcast development, for example, because they are unrealistic or excessively onerous. Furthermore, such obligations should be sufficiently

general in nature so that they are politically neutral, while clearly defining the type of material covered so that there is no ambiguity. Such obligations may be imposed, for example, in relation to local content and/or language(s), minority and children’s programming, and news (Principle 24 (2)).

Sanction and Punishment

With regard to process for applying sanctions and punishment on individual broadcast the Article XIX’s publication under Principle 26 states: “sanctions should never be imposed on individual broadcasters except in cases of a breach of a clear legal requirement or license condition and after a fair and open process which ensures that the broadcaster has an adequate opportunity to make representation”.

Moreover, Principle 27 (1) indicates that the sanctions imposed should be strictly proportionate to the harm caused. The principle further states that: “In assessing the type of sanction to impose, regulatory bodies should keep in mind that the purpose of regulation is not primarily to ‘police’ broadcasters but rather to protect the public interest by ensuring the sector operates smoothly and by promoting diverse, quality broadcasting”.

These and many other principles should be noted in formulating and/or amending a nation’s broadcast regulations. The principal purpose of regulating broadcasting should be to promote and protect the public’s right to know, freedom of expression and of the press. Broadcast regulations should not in any way be used towards a hidden political or commercial interest. Therefore, it is quite necessary to take into account all possible measures that safeguard and protect the interest of the public at large while formulating a broadcast law and regulation.

The next section will look at the Ethiopian media and the legal frameworks within which it currently operates including the Ethiopian Constitution, the Criminal Code and the press and broadcast laws.

CHAPTER THREE: THE ETHIOPIAN MEDIA AND THE LEGAL FRAMEWORK WITHIN WHICH IT OPERATES

3.1 Brief History of Media in Ethiopia

The history of media in Ethiopia dates back a century. *Le Semeur d’Ethiopie*, a bilingual weekly (1905–1911) and *Aimero* (1902-1903) are widely considered as the original newspapers in the country although some historical evidence suggests that the handwritten sheet produced by *Blatta Gebre Egziabhere* around 1900 probably preceded both *Le Semeur d’Ethiopie* and *Aimero* and may therefore be considered the first Amharic ‘newspaper’ in the country (Pankrest, 1992). During the post-liberation period the publication industry witnessed a comparatively significant expansion in terms of the number of periodicals produced and the size of their circulation. Such long-lasting weekly papers as *Addis Zemen* and *The Ethiopian Herald* came into the scene in 1941 and 1943 respectively (Shimeles, 2000).

Radio came into the country in 1933 only 14 years after the introduction of this important technology to the world, while Television broadcasting begun in the early 1960s (Ministry of Information, 2004).

In 1974, a military government known as the *Derg* overthrew the last Emperor, Haile Sellasie II, ushering a period of military rule which lasted until 1991. The socialist government used the media primarily for propaganda purpose and press freedom was heavily curtailed or non-existent (Shimeles, 2000).

The demise of the military *Derg* regime along with its strict censorship in 1991 paved the way for a completely new phenomenon in the history of media in Ethiopia – the proliferation of the private/independent print media.

The immediate effect of the abolition of censorship manifested itself in the countless newspapers and magazines that flooded the country. Some records show that nearly 484 newspapers and 136 magazines appeared immediately after 1991 (Ministry of Information,

2004). However, most of the newspapers and magazines have vanished as dramatically as they have appeared leaving some 89 newspapers and 32 magazines circulating mainly in the national and regional capitals (Ministry of Information, 2004). Except for the two government and one private daily newspapers most of them are weekly newspapers and monthly magazines. With regard to circulation, even the most widely read newspapers have a circulation of not more than 40,000 copies. According to some owners of press, however, circulation of some newspapers have increased up to 140,000 copies in the aftermath of the May 2005 Ethiopian national election.

While one can see a private print media with over 14 years in the making, the electronic media has not yet won its day and still remains in the hands of the Government. Ethiopian Television still remains the only TV station, while one more national radio station (Ethiopian Radio) and regional FM radio stations have come to life.

On 3 June 2004 the Ethiopian Broadcasting Agency announced its intention to license private broadcasting agencies. So far, licenses for two private FM radio stations operating in the capital city and 5 regional community radio stations in the different Regional capital cities have been granted. However, as of December 2005, the two private FM Radio stations have not started broadcasting yet. Moreover, the Ethiopian Broadcasting Agency remains quite until the publication of this paper on the subject of licensing private Television broadcasters.

Meanwhile, the existing press is supposed to be operating under the framework of the constitution and relevant national and international laws that prescribe freedom and limitations.

The next part of this study shall review freedom of expression and its limitations under these legal frameworks.

3.2 Freedom of Expression under Ethiopian Legal Framework

3.2.1 Freedom of Expression and Limitations under the 1995 Ethiopian Constitution

Freedom of Expression

The Ethiopian Constitution, which guarantees the right of citizens to freedom of expression, is the core of the legal framework, and the relevant provisions are as follows:

Under Article 29 (1) the Constitution states “everyone has the right to hold opinions without interference”; that all citizens have the right to freedom of expression without any interference. This right shall include “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing in or print, in the form of art, or through any media of [her]/his choice” (29 (2)).

Article 29 (3) states freedom of the press and other mass media, and freedom of artistic creativity is guaranteed. Consequently, freedom of the press shall include prohibition of any form of censorship as well as access to information of public interest.

“In the interest of the free flow of information, ideas and opinions which are essential to the functioning of a democratic order, the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions” (Article 29 (4)).

Regarding state financed or controlled media, Article 29 (4) requires that they operate in a manner ensuring their capacity to entertain diversity in the expression of opinion.

Limitations on Freedom of Expression

The Constitution stipulates limitations on the freedom it recognizes, along with the means and reason. The tool of limitation is nothing else but relevant laws. (The press laws and the Broadcasting Proclamation are discussed below). As to the reasons, legal limitations can be laid down “to protect the well-being of the youth, and the honour and reputation of individuals.

Any propaganda for war as well as the public expression of opinion intended to injure human dignity shall be prohibited by law” (Article 29 (6)).

However, the same Article stipulates rights of expression can be limited only through laws which are guided by the principle that freedom of expression and information cannot be limited on account of the content or effect of the point of view expressed.

3.2.2 Press Proclamation 34/1992

The Press Proclamation 34/1992 is the first legislation in the history of Ethiopia’s legal system dealing with specifically the private press. As reflected in the preamble, the press proclamation is meant to enable the press play its role by providing favorable conditions under which the press could operate freely and responsibly. “...free press, not only provides a forum for citizens to freely express their opinions, but also plays a preeminent role in the protection of individual and peoples’ rights and the development of democratic culture as well as in affording citizens the opportunity to form a balanced views on various topical issues and to forward their opinions on the directions and operations of government”.

According to article 4 of the proclamation, the press stands for the pursuit of fundamental freedom, peace, democracy, justice and for the acceleration of social and economic development.

In addition, the press proclamation under article 3(1) expressly states that “freedom of expression is recognized and respected in Ethiopia to which end it prohibits censorship of the press and any restriction of a similar nature” and recognizes the right to “access to information” (Article 3 (2)). It allows any Ethiopian national to carry on any press activity and lays down various rights and duties necessary to engage in press activity (Article 5 (1)).

Freedom of the press, as defined under Article 2 (1) of the Press Proclamation, is the right of citizens to launch any establishment of mass media such as newspapers, magazines, periodicals, journals, pamphlets, news agencies, radio, television, motion pictures, pictures,

films, cartoons, books, music, electronics publications, plays, and includes all media of mass communication, to publish and distribute without censorship and any restriction of a similar nature, including freedom from prior restraint and liability after publication.

Article 10 of the Press law provides for the responsibility of the press. Any press shall have the duty to ensure that the product it issues or circulates is free from: any criminal offence against the safety of the State or of the administration; any defamation or false accusation against any individual, nation/nationality, people or organization; any criminal instigation of one nationality against another or incitement of conflict between peoples as well as any agitation of war.

So far so good, until we analyze another draft press law, waiting to be ratified.

3.2.3 The Criminal Code of Ethiopia

The proclaimed Criminal Code, No. 414/2004, of Ethiopia incorporates provisions related to mass media with a view “to ensuring freedom of expression while preventing abuse” (Article 42). A person who was registered as editor in chief or deputy editor of a media shall be liable when crimes are committed against the honor of other people, public or private safety or any other legal right protected by law.

Liability for crimes committed through broadcasting media shall rest with the person in charge of the program if cannot be found, the licensee shall be liable (Article 43 (3)).

Any person who by contributing as an author, originator or publisher to the product published or diffused through mass media shall be criminally liable if participates in the commission of crimes including: armed rising or civil war, treason, espionage, crimes against humanity, incitement to disorder military order, disclosure military secret, breaches of military and official secrecy specified by law (Article 44 (1)).

While Article 45 ensures that publishers or editors may not be compelled to disclose pen names and sources, the court may order otherwise where a crime is committed against the Constitutional order, national defense force, or security of the State constitution resulting in clear and imminent danger (Article 45 (3)). In addition, this can happen in case of proceedings of a serious crime, where such source does not have any alternative and is decisive for the outcome of the case.

3.2.4 Broadcasting in Ethiopia

Broadcasting in Ethiopia has been the business of the Government which have maintains monopoly over it.

The first radio station in Ethiopia was launched in 1933. The Italians, who were responsible for the establishment of the station, handed over the installation in 1935. By 1970 Radio Ethiopia operated from three locations and broadcast in six languages. The World Federation of Lutheran Churches, *Radio Voice of the Gospel* begun in 1963. Currently, Radio covers 70% of the population. Different types of programs are now being transmitted through Radio Ethiopia in eight local languages. Besides, English French and Arabic language programs are being broadcast over the airwaves of Radio Ethiopia. News educational and entertainment programs are on air for 284 hours and 30 minutes weekly through short and medium wave lengths as well as on the FM channel. Ethiopia's short wave transmissions reach as far as the Middle East and some parts of Europe and Asia (Ministry of Information, 2004).

In addition one more radio station, 'Radio Fana', came to life in 1994 (Ministry of Information, 2004). Owned by Mega- Net Corporation, property of the Tigray People Liberation Front, it offers nation wide radio broadcasting service. The station broadcast news and other programs both in short and medium waves that cover Ethiopia and all the neighboring countries (Ministry of Information, 2004). A study done by UNESCO (2006) indicates there are an estimated 8.5 million radio receivers in the country.

Television broadcasting in Ethiopia begun in the early 1960s. An educational TV broadcasting project was initiated in 1965, and by 1971 there were five daily programs covering a range of topics for students up to grade eight. It gradually expanded into adult education reaching the whole country before discontinuing service for a few years on 1981 (Ministry of Information, 2004).

Currently, Ethiopian Television (ETV) broadcasts in Amharic, English and two more local languages and covers 47% of the nation (Ministry of Information, 2004). ETV operates with three stationary and three mobile studios as well as 26 television transmitters throughout the country. The number of TV sets that have been officially registered are more than one million (Ministry of Information, 2004). The government is the sole Internet service provider with an estimated 23,000 users.

Considering factors such as literacy rate, accessibility, and affordability electronic media (especially radio) is the most wide spread dominant medium of communication in Ethiopia. Some 40 percent have access to TV while Radio reaches out to about 70% of the population of which 85% are in rural Ethiopia (Ministry of Information, 2004).

The Broadcasting Proclamation is the first of its kind in Ethiopia in that it puts forward the legal framework for the establishment of private broadcasting.

It would be appropriate at this point to discuss the relevant provisions from the Broadcasting Proclamation that is set to deal with broadcasting service in Ethiopia.

3.2.4.1 Broadcasting Proclamation 178/1999

A proclamation that specifically deals with the broadcasting services, radio and television transmission, was promulgated in 1999. The “Broadcasting Proclamation No. 178/1999 is enacted “to Provide for the Systematic Management of Broadcasting Service”, and is applicable to every private and government broadcasting service established within Ethiopia (Article 3).

The Proclamation includes six parts dealing with general definitions, establishment of the Ethiopian Broadcasting Agency, licensing, transmissions of programmes, obligations of licensee and other miscellaneous provisions.

While the whole Proclamation is annexed (Annex 1), main provisions relevant to this study are summarized below.

Establishing the Ethiopian Broadcasting Agency

The organ in charge of the systematic management of broadcasting service is the Ethiopian Broadcasting Agency (EBA) which is directly accountable to the Prime Minister (Article 4 (2)). A proclamation to reorganize the executive organs of the country made the Agency accountable to the Ministry of Information (Proclamation 256/2001). It is also accountable to the Board. The Agency has a Board; a General Manager; a Deputy General Manager; and the necessary staff (Article 8).

The EBA has the power to issue, suspend and cancel broadcasting service licenses (Article 7 (2)). It determines the site and coverage area of a broadcasting station, the standard and type of instruments used for broadcasting and, in consultation with the Telecommunication Agency, determines the capacity of the transmitter. The Ethiopian Telecommunication Agency allocates wave-lengths, while the issuance of permits, controls and the leasing of these waves are conducted by the broadcasting agency (Article 7 (3)). The EBA is also vested with the power to control prohibited and illegal transmissions (Article 7 (4)); as well as collect license fees of broadcasting services (Article 7 (8)).

Appointment and Duties of the Board

The Board shall have members appointed by the Government (Article 9). Main duties of the Board include: direct and control the activities of the Agency (Article 10 (1)); prepare and submit to the Government the general policy of broadcasting service and ensure its implementation when approved (Article 10 (2)); investigate and decide on the complaints of broadcasting service licensees and the public (Article 10 (8)).

Licensing

The Proclamation stipulates process and requirements for licensing under Article 17 'Requirements of License'. No person may undertake a broadcasting activity without apply for and obtaining a broadcasting license from the EBA. The application shall contain the following: (a) the name, nationality and address of the applicant; (b) if the applicant is a company, the name, nationality, and address of the shareholders, and the amount of their share; (c) the type of license required; (d) the name and address of the broadcasting station; (e) the coverage area and time of transmission (f) the type and capacity of instruments used for transmission; (g) the method of receiving; (h) the per centage amount of domestic and foreign produced programmes to be transmitted; (i) source of the investment.

The EBA prior to issuing a broadcasting license to applicants is expected to ascertain the applicant's financial, organization and technical capacity to establish a broadcasting station and to provide services, and ensure that the capital is obtained only by the applicant or under the guarantee of the applicant (Article 18 (1). The same Article under sub article 2 requires the Agency to render a decision within thirty (30) days of receiving an application for license. Where the Agency rejects an application for license, it has to specify the reasons thereto (Article 18 (3)).

According to Article 19 of the Proclamation applicants whose nationality is not Ethiopian; political parties; and religious organizations cannot get licenses altogether.

Programming Principles

The programme principles mainly focus on the content of the programmes, and aim at protecting the rights of others. According to Article 27 of the Proclamation every transmitted programme shall, by reflecting varying view points, serve the public through balanced presentations; ascertain the accuracy of its source and content; transmit news that is accurate, balanced and free from partiality. It further requires that any transmitted programme shall not: violate the dignity and liberty of mankind and the rules of good behavior or undermine the belief of others; commit a criminal offense against the security of the State, the constitutionally

established Governmental Administration or the Defense Force of the country; maliciously accuse or defame individuals, Nations/Nationalities, people or organizations; instigate dissension among nationalities or cause to initiate dissension among peoples; and incite war.

Obligations of Licensee

The license should not only observe the above ‘principles’ but also should notify to the EBA the person/persons who are responsible for any transmitted programme (Article 34); keep the record of every transmitted programme, including news, for sixty (60) days (Article 35 (1)). The licensee shall provide at its own expense a copy of the programme to the EBA or any other organ authorized by law to look into the case where a programme is needed for inspection or to investigate a grievance lodged against it (Article 35 (3)). In addition, every licensee, where required by an employee of the Agency who is duly authorized to ensure and inspect the implementation of the provisions of this Proclamation, shall allow him to investigate the broadcasting station and provide him with the required documents (Article 37 (1)).

Furthermore, “the broadcaster is duty bound to respect the right of a person to give reply concerning an issue when he alleges that a transmitted programme has encroached on his right or failed to be presented properly” Article 39 (1).

Media Access to Parties and Candidates

Every broadcaster shall allocate free air time, for political parties and candidates registered in accordance with the relevant law, to publicize their objectives and programmes to the people or transmit statements during election period (Article 40).

Penalty

The key provision on sanctions for breach of the Proclamation, Article 42, imposes minimum terms of imprisonment of between 6 months and 3 years, and maximum terms of 2 to 5 years, along with fines ranging from Birr 5,000 to 50,000. The offences include: broadcasting without a license; failure to allow the EBA to investigate a station; not providing a right of reply; carrying prohibited advertisements or sponsored programmes; carrying programmes that

corrupt children before 11pm; failing to notify the Agency of the person responsible for a programme or to broadcast the name of the station and producer at mandated times; failing to keep the required programme archives; or breaching the rules on political party advertising.

Confiscation

The property used for broadcasting of a person who is found guilty of violating the provision of Article 27 (4) of this Proclamation shall, in addition to the principal penalty, be confiscated (Article 43).

While the promulgation of the Proclamation is a good step by itself, its worth should be measured in light of the rights recognized by the Constitution.

The next chapter will analyze the constitutionality of provisions of the Ethiopian Broadcasting Proclamation with the 1995 Constitution pertaining to freedom of expression.

CHAPTER FOUR: CONSTITUTIONALITY OF THE ETHIOPIAN BROADCASTING PROCLAMATION 178/1999

The Ethiopian Constitution guarantees all citizens freedom of expression without any interference. The rights include “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of [her]/his choice” (Article 29 (2)).

In order to reconcile freedom of expression with other imperatives of public interest such as national security, public order and individual rights the Constitution stipulates that “...legal limitations can be laid down in order to protect the well-being of the youth, and the honor and reputation of individuals. Any propaganda for war as well as the public expression of opinion intended to injure human dignity shall be prohibited by law” (Article 29 (6)).

The Constitution further stipulates for the possibility of limitations on the rights on condition that they are made “only through laws which are guided by the principle that freedom of expression and information cannot be limited on account of content or point of view expressed” (Article 29 (6)). Therefore interference is allowed only if there is a law which authorizes it; and it requires that such law cannot limit expression on account of content or point of view expressed. In other words, expression cannot be limited because of its content but only to protect the above interests i.e. the welfare of the youth, the reputation of individuals, public order and peace.

A close examination of the Ethiopian Broadcasting Proclamation (EBP), apparently enacted in accordance with Article 29 of the Constitution, however, reveals that the conditions of limitation are not observed as they should, as it imposes limitations that seem to go beyond what is allowed by the Constitution, and that are not guided by the principle quoted above stated under Article 29 (6) of the Constitution.

Following are limitation clauses enshrined in the EBP provisions which I claim to have violated this principle and hence are inconsistent with the provisions of the Constitution.

4.1 Pre licensing

4.1.1 EPB Puts ‘Entry Barrier’ Against Specific Organizations

The first problem with the EBP is that it totally denies political parties and religious organizations of their right to freedom of expression. According to Article 19 of the Proclamation, broadcasting is an investment area which is strictly reserved for Ethiopians and it is prohibited for political parties and religious organizations. The Constitution on the other hand recognizes the right of everyone to exercise expression without any interference including freedom to seek, receive and impart information and ideas of all kind, either orally, in writing or in print, in form of art, or through any media of her/his choice (Article 29 (2)).

The EBP denies political parties and religious organizations their right of expression on grounds that religious and political groups have agendas that are not shared by general public such as democratization or development. And that given the limited number of available wavelength, it would be an inefficient distribution to allow these groups to have a share (Parliament Minute, April 28, 1999). However, while the scarcity of available frequencies could be a factor in the issue of efficient distribution, the solution cannot be a blanket prohibition of the groups.

The drafters of the EBP had raised questions regarding the constitutionality of a blanket prohibition of political and religious groups. Some participants had stated that religious organizations are allowed to broadcast in other countries such as England, US, South Africa, Nigeria, Zimbabwe and so on, and wondered that, while the main objective of religion is to promote good values in the society, but why is it considered as a threat? Some had argued that prohibition of political parties and religious organizations is unconstitutional as it goes against Article 29 of the Constitution, which guarantees freedom of expression without interference. Therefore, this law will be null and void by the virtue of Article 9 of the Constitution. The drafters had also noted that the Constitution allows lawful restriction but no total prohibition

(Parliament Minute, April 28, 1999). Thus the difference between prohibition and restriction had to be considered, a fact, which however did not make it into the wording of the EBP.

In the end, however, despite raising the right questions, the final Proclamation came out with a blanket prohibition for political and religion groups.

Principles on Broadcast Regulation forwarded by Article XIX states, there should be no blanket prohibitions on awarding broadcasting licenses to applicants based on either their form or nature ... and that licensing decisions should be made on 'a case-by-case basis' (Principle 20).

As discussed in previous chapter, while legal limitations are not totally prohibited, the possible grounds of limitation are to protect interests safeguarded by the Constitution. However the blanket prohibitions made on religion and political groups do not promote any of the safeguarded interests i.e. the welfare of the youth, the reputation of individuals, public order and peace.

A related problem is also reflected on the Draft Press Law (DPL) which also applies to broadcasting and prohibits cross-media ownership i.e. a person or an organization cannot involve in broadcasting if already own a print media or another broadcasting station.

The Constitution, (Article 29 (2)) clearly states that the right to impart or receive ideas through a medium of ones choice and without any restrictions is guaranteed to all. The DPL goes against the constitutional rights by imposing limitations as to who can get involved, the extent of their involvement and the kind of media to make use of.

Accordingly, the DPL states among other things, that "legal persons having more than 50% of the share in an institution involved in press activities can not hold 1/3rd of the share in another institution involved in the same activity" (Article 5 (4)); persons sanguinity up to three generations cannot constitute more than half of the board of directors in any press organization (Article 5 (5)).

The restrictions have two things in common: they are blanket prohibition against the right of expression guaranteed by the Constitution; and they are not made in accordance with the conditions for possible legal limitations stated under Article 29 (6) of the Constitution.

4.2 Post Licensing

Once an organization secures a license, there still remain more EBP hurdles to tackle. The EBP hurdles planted in contradiction to the Constitution are as follows:

4.2.1 Content Restrictions under EBP

The EBP lays an apparent limitation by requiring every transmitted program to ascertain the accuracy of not just its source but also the accuracy of its content (Article 27 (2)). Furthermore, EBP's Article 27 (3) stipulates that every transmitted program is required to reflect varying viewpoints and serve the public through balanced presentations; and that every news shall be accurate, balanced and free from partiality.

Whether a broadcaster and its staff are making sure that their materials are accurate and balanced is a question of ethics and professionalism. Principles forwarded by Article XIX states broadcasting laws should not impose content restrictions of a 'civil or criminal nature' on broadcasters. Such matters ought to be handled by an independent professional body (Principle 23 (1 and 4)).

In addition, Article 27 (4) of the EBP stipulates "any transmitted programme shall not violate the dignity and liberty of mankind, the rules of good behavior or undermine the belief of others". The inclusion of such loose and barely definitive terms as 'good behavior' and 'undermine belief of others' can be manipulated against a broadcasting institution. Who for instance defines whether 'belief of others' is undermined or not?

According to the principles forwarded by Article XIX on drawing a broadcasting regulation “... any content rules should be developed in close consultation with broadcasters and other interested parties, and should be finalized only after public consultation. Agreed rules should be set out clearly and in detail in published form” (Principle 23 (3)).

In any case, the EBP’s provision that puts a limitation on account of ‘content’ is inconsistent with Article 29 (6) of the Constitution.

Meanwhile, these clauses expose a broadcasting institution to the danger of license revocation, suspension and confiscation.

4.2.2 Revocation and Confiscation under EBP

A broadcasting institution is exposed to arbitrary denial of rights, as provisions under Article 27 discussed above i.e. the limitation on account of content, are grounds for revocation, suspension and confiscation. “A radio or Television broadcasting service license issued in with this Proclamation may be revoked where the provisions of Article 27 of the Proclamation are violated” (Article 25 (1.f)).

As was mentioned earlier, broadcasters are left at the mercy of the regulatory body’s interpretation of the loose terms in provisions of Article 27 of the EBP.

The same article (27) also lays down the grounds for confiscation of broadcasting property which apparently denies people of the means to exercise their rights – “the property used for broadcasting of a person who is found guilty of violating the provision of Article 27 (4) of this Proclamation shall, in addition to the principal penalty, be confiscated” (Article 43).

Not only is their right to free expression impeded but they are also denied of the means through which they express their views due to EBP’s Article 43. The punishment, which is not justifiably proportional to the alleged harm, primarily contradicts with Article 29 (2) of the

Constitution, which guarantees everyone the right to freedom of expression without any interference “through any media of choice”.

Some participants of the making of the EBP had asked if the confiscation provision considered the huge cost of broadcasting equipments. They also raised the difficulty to ascertain accuracy of source and content in the media business, suggesting it will be better to put proportional penalty instead of confiscation. The clause was further criticized for limiting freedom of expression as the broadcaster will not be able to engage in transmitting live programs without fear (Parliament Minute, April 28, 1999).

Concerning the issue of proportionality of punishment and harm, Article XIX stresses that sanctions should always be strictly proportionate to the harm caused. In assessing the type of sanction to impose, regulatory bodies should keep in mind that the purpose of regulation is not primarily to ‘police’ broadcasters but rather to protect the public interest by ensuring that the sector operates smoothly and by promoting diverse, quality broadcasting. Conditions should be placed on the application of more serious sanctions – such as fines and suspension or revocation of a license – for breach of a rule relating to content. In such cases fines should be imposed only after other measures have failed to redress the problem, and suspension and/or revocation of a license should not be imposed unless the broadcaster has repeatedly been found committing gross abuses and other sanctions have proved inadequate to redress the problem (Principle 27 (1 and 2)).

In Ethiopian case sanctions can only be justified to protect interests safeguarded by the Constitution i.e. the welfare of the youth, the reputation of individuals, public order and peace according to which the revocation clause is not justifiable. On the other hand, the EBP does not provide prior measures to be taken on broadcasters who violate EBP’s Article 27, before the harsh measures of revocation and confiscation are enforced.

The implications of such a provision along with its harsh and threatening measures are also not to be taken lightly. A broadcaster who vaguely understands the loose terms that embrace a wide range of acts that expose to the confiscation of his/her equipment is not likely to impart ideas as freely as he/she ought to, or could.

4.2.3 EBP Puts a Limit on the Content of Sponsored Programs

The EBP puts provisions that interfere between a broadcasting institution and sponsors. Article 33 requires that the content and timetable of sponsored program should not fall under the influence of the sponsor.

Especially, the sponsored program “shall not agitate the sale or hire of the sponsor’s products or services”. It also says “unless otherwise agreed between the sponsor and the station, other commercial advertisements could not be transmitted within sponsored programs (Article 33 (3)).

This apparent limitation on content not only goes against the constitutional right of a broadcaster which cannot be limited on account of content and point of view expressed, Article 29 (6), but also hints at an indirect interference into the internal workings and policies of media institutions. For instance, when do we say a program has agitated the sale of products or services? What if the sponsor’s name and the service of the sponsor are relevant to the program and have to be mentioned often.

Worse, added to the government’s interference on account of content, while it should not, a broadcaster who acted in breach of this provision (Article 33) is punishable with imprisonment not less than six months but not exceeding two years and with a fine not less than Birr 10,000 but not exceeding Birr 50,000 (Article 42 (1.c)).

Evidently there is no justification to put such unconstitutional restriction as it does not protect interests safeguarded by the Constitution i.e. the welfare of the youth, the reputation of individuals, public order and peace.

4.2.4 Inspection Clause Undermines Operational Independence

While the Constitution guarantees operational independence of the press under Article 29 (4), the EBP undermines the same operational independence of institutions by empowering the Ethiopian Broadcasting Agency (EBA) to inspect any broadcasting institution at any time of its choice: “every licensee, where required by an employee of the EBA, who is authorized to ensure and inspect the implementation of the provisions of the Proclamation, shall allow him to investigate the broadcasting station and provide him with the required documents” (Article 37 (1)).

Accordingly, the inspector is allowed under Article 41 (2 and 3) of the proclamation to enter and inspect a broadcasting service organization during working hours as well as to examine any broadcasting instruments, refer to relevant documents and demand a copy thereof.

Failure to allow the EBA to investigate a station and provide required documents is punishable with imprisonment not less than one year but not exceeding three years and with fine not less than Birr 5,000 and not exceeding Birr 10,000 (Article 42 (1.b)).

The need to inspect the premises of a broadcaster appear to be legitimate only so far as it is aimed at finding out whether authorized persons are using the allocated air wave ‘properly’. However the fact that the inspector is authorized to ‘refer to’ and ‘demand a copy of relevant documents’ appear to be unjustifiable to the purpose of monitoring and goes to meddle into the detailed works of the media which is little short of interference to the determinant of the free expression. This clearly runs contrary to the constitutionally guaranteed right to free expression. The powers of the inspector should not go to the extent to interfere in the operational independence of the broadcasting organization as the EBP authorizes them to.

CHAPTER FIVE: CONCLUDING REMARKS AND RECOMMENDATIONS

A close examination of the Ethiopian Broadcasting Proclamation (EBP), apparently enacted in accordance with and for the realization of Article 29 of the Constitution, reveals that the conditions of limitation are not observed as they should. For the EBP's limitations clauses are only justified to protect interests safeguarded by the Constitution, ends up by violating the conditions for limitation stated in the Constitution, and thereby infringes the very right protected there in.

The study in an effort to critically examine the consistency of the EBP with the provisions of the Constitution has identified some contradictory and inconsistent clauses in the proclamation that lay down undue limitation on freedom of expression.

(1) EBP totally denies political parties and religious organizations of their right to freedom of expression. Although it was indicated that the restriction is imposed because of the scarcity of the available frequencies, the solution cannot be a blanket prohibition of the groups. The Constitution allows lawful limitations but no total restrictions against any group of the society and the blanket prohibitions made on religion and political groups do not promote any of the safeguarded interests sited above.

A related problem is also reflected on the Draft Press Law (DPL) which also applies to broadcasting and prohibits cross-media ownership i.e. a person or an organization cannot involve in broadcasting if already own a print media or another broadcasting station. The DPL goes against the constitutional rights by imposing limitations as to who can get involved, the extent of their involvement and the kind of media to make use of.

Therefore, the writer recommends: licensing decisions be made on a case-by-case basis and one possible solution to these groups could be to allow them a limited airtime proportional to their purpose and their possible audience.

2) Article 27 (2) of the EBP lays down undue limitation that requires every broadcaster to ascertain the accuracy of the content of every transmitted program. Besides, EBP's Article 27 (3) call for every transmitted program to reflect varying viewpoints and serve the public through balanced presentations; and that all news to be accurate, balanced and free from partiality. In addition, Article 27 (4) of the EBP stipulates "any transmitted programme shall not violate the dignity and liberty of mankind, the rules of good behavior or undermine the belief of others". These clauses are in a clear contradiction with Article 29 (6) of the Constitution which states rights of expression cannot be limited owing to content or effect of point of view expressed. The inclusion of such loose and barely definitive terms as 'good behavior' and 'undermine belief of others' casts too wide a net that can be used to condemn a broadcasting institutions. Therefore, the study recommends that such restriction should be re-examined; and matters such as ensuring content accuracy and balance should be left to a broadcaster and its staff. If there is a need for any content rules, it should be formulated in close consultation with interested parties such as broadcasters and professional associations.

(3) A broadcasting institution is also exposed to arbitrary denial of rights, as provisions under Article 27 discussed above i.e. the limitation on account of content, are grounds for revocation, suspension and confiscation. This leaves broadcasters at the mercy of the regulatory body's interpretation of the loose terms in provisions of Article 27 of the EBP. Here not only has the broadcaster's right are impeded but they are also denied of the means through which they express their views due to EBP's confiscation clause (Article 43).

The punishment, which is not justifiably proportional to the alleged harm, primarily contradicts with Article 29 (2) of the Constitution. Accordingly, serious measures such as confiscation should not be imposed for breach of a rule relating to content and only be considered after other measures have failed to redress the problem. However, the EBP does not provide prior measures to be taken on broadcasters who violate Article 27, before the harsh measures of revocation and confiscation are enforced. Therefore the study recommends for re-evaluation and lessening of such harsh and threatening measures.

With regard to crimes committed against the honor of other people, public or private safety or any other legal right protected by law are offences under the Criminal Code of the country and it is simply a redundancy to re-erect them under EBP.

The EBP does not allow a judicial review of its measures when a broadcaster deems it necessary to appeal to the courts at least by invoking the constitutional right to expression. This writer recommends that up on imposition of any serious sanction the broadcasters should have a right to appeal to the courts for judicial review.

Meanwhile, a national code of ethics to which all journalists adhere to and a strong professional association that could make sure the code of conducts are respected could be additional possible solutions to minimize such problems in the media business. Other countries have developed such codes. For instance see Kenyan Code of Ethics prepared by the Kenyan Union of Journalists (Annex 2).

(4) Article 33 of EBP interferes with contractual relations between a broadcasting institution and sponsors by stating a sponsored program “shall not agitate the sale or hire of the sponsor’s products or services”. This apparent limitation on content not only goes against the constitutional right of a broadcaster which cannot be limited on account of content and point of view expressed, but also hints at an indirect interference into the internal workings and policies of media institutions. The provision does not clearly indicate when a program is said to have agitated the sale of products or services belonging to the sponsor. One possible solution could be to include clear and detailed procedures as to when a program is said to fall under the sponsor’s influence. This could minimize arbitrarily interventions on the rights of the broadcasters.

(5) EBP undermines operational independence of a broadcasting institution by empowering the Ethiopian Broadcasting Agency (EBA) to inspect any broadcasting institution at any time of its choice Article 37 (1). Article 41 (2 and 3) further allows the inspector to enter and inspect a broadcasting service organization during working hours as well as to examine any broadcasting instruments, refer to relevant documents and demand a copy thereof. This

authority is unjustifiable for the purpose it purports, i.e. of monitoring, and intrudes into the detailed works of the media. This is clearly contrary to the constitutionally guaranteed right to free expression. Therefore, the powers of the inspector should be confined to the purposes of simple monitoring so that it does not go to the extent of interfering in the operational independence of a broadcasting organization.

Finally, this writer would like to emphasize that, without revising and amending the limitation clauses of EBP, which are unconstitutional, EBP would do as much service as disservice to the promotion of freedom of expression.

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የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ

ፌዴራል ነጋሪት ጋዜጣ

FEDERAL NEGARIT GAZETA

OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

አምስተኛ ዓመት ቁጥር ፳፪
አዲስ አበባ ሰኔ ፳፪ ቀን ፲፱፻፺፩

በኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ
የሕዝብ ተወካዮች ምክር ቤት ጠባቂነት የወጣ

5th Year No. 62
ADDIS ABABA - 29th June, 1999

ማውጫ

አዋጅ ቁጥር ፩፻፸፰/፲፱፻፺፩ ዓ.ም.
የብሮድካስት አዋጅ ገጽ ፩፻፸፱

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PROCLAMATION NO. 178/1999

A PROCLAMATION TO PROVIDE FOR THE SYSTEMATIC MANAGEMENT OF BROADCASTING SERVICE

WHEREAS, broadcasting service plays a big role in the political, economic and social development of the country by providing information, education and entertainment programmes to the public;

WHEREAS, it is essential to ensure proper utilisation of the limited radiowave wealth of the country;

WHEREAS, it has been found essential to clearly define the rights and obligations of persons who undertake broadcasting service;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic of Republic of Ethiopia, it is hereby proclaimed as follows:

PART ONE General

1. Short Title

This Proclamation may be cited as the “Broadcasting proclamation No. 178/1999.”

2. Definitions

In this Proclamation, unless the context requires otherwise:

- 1) “Radio Wave” shall mean a radio wave assigned to users for a specific service in accordance with the radio regulations of International Telecommunication Union;

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Negarit G.P.O.Box 80,001

- ፪. “የብሮድካስት አገልግሎት” ማለት ሕዝብ ለማስተማር፣ ለማሳወቅ ወይም ለማዘናናት የሚከናወን የሬዲዮ ወይም የቴሌቪዥን ሥርዓት አገልግሎት ነው።
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- ፱. “በስፖንሰር የሚቀርብ ፕሮግራም” ማለት ፕሮግራሙን ለማስራጨት ገንዘብ በቀጥታ ወይም በተዘዋዋሪ የተከፈለበት ወይም የክፍያ ቃል የተገባበት ፕሮግራም ነው።
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 - ፪. ኤጀንሲው ተጠሪነቱ ለጠቅላይ ሚኒስትሩ ይሆናል።
- ፭. ዋና መሥሪያ ቤት
የኤጀንሲው ዋና መ/ቤት በአዲስ አበባ ሆኖ እንደአስፈላጊነቱ በማናቸውም ሥፍራ ቅርንጫፍ ሊኖረው ይችላል።
- ፮. ዓላማ
የኤጀንሲው ዓላማ ጥራቱ የተጠበቀ፣ ቀልጣፋ እና አስተማማኝ ሆኖ ለፖለቲካዊ፣ ለማህበራዊና ኢኮኖሚያዊ ዕድገት አስተዋጽኦ የሚያደርግ የብሮድካስት አገልግሎት እንዲስፋፋ ማድረግና መቆጣጠር ይሆናል።
- ፯. ሥልጣንና ተግባር
ኤጀንሲው የሚከተሉት ሥልጣንና ተግባሮች ይኖሩታል፡

- 2) “Broadcasting Service” shall mean a radio or television transmission programme conducted to educate, inform or entertain the public;
- 3) “Licensee” shall mean a person licensed in accordance with Article 20 of this proclamation.
- 4) “Programme” shall mean voice or visual or audio-visual arrangement transmitted to inform, educate or entertain the public, or an all inclusive transmission of full or special programme.
- 5) “Full Programme” shall mean radio or television programme intended to inform, educate and entertain.
- 6) “Special Programme” shall mean a radio or television programme that predominantly focuses on a particular subject.
- 7) “Advertisement” shall mean a message transmitted to publicise and promote sales of goods and services.
- 8) “Political Advertisement” shall mean a radio or television message conveyed by a political party or candidate to publicise himself and his aspirations by paying or promising to pay for the announcement;
- 9) “Sponsored Programme” shall mean a programme the transmission cost of which is paid directly or indirectly or the payment of which is promised.
- 10) “Election Period” shall mean the period beginning from the official opening day of campaign until 24 hours before the starting of voting day.
- 11) “Person” shall mean a physical or juridical person.

3. Scope of Application
This Proclamation shall be applicable on every private and government broadcasting service established within Ethiopia.

PART TWO
Broadcasting Agency

- 4. Establishment
 - 1) The Ethiopian Broadcasting Agency (hereinafter “the Agency”) is hereby established as an autonomous Federal Administrative Agency having its own legal personality.
 - 2) The Agency shall be accountable to the Prime Minister.
- 5. Head Office
The Agency shall have its head office in Addis Ababa and may establish branch offices elsewhere as may be necessary.
- 6. Objectives
The objectives of the Agency shall be to ensure the expansion of a high standard, prompt and reliable broadcasting service which can contribute to the political, social and economic development and to control it thereof.
- 7. Powers and Duties
The Agency shall have the following powers and duties:

- ፩. የብሮድካስት አገልግሎት ለሀገሪቱ የኢኮኖሚና ማኅበራዊ ዕድገት ተገቢውን አስተዋጽኦ ሊያበረክት በሚችል መልኩ መካሄዱን ያረጋግጣል፤
- ፪. ለብሮድካስት አገልግሎቶች ፈቃድ ይሰጣል፤ ያግዳል፤ ይሠርዛል፤
- ፫. የብሮድካስት ጣቢያ የሚቋቋምበትን ሥፍራና የሽፋን ክልል፣ ለብሮድካስት ሥራ የሚውሉትን መሣሪያዎች ዓይነትና ደረጃ እንዲሁም የትራንስሚተርን ኃይል ከቴሌኮሙኒኬሽን ኤጀንሲ ጋር በመመካከር ይወስናል፤
- ፬. የተከለከለ ሥርዓትንና፣ ሕገወጥ ሥርዓትን በሚመለከት ቁጥጥር ያደርጋል፤
- ፭. ለብሮድካስት አገልግሎት በቴሌኮሙኒኬሽን ኤጀንሲ የተመደበውን የሬዲዮ ሞገድ አጠቃቀም ይፈቅዳል፤ ይቆጣጠራል፤ ያከራያል፤
- ፮. የብሮድካስት ኤጀንሲ የቴሌኮሙኒኬሽን ኤጀንሲ ለሚመድብለት ሞገድ ተገቢውን ክፍያ ይፈጽማል፤
- ፯. አግባብ ያላቸው ሕጎችና የመንግሥት መመሪያዎች እንደተጠበቁ ሆኖ፣ የብሮድካስት አገልግሎትን በሚመለከት መንግሥትን በመወከል በዓለም አቀፍ ስብሰባዎች ይሳተፋል፤ የብሮድካስት አገልግሎትን በሚመለከት ሀገሪቱ የተቀበለቻቸውን ዓለም አቀፍ ስምምነቶች አፈጻጸም ይከታተላል፤
- ፰. ለብሮድካስት አገልግሎት የፈቃድ ክፍያዎችን ይሰበስባል፤
- ፱. የንብረት ባለቤት ለመሆን፣ ውል ለመዋዋልና በስሙ ለመክሰስና ለመክሰስ ይችላል፤
- ፲. ዓላማውን ተግባራዊ ለማድረግ የሚያስፈልጉ ሌሎች ተዛማጅ ተግባሮችን ያከናውናል።

፳. የኤጀንሲው አቋም

ኤጀንሲው፡

- ፩. ቦርድ
- ፪. ዋና ሥራ አስኪያጅ
- ፫. ም/ዋና ሥራ አስኪያጅ
- ፬. አስፈላጊው ሠራተኞች ይኖሩታል።

፱. ስለቦርድ አባላት አሰየሃም

ቦርዱ በመንግሥት የሚመደቡ አባላት ይኖሩታል።

፲. የቦርዱ ሥልጣንና ተግባር

ቦርዱ የሚከተሉት ሥልጣንና ተግባሮች ይኖሩታል፡

- ፩. የኤጀንሲውን ሥራዎች በበላይነት ይቆጣጠራል፤
- ፪. የብሮድካስት አገልግሎት አጠቃላይ ፖሊሲ አዘጋጅቶ ለመንግሥት ያቀርባል፤ ሲፈቀድም ተግባራዊ መሆኑን ያረጋግጣል፤
- ፫. ለኤጀንሲው ዋና ሥራ አስኪያጅ ተጠሪ የሆኑ ኃላፊዎችን ምደባ ያጸድቃል፤
- ፬. የፌዴራል መንግሥት ሠራተኞች ሕግን መሠረታዊ መርህ በመከተል የሚዘጋጀውን የኤጀንሲውን ሠራተኞች የደሞዝ ስኬል፣ የቅጥርና የአስተዳደር መመሪያ ያጸድቃል፤
- ፭. የኤጀንሲውን ዓመታዊ በጀት አጥንቶ ለመንግሥት ያቀርባል፤ ሲፈቀድም ተግባራዊነቱን ይቆጣጠራል፤
- ፮. የኤጀንሲውን ዓመታዊ የሥራ አፈጻጸም ሪፖርት ለመንግሥት ያቀርባል፤
- ፯. ኤጀንሲውን በተመለከተ ዓመታዊ የሥራ አፈጻጸም ሪፖርት ለጠቅላይ ሚኒስትሩ ያቀርባል፤

- 1) ensure that the broadcasting service is conducted in such a manner that contributes to the proper social and economic development of the country;
- 2) issue, suspend and cancel broadcasting service license;
- 3) determine the site and coverage area of a broadcasting station, the standard and type of instruments used for broadcasting and, in consultation with the Telecommunication Agency, determine the capacity of the transmitter;
- 4) control prohibited and illegal transmissions;
- 5) issue permit and control the manner of use of the radio waves allocated for broadcasting by the Telecommunication Agency and leases same;
- 6) pay the appropriate fee of the allocated waves to the Telecommunication Agency.
- 7) without prejudice to the relevant laws and Government directives participate, on behalf of the Government, in international meetings on matters related to Broadcasting service, follow up the implementation of international agreements on broadcasting service to which the country is a party;
- 8) collect license fees of broadcasting services;
- 9) own property, enter into contract, sue and be sued in its own name;
- 10) perform other acts as are required for the implementation of its objectives.

8. Organization of the Agency

The Agency shall have:

- 1) a Board;
- 2) a General Manager;
- 3) a Deputy General Manager; and
- 4) the necessary staff.

9. Appointment of Board Members

The Board shall have members appointed by the Government.

10. Powers and Duties of the Board

The Board shall have the following powers and duties:

- 1) direct and control the activities of the Agency;
- 2) prepare and submit to the Government the general policy of broadcasting service and ensure its implementation when approved;
- 3) approve the assignment of officials accountable to the General Manager;
- 4) approve salary scale, employment, and administrative directives of the Agency prepared on the basis of the basic principles of the Federal Civil Service Law;
- 5) prepare and submit to the Government the annual budget of the Agency and ensure its implementation when approved;
- 6) submit the Agency's annual work performance report to the Government;
- 7) submit to the Prime Minister the annual work performance report of the Agency;

- ሀ) በመንግሥት ከሚመደብለት ድገት፤
- ለ) ከሚሰበሰበው የፈቃድ ክፍያ፤ እና
- ሐ) ከማናቸውም ሌላ ምንጭ ።

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተመለከተው ገንዘብ በኤጀንሲው ስም በሚከፈት የባንክ ሂሳብ ተቀማጭ ሆኖ የባለሥልጣኑን ሥራዎች ለማስፈጸም ወጪ ይሆናል ።

፲፮. ስለሂሳብ መዛግብት

- ፩. ኤጀንሲው የተሟሉና ትክክለኛ የሆኑ የሂሳብ መዛግብት ይይዛል ።
- ፪. የኤጀንሲው የሂሳብ መዛግብትና ገንዘብ ነክ ሰነዶች በዋናው አዲተር ወይም ዋናው አዲተር በሚሰይመው አዲተር በየዓመቱ ይመረመራል ።

ክፍል ሦስት
የብሮድካስት አገልግሎት ፈቃድ

፲፯. የፈቃድ አስፈላጊነት

- ፩. ማንኛውም ሰው ከኤጀንሲው የብሮድካስት ፈቃድ ሳይሰጠው በብሮድካስት አገልግሎት ሥራ ላይ መሠማራት አይችልም ።
- ፪. በብሮድካስት ሥራ ላይ ለመሠማራት የሚፈልግ ሰው በቅድሚያ ለኤጀንሲው የፈቃድ ማመልከቻ ማቅረብ አለበት ።
- ፫. ማመልከቻው የሚከተሉትን አሟልቶ መያዝ አለበት ፡
 - ሀ) የአመልካቹን ስም፣ ዜግነት እና አድራሻ፤
 - ለ) አመልካቹ ከባንያ ከሆነ የባለአክሲዮኖቹን ስም ፣ ዜግነት ፣ አድራሻና የአክሲዮን ድርሻ ፤
 - ሐ) የሚፈለገውን የፈቃድ ዓይነት ፤
 - መ) የሥርጭት ጣቢያውን መለያ ስምና አድራሻ ፤
 - ሠ) የሥርጭቱን ስፋትና የሥርጭት ሰዓት ፤
 - ረ) ለሥርጭቱ ሥራ የሚውለውን የመሣሪያ ዓይነትና ጉልበት ፤
 - ሰ) የመቀበያውን ዘዴ ፤
 - ሸ) ከሚሰራበት ፕሮግራም ውስጥ ምን ያህሉ በአገር ውስጥ የተዘጋጀ ምን ያህሉ ደግሞ ከውጭ የሚገኝ መሆኑን፤
 - ቀ) የኢንቨስትመንት ምንጭን ።

፲፰. የፈቃድ መመዘኛ

- ፩. ኤጀንሲው የብሮድካስት አገልግሎት ፈቃድ ከመስጠቱ በፊት አመልካቹ የታቀደውን የብሮድካስት ጣቢያ ላማቋቋምና አገልግሎቱን ለማካሄድ የሚያስችል ገንዘብ፣ ድርጅታዊና የቴክኒክ ብቃት ያለው መሆኑንና እንዲሁም ካፒታሉ የአመልካቹ ወይም በአመልካቹ ዋስትና ብቻ የተገኘ መሆኑን ማረጋገጥ አለበት ።
- ፪. ኤጀንሲው ማመልከቻ በቀረበለት በ፱ ቀናት ውስጥ በፈቃድ ጥያቄው ላይ ውሳኔ መስጠት አለበት ።
- ፫. ኤጀንሲው የቀረበለትን የፈቃድ ጥያቄ የማይቀበለው ከሆነ ለሚሰጠው ውሳኔ ምክንያት መስጠት አለበት ።

፲፱. ክልከላ

- የሚከተሉት በብሮድካስት አገልግሎት ለመሠማራት የሚያስችል ፈቃድ አይሰጣቸውም ፡
- ፩. ዜግነታቸው ኢትዮጵያዊ ያልሆኑ አመልካቾች ፤
 - ፪. የፖለቲካ ፓርቲዎች ፤
 - ፫. የገሥግናት ድርጅቶች ።

- (a) subsidy allocated to it by the Government;
 - (b) license fee collected by the Agency;
 - (c) any other sources.
- 2) The money referred to in sub-Article (1) of this Article shall be deposited in a bank account opened in the name of the Agency and shall be spent to execute the activities of the Agency.

16. Books of Accounts

- 1) The Agency shall keep complete and accurate books of accounts.
- 2) The financial records and other money related documents of the Agency shall be annually inspected by the Auditor General or an auditor assigned by the Auditor General.

PART THREE
License of Broadcasting Service

17. Requirement of License

- 1) No person may undertake a broadcasting activity without obtaining a broadcasting license from the Agency.
- 2) A person who intends to undertake broadcasting service should initially submit to the Agency an application for license.
- 3) The application shall fully contain the following:
 - (a) the name, nationality and address of the applicant;
 - (b) if the applicant is a company, the name, nationality, and address of the shareholders, and the amount of their share;
 - (c) the type of license required;
 - (d) the name and address of the broadcasting station;
 - (e) the coverage area and time of transmission
 - (f) the type and capacity of instruments used for transmission;
 - (g) the method of receiving;
 - (h) the per centage amount of domestic and foreign produced programmes to be transmitted;
 - (i) source of the investment.

18. The Standard for License

- 1) The Agency, prior to issuing a broadcasting license to the applicant, shall ascertain the applicant's financial, organization and technical capacity to establish a braodcasting station and to provide services, and ensure that the capital is obtained only by the applicant or under the guarantee of the applicant.
- 2) The Agency shall render a decision within thirty (30) days of receiving an application for license.
- 3) Where the Agency rejects an application for license, it has to specify the reasons thereto.

19. Prohibition

- The following applicants cannot be given a license to undertake a broadcasting service;
- 1) applicants whose nationality is not Ethiopian,
 - 2) political parties,
 - 3) religious organizations.

፳. የፈቃድ ዓይነቶች

የሬዲዮና የቴሌቪዥን ሥርዓት አገልግሎት ፈቃድ ዓይነቶች የሚከተሉት ናቸው፡

- ፩. ፕሮግራም አዘጋጅቶ በራስ ትራንስሚተር የማሠራጨት ወይም፡
- ፪. የማሠራጫ መሣሪያ ተከራይቶ ፕሮግራም የማሠራጨት ወይም፡
- ፫. የማሠራጫ መሣሪያ ኖሮት የሌሎችን ፕሮግራም ብቻ ተቀብሎ የማሠራጨት ወይም፡
- ፬. በሳተላይት ወይም በኩብል የማሠራጨት።

፳፩. በባለፈቃዱ ስለሚቋቋም የሥርዓት ጣቢያ

- ፩. በሀገር አቀፍ፣ በክልላዊና በአካባቢ ደረጃ አገልግሎት መስጠት የሚችል ብሮድካስት ጣቢያ ማቋቋም ይቻላል።
- ፪. በአንድ ፈቃድ ከአንድ ጣቢያ በላይ ለማካሄድ አይቻልም።
- ፫. የሥርዓት ሽፋኑ በክልል ወይም በአካባቢ ደረጃ የተወሰነ ጣቢያ ለማካሄድ ፈቃድ የተሰጠው ሰው የጣቢያውን አቅም ለማሳደግ በቅድሚያ የኤጀንሲውን ፈቃድ ማግኘት አለበት።

፳፪. የፈቃድ ቅድሚያ

- ፩. በተመሳሳይ ቦታ፣ ጊዜና የሬዲዮ ሞገድ ለታቀዱ ሥርዓቶች ከአንድ በላይ የሆኑ አመልካቾች የፈቃድ ጥያቄ ካቀረቡ፡
 - ሀ) የሙሉ ፕሮግራም ሥርዓት ከልዩ ፕሮግራም ሥርዓት ቅድሚያ ያገኛል።
 - ለ) ተመሳሳይ ደረጃ ካላቸው ፕሮግራሞች መካከል ሰፊ የሥርዓት ሽፋንና ረጅም የሥርዓት ሰዓት ያለው ፕሮግራም ቅድሚያ ያገኛል።
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት ፈቃድ መስጠት ካልተቻለ የፈቃድ አሰጣጡ የሚወሰነው በማመልከቻ ቅደም ተከተል መሠረት ይሆናል።

፳፫. የብሮድካስት ፈቃድ ዘመን

ለሬዲዮና ለቴሌቪዥን ብሮድካስት አገልግሎት የሚሰጥ ፈቃድ ጸንቶ የሚቆየው ከዚህ ቀጥሎ ለተመለከተው ጊዜ ይሆናል።

- ፩. በሀገር አቀፍ ደረጃ የሚሠራጭ ሲሆን ለሬዲዮ ፰ ዓመት፣ ለቴሌቪዥን ፲ ዓመት፡
- ፪. የሥርዓት ሽፋኑ በክልል ደረጃ የተወሰነ ሲሆን ለሬዲዮ ፲ ዓመት፣ ለቴሌቪዥን ፲፪ ዓመት፡
- ፫. የሥርዓት ሽፋኑ በአካባቢ ደረጃ የተወሰነ ሲሆን ለሬዲዮ ፲፪ ዓመት፣ ለቴሌቪዥን ፲፬ ዓመት፡
- ፬. የሥርዓት ሽፋኑ ለፌዴራል መንግሥቱ ተጠሪ ለሆነው ለድራዳዋ የተወሰነ ከሆነ ለሬዲዮ ፲ ዓመት፣ ለቴሌቪዥን ፲፪ ዓመት፡
- ፭. የሥርዓት ሽፋኑ ለአዲስ አበባና አካባቢዋ የተወሰነ ከሆነ ለሬዲዮ ፮ ዓመት፣ ለቴሌቪዥን ፰ ዓመት ይሆናል።

፳፬. የብሮድካስት ፈቃድን ስለማገድ

- ፩. የዚህ አዋጅ አንቀጽ ፳፮ እንደተጠበቀ ሆኖ ማናቸውም በሬዲዮ ወይም በቴሌቪዥን ብሮድካስት አገልግሎት ላይ የተሰማራ ሰው በዚህ አዋጅ የተመለከቱትን ድንጋጌዎች ከጣሰ ቦርዱ ፈቃዱን ሊያገደው ይችላል።
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ /፩/ በኤጀንሲው የሚጣለው እገዳ በጸሐፊ ሆኖ፣ እገዳው የተደረገበት ምክንያትና የሚጀምርበት ቀን ተገልጾ ለባለፈቃዱ እንዲደርሰው መደረግ አለበት።
- ፫. ቦርዱ አቤቱታ በደረሰው በ፰ ቀናት ውስጥ ውሳኔ መስጠት አለበት።

20. Types of License

The types of radio and television licenses are the following:

- 1) to produce programme and transmit using ones own transmitter;
- 2) to transmit programmes using hired transmission instrument;
- 3) to receive and broadcast only the programme of others using ones own transmitter;
- 4) to transmit using satellite or cable.

21. Establishment of a Broadcasting Station by a Licensee

- 1) A broadcasting station may be established with a capacity of nation wide, regional or local basis.
- 2) A licensee cannot operate more than one station with one license.
- 3) A licensee with a regional or local transmission capacity permit shall secure the consent of the Agency prior to up grading the capacity of the station.

22. Priority of License

- 1) Where more than one applicant apply for a license intended to transmit to the same place, at the same time and radio wave:
 - (a) full programme transmission shall have preference to special Programme transmission;
 - (b) where the programmes are of the same standard, the programme with wider transmission coverage and longer transmission hour shall have preference.
- 2) Where license cannot be provided in accordance with sub-Article (1) of this Article, it shall be determined by the order of submission of application.

23. Duration of Broadcasting License

License issued for radio and television broadcasting shall remain in force for the following duration:

- 1) where the transmission is at the national level, eight (8) years for radio, ten (10) years for television;
- 2) where the transmission is limited to regional level, ten (10) years for radio, twelve (12) years for television;
- 3) where the transmission is limited to a local level, twelve (12) years for radio, fourteen (14) years for television;
- 4) where the transmission is limited to Dire Dawa which is accountable to the federal government, ten (10) years for radio, twelve (12) years for television.
- 5) where the transmission is limited to Addis Ababa and its surroundings, six (6) years for radio and eight (8) years for television.

24. Suspension of Broadcasting License

- 1) Without prejudice to Article 25 of this Proclamation, where a radio or television service licensee violates the provisions of this Proclamation, the Agency can suspend the license.
- 2) The decision of suspension made in accordance with Sub-Article (1) of this Article shall be served to the licensee stating, in writing, the reasons thereto and the effective date of the injunction.
- 3) The Board shall render a decision within eight (8) days of receiving a petition.

፳፮. የብሮድካስት ፈቃድን ስለመሠረዝ

- ፩. በዚህ አዋጅ መሠረት የተሰጠ የሬዲዮ ወይም የቴሌቪዥን ብሮድካስት አገልግሎት ፈቃድ ከሚከተሉት ምክንያቶች በአንዱ ሊሠረዝ ይችላል።
 - ሀ) ባለፈቃዱ ፈቃድ ካወጣበት ቀን ጀምሮ በአንድ ዓመት ጊዜ ውስጥ ሥርጭቱን ያልጀመረ መሆኑ ሲረጋገጥ፤
 - ለ) ባለፈቃዱ ፈቃዱን ያገኘው በተጭበረበረ መንገድ መሆኑ ሲረጋገጥ፤
 - ሐ) የሥርጭት ጣቢያው ያለበቂ ምክንያት ሥርጭቱን ከአንድ ወር በላይ ሲያቋርጥ፤
 - መ) ጣቢያው በፍርድ ቤት ትዕዛዝ እንዲዘጋ ሲወሰን፤
 - ሠ) ባለፈቃዱ በራሱ አነሳሽነት ሥራውን ለማቆም ጥያቄ ሲያቀርብ፤
 - ረ) በዚህ አዋጅ አንቀጽ ፳፯ የተመለከቱት ድንጋጌዎች ተጥሰው ሲገኙ፤
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ /፩/ /ሀ/ በተመለከተው በአንድ ዓመት ጊዜ ውስጥ ሥርጭቱን ለመጀመር ከአቅም በላይ የሆነ ችግር ያጋጠመው መሆኑን በወቅቱ ላስታወቀ አመልካች ኤጀንሲው ሥራውን ለመጀመር የሚያስችል ከሰድስት ወር የማይበልጥ ተጨማሪ ጊዜ ሊፈቅድለት ይችላል።

፳፯. የፈቃድ ክፍያ

- ፩. ማንኛውም የሬዲዮ ወይም የቴሌቪዥን ብሮድካስት አገልግሎት ፈቃድ የተቀበለ ሰው ኤጀንሲው የሚወስነውን ዓመታዊ የፈቃድ ክፍያ መክፈል አለበት።
- ፪. የፈቃድ ክፍያው የመንግሥት የበጀት ዓመት በተጠናቀቀ በ፳ ቀናት ውስጥ ካልተከፈለ ለዘገየበት ለእያንዳንዱ ወር ፩ ፐርሰንት መቀጫ እየታከለበት ይከፍላል። ሆኖም የመቀጫው ጠቅላላ ድምር ከፈቃድ ክፍያው ከ፶ ፐርሰንት ሊበልጥ አይችልም።

ክፍል አራት
ስለሥርጭት ፕሮግራም

፳፯. የፕሮግራም መርህ

- ፩. ማንኛውም ለሥርጭት የሚቀርብ ፕሮግራም የተለያዩ አመለካከቶችን በማንጸባረቅ ሕብረተሰቡን በአጠቃላይ እንዲያገለግል ሚዛናዊ ሆኖ መቅረብ አለበት።
 - ፪. ማንኛውም ለሥርጭት የሚቀርብ ፕሮግራም ይዘቱና ምንጩ ትክክለኛ መሆኑ መረጋገጥ አለበት።
 - ፫. ማንኛውም ዜና ከአድልዎ የጸዳ፣ ትክክለኛና ሚዛናዊ መሆን አለበት።
 - ፬. ማንኛውም ለሥርጭት የሚቀርብ ፕሮግራም፣
 - ሀ) የሰው ልጆችን ሰብዕና፣ ነፃነትና ሥነ ምግባርን የሚፀረርና የሌሎችን እምነት የሚያንጋዘን፤
 - ለ) በመንግሥት ፀጥታ ወይም በሕገ መንግሥቱ መሠረት በተቋቋመው የመንግሥት አስተዳደር ወይም በአገር መካከይ ኃይል ላይ የወንጀል ድርጊት የሚፈጽም፤
 - ሐ) የግለሰብን፣ የብሔር/ብሔረሰብንና የሕዝብን እንዲሁም የድርጅትን ስም የሚያጠፋና በሐሰት የሚወነጀል፤
 - መ) ብሔረሰብን ከብሔረሰብ የሚያጋጭ ወይም በሕዝቦች መካከል የእርስ በርስ ግጭት የሚያነሳ፤
 - ሠ) ጦርነት የሚቀሰቅስ፤
- መሆን የለበትም።

25. Revocation of Broadcasting License

- 1) A radio or television broadcasting service license issued in accordance with this Proclamation may be revoked on any one of the following grounds:
 - (a) where it is confirmed that the licensee has failed to commence transmission within one (1) year of receiving the license;
 - (b) where it is confirmed that the license is obtained by fraudulent means;
 - (c) where the broadcasting station suspends its transmission for more than one (1) month without good cause;
 - (d) where a court orders the closure of the station;
 - (e) where the licensee, by his own initiation, requests to stop the work;
 - (f) where the provisions of Article 27 of this Proclamation are violated.
- 2) Where a licensee in due time notifies the Agency the existence of force majeure to commence transmission within one (1) year as provided in Sub-Article (1) (a) of this Article, the Agency may give an additional time intended to enable the commencement of the transmission which shall not exceed six months.

26. License Fee

- 1) Any person who has received a radio or television broadcasting service license shall pay an annual license fee as determined by the Agency.
- 2) Where the license fee is not paid within sixty (60) days after the end of the Government fiscal year, a penalty of 5% shall be added for each month; however, the total amount of penalty shall not exceed 50% of the license fee.

PART FOUR
Transmissions of Programmes

27. Programming Principles

- 1) Every transmitted programme shall, by reflecting varying view points, serve the public at large through balanced presentations.
- 2) Every transmitted programme shall ascertain the accuracy of its source and content.
- 3) Every news shall be accurate, balanced and free from partiality.
- 4) Any transmitted programme shall not:
 - (a) violate the dignity and liberty of mankind, the rules of good behaviour or undermine the belief of others;
 - (b) commit a criminal offense against the security of the State, the constitutionally established Governmental Administration or the Defense Force of the country;
 - (c) maliciously accuse or defame individuals, Nation/Nationalities, people or organizations;
 - (d) instigate dissension among nationalities or cause to initiate dissension among peoples;
 - (e) incite war.

፳፮. የልጆችን ደህንነት ስለመጠበቅ

- ፩. የልጆችን አመለካከት፡ ስሜትና አስተሳሰብ ሊጎዱ የሚችሉና ወደአልተፈለገ አቅጣጫ እንዲያዘነብሉ የሚገፋፋ ሥርዓቶችን ልጆች ሊመለከቱና ሊያዳምጡ በሚችሉበት ሰዓት ማስተላለፍ የተከለከለ ነው ።
- ፪. ከምሽቱ ፮ ሰዓት በኋላ ልጆች የቴሌቪዥንና የሬዲዮ ሥርዓቶችን ሊመለከቱ ወይም ሊያዳምጡ አይችሉም ብሎ መገመት ይቻላል ።

፳፱. ክልላዊ ፕሮግራም

አንድ የተወሰነ ክልል ወይም አካባቢ ብቻ ለማገልገል የተቋቋመ የሥርዓት ጣቢያ ከላምንታዊ የሥርዓት ጊዜው ውስጥ በደንበኛ ፕሮግራም በራሱ አንሳሽነት በክልሉ ወይም በአካባቢው ውስጥ ለተዘጋጀ ፕሮግራም ማዋል አለበት ።

፴. ማስታወቂያዎች

- ፩. ማስታወቂያ ከሌሎች ፕሮግራሞች የተለየ መሆኑ በግልጽ እንዲታወቅ ሆኖ መተላለፍ አለበት ። በሌሎች ፕሮግራሞች ይዘት ላይ ተጽዕኖ ማድረግም የለበትም ።
- ፪. የንግድ ማስታወቂያ እውነተኛ ፣ የማያሳስትና ሕጋዊ የንግድ እንቅስቃሴን የሚያመለክት መሆን አለበት ።
- ፫. የሌላውን ምርትና አገልግሎት በማጥላላት ወይም በማንኳሰስ ማስታወቂያ ማስተላለፍ የተከለከለ ነው ።
- ፬. የሥርዓት ጊዜው እስከ ፳ ደቂቃ በሆነ በማናቸውም ፕሮግራምና በሕፃናት ፕሮግራም ጣልቃ ማስታወቂያ ማስተላለፍ የተከለከለ ነው ።

፴፩. የተከለከሉ ማስታወቂያዎች

የሚከተሉት ማስታወቂያዎች በማናቸውም ብሮድካስተር እንዳይተላለፍ ተከልክሏል ።

- ፩. የሲጋራና ሲጋራ ነክ የሆኑ ማስታወቂያዎች ፣
- ፪. ማናቸውም የአደንዛዥነት ባህርይ ያላቸው ዕጾችን የሚመለከቱ ማስታወቂያዎች ፣
- ፫. የአልኮል መጠናቸው ከ፲፪ ፕሮግራም በላይ የሆኑ መጠጦችን የሚመለከቱ ማስታወቂያዎች ፣
- ፬. ማናቸውም ያለ ሐኪም ትዕዛዝ ሊሰጡ የማይችሉ መድኃኒቶችን በቀጥታ ተጠቃሚ እንዲገዛ የሚገፋፋ ማስታወቂያዎች ፣
- ፭. ሌሎች በሕግ የሚከለከሉ ማስታወቂያዎች ።

፴፪. ለማስታወቂያ የሚመደብ ጊዜ

የማስታወቂያ ጣቢያ ካልሆነ በቀር በማናቸውም የሥርዓት ጣቢያ ለማስታወቂያ የሚመደበው ጊዜ ከየዕለቱ የሥርዓት ሰዓት ከ፳ ፕሮግራም መብላጥ የለበትም ።

፴፫. በስፖንሰር ስለሚቀርብ ፕሮግራም

- ፩. በስፖንሰር የሚቀርብ ፕሮግራም ይዘትና የጊዜ ሠሌዳ በስፖንሰሩ ተጽዕኖ ሥር መውደቅ የለበትም ። በተለይም ፕሮግራሙ የስፖንሰሩን ምርት ወይም አገልግሎት እንዲሸጥ ወይም እንዲከራይ መቀስቀስ የለበትም ።
- ፪. ማስታወቂያ እንዳይነገርላቸው በሕግ የተከለከሉ ምርቶችን የሚያመርቱ ወይም የሚሸጡ ወይም አገልግሎቶችን የሚያቀርቡ ሰዎች ስፖንሰር ሊሆኑ አይችሉም ።
- ፫. በስፖንሰሩና በጣቢያው መካከል ስምምነት ካልተደረገ በቀር ስፖንሰር በተደረጉ ፕሮግራሞች ጣልቃ ሌሎች የንግድ ማስታወቂያዎች እንዲገቡ አይፈቀድም ።
- ፬. በስፖንሰር በሚቀርብ ፕሮግራም የስፖንሰር አድራጊው ስም በደንበኛ በፕሮግራሙ መጀመሪያና መጨረሻ ላይ መገለጽ አለበት ።

28. Protecting the Well Being of Children

- 1) Programmes that corrupt the outlook of children, harm their feelings and thinking, encourage them to undesirable behaviour shall not be transmitted at hours, during which children normally watch or listen to such programmes.
- 2) Children are presumed not to watch or listen to television or radio transmission after 11:00 O'clock in the evenings.

29. Regional Programme

A broadcasting station established to serve a definite region or locality shall devote at least 20% of its weekly transmission time for self-initiated programmes produced in the region or locality concerned.

30. Advertisements

- 1) An advertisement shall be transmitted in a manner that clearly differentiates it from other programmes. It shall not also affect the contents of other programmes.
- 2) Commercial advertisement shall be truthful, not misleading and publicise lawful trade activities.
- 3) The transmission of malicious or undermining advertisement on the products and services of others is prohibited.
- 4) Broadcasting advertisement interrupting any programme whose transmission time is upto 20 minutes and children's programme is prohibited.

31. Prohibited Advertisements

Any broadcaster shall not transmit the following advertisements:

- 1) cigarette and cigarette related advertisements;
- 2) advertisements related to narcotic drugs;
- 3) advertisements of liquors with more than 12% alcoholic content;
- 4) advertisements which encourage users to buy medicine which cannot be administered without medical prescription;
- 5) other advertisements prohibited by law.

32. Allocation of Advertisement Period

Unless otherwise it is an advertisement broadcasting agency, any broadcasting station shall not allocate more than 20% of its daily transmission time for advertisement.

33. Sponsored Programme

- 1) The content and time table of sponsored programme shall not fall under the influence of the sponsor. Especially, the sponsored programme shall not agitate the sale or hire of the sponsor's products or services.
- 2) Persons who produce or sell goods or render services whose advertisement is prohibited by law shall not be sponsors.
- 3) Unless otherwise agreed between the sponsor and the station, other commercial advertisements could not be transmitted within sponsored programmes.
- 4) The name of the sponsor shall be announced at least at the beginning and end of every sponsored programme.

ክፍል አምስት
የባለፈቃድ ግዴታዎች

፴፬. ተጠሪን ስለማሳወቅ

- ፩. ባለፈቃዱ ለሚያሰራጨው ፕሮግራም ኃላፊ አድርጎ የመደበውን ሰው ለኤጀንሲው ማስታወቅ አለበት፤ በኃላፊነት የተመደቡት ሰዎች ከአንድ በላይ ከሆኑ የእያንዳንዱ ሰው የኃላፊነት ድርሻ በግልጽ ተለይቶ መታወቅ አለበት።
- ፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ድንጋጌ የባለፈቃዱን ኃላፊነት አያስቀረውም።

፴፭. ፕሮግራም ቀርጾ ስለመያዝ

- ፩. ባለፈቃዱ ዜናን ጨምሮ ያሰራጨውን ፕሮግራም ለጅቀናት ቀርጾ ማስቀመጥ አለበት፤ በፕሮግራሙ ውስጥ ቀደም ሲል የተቀረጸ ፕሮግራም ወይም ፊልም ተካትቶ ከሆነ አብሮ መቀመጥና በተፈለገ ጊዜ ሊገኝ መቻሉ መረጋገጥ አለበት።
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተመለከተው የጊዜ ገደብ ከማለቁ በፊት በተላለፈው ፕሮግራም ላይ ቅሬታ ከቀረበ ቅሬታው አግባብ ባለው ሕግ ውሳኔ እስከሚያገኝ ድረስ ግዴታው ጸንቶ ይቆያል።
- ፫. ለቁጥጥር ወይም የቀረበ ስሞታን (ቅሬታን) ለመመርመር አስፈላጊ ሆኖ ሲገኝ ባለፈቃዱ የያዘውን ፕሮግራም ቅጅ በራሱ ወይም ለኤጀንሲው ወይም በሕግ መሠረት ጉዳዩን ለሚመለከተው አካል የማቅረብ ግዴታ አለበት።

፴፮. መረጃ ስለመስጠት

ማንኛውም ብሮድካስተር በእያንዳንዱ ሥርዓት መጀመሪያና መጨረሻ ላይ የሥርዓት ጣቢያውን ስም መግለጽ አለበት፤ የፕሮግራሙ አዘጋጅም በፕሮግራሙ መጀመሪያ ወይም መጨረሻ በስም መጠቀስ አለበት።

፴፯. ጣቢያን ለቁጥጥር ክፍት ስለማድረግ

- ፩. ማንኛውም ባለፈቃድ የዚህ አዋጅ ድንጋጌዎች መከበራቸውን ለማረጋገጥ ቁጥጥር እንዲያደርግ ኤጀንሲው በአግባቡ ሥልጣን የሰጠው ሠራተኛ ሲጠይቀው ወደ ሥርዓት ጣቢያው ገብቶ ምርመራ እንዲያካሂድ የመፍቀድና የሚጠየቁ ሰነዶችንም የማቅረብ ግዴታ አለበት።
- ፪. ባለፈቃዱ ለቁጥጥር የመጣው ሰው ይህን ተግባር እንዲፈጽም የተወከለበትን ማስረጃ በቅድሚያ መጠየቅና ማረጋገጥ ይችላል።

፵. አስቸኳይ መንግሥታዊ መግለጫዎችን ስለማስተላለፍ

- ፩. የዚህ አዋጅ አንቀጽ ፳፮ ቢኖርም፣ ማንኛውም ብሮድካስተር ሕገመንግሥታዊ ሥርዓቱን አደጋ ላይ የሚጥል ሁኔታ ሲከሰት፣ የተፈጥሮ አደጋ ሲያጋጥም ወይም የሕዝብን ጤንነት አደጋ ላይ የሚጥል በሽታ በመከሰቱ ምክንያት የፌዴራሉ መንግሥት ወይም የክልል መስተዳድሮች የሚሰጧቸውን አስቸኳይ መግለጫዎች ያልከፍቶ ማስተላለፍ አለበት።
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተመለከተው እንደተጠበቀ ሆኖ ሌሎች መንግሥታዊ፣ ሕዝባዊም ሆኑ የግል ማስታወቂያዎች በሚተላለፉበት ጊዜ ብሮድካስተሩ ተመጣጣኝ ክፍያ የመጠየቅ መብቱ የተጠበቀ ነው።

PART FIVE
Obligations of a Licensee

34. Notification of Responsible Person

- 1) The licensee shall notify the Agency the person who has been assigned to be responsible for the transmitted Programme. Where several persons have been assigned for the position of responsibility, the accountability of each shall be clearly set and identified.
- 2) The provision of Sub-Article (1) of this Article shall not relieve the licensee of his responsibility.

35. Keeping of Programme Record

- 1) The licensee shall keep the record of every transmitted programme, including news, for sixty (60) days. Where the programme contains a previously recorded programme or film such programme record shall be kept wholly and it should be insured that it is accessible when required.
- 2) Where a grievance is forwarded on a programme before the expiry of the time limit specified in Sub-Article (1) of this Article, the obligation shall remain in force until the case is decided in accordance with the appropriate law.
- 3) Where a programme is needed for inspection or to investigate a compliant (grievance) lodged against it, the licensee at his own expense shall provide a copy of the programme to the Agency or any other organ authorised by law to look into the case.

36. Providing Information

Every broadcaster shall announce the name of the station at the beginning and end of every transmission. The producer of the programme shall also be mentioned by name at the beginning or end of the programme.

37. Opening the Station for Inspection

- 1) Every licensee, where required by an employee of the Agency who is duly authorized to ensure and inspect the implementation of the provisions of this proclamation, shall allow him to investigate the broadcasting station and provide him with the required documents.
- 2) The licensee can initially request and identify the authorization document of the inspector who came to perform the task.

38. Transmission of Emergency Governmental Statements

- 1) Notwithstanding Article 26 of this Proclamation, where an incident that endangers the constitutional order of the country or a natural disaster or an epidemic that threatens the public health occurs, every broadcaster shall transmit without remuneration emergency statements given by the Federal Government or State Administrations.
- 2) Without prejudice to the provision of Sub-Article (1) of this Article, the right of the broadcaster to demand appropriate remuneration when transmitting other governmental, public or private advertisements is respected.

፴፱. መልስ የመስጠት መብትን ስለማስከበር

- ፩. ማንኛውም ብሮድካስተር ባስተላለፈው ፕሮግራም መብቱ ተነክቷል ወይም በአግባቡ አልቀረበም ለሚል ሰው ስለጉዳዩ መልስ ለመስጠት ያለውን መብት ማክበር አለበት።
- ፪. ብሮድካስተር መልስ ሰጭው የሚሰጠውን መልስ በተመጣጣኝና በተመሳሳይ ጊዜ በግልጽ የማስተላለፍ ግዴታ አለበት።

፵. የፖለቲካ ፕሮግራሞችንና መግለጫዎችን ስለማሰራጨት

- ፩. ማንኛውም ብሮድካስተር አግባብ ባለው ሕግ መሠረት ተመዝግበው የሚንቀሳቀሱ የፖለቲካ ፓርቲዎችና የምርጫ ተወዳዳሪዎች በምርጫ ወቅት ዓለማቸውንና ፕሮግራሞቻቸውን ለሕዝብ እንዲያስተዋውቁ ወይም መግለጫ እንዲያስተላልፉ ነፃ የአየር ጊዜ መመደብ አለበት። አፈጻጸሙም ኤጀንሲው በሚያወጣው መመሪያ መሠረት ይወሰናል።
- ፪. የዚህ አንቀጽ ንዑስ አንቀጽ (፩) ድንጋጌ እንደተጠበቀ ሆኖ ማንኛውም የፖለቲካ ፓርቲ ወይም ዕጩ ተወዳዳሪ የፖለቲካ ማስታወቂያ ማስተላለፍ ይችላል።
- ፫. ለፖለቲካ ማስታወቂያ የሚጠየቀው ክፍያ ለንግድ ማስታወቂያ ከሚጠየቀው ክፍያ ሊበልጥ አይችልም።
- ፬. የሥርዓት ጊዜ የተሰጠው ፓርቲ ወይም ተወዳዳሪ ግለሰብ ለተሠራጨው ፕሮግራም ወይም መግለጫ ሕጋዊነት ኃላፊ ይሆናል።

**ክፍል ስድስት
ልዩ ልዩ ድንጋጌዎች**

፵፩. ቁጥጥር የማድረግ ሥልጣን

- ፩. ኤጀንሲው የዚህ አዋጅ ድንጋጌዎችና በዚህ አዋጅ መሠረት የሰጣቸው ውሳኔዎች መከበራቸውን ለማረጋገጥ ኢንስፔክተሮችን ለመመደብ ይችላል።
- ፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) መሠረት የተመደበ ኢንስፔክተር የብሮድካስት አገልግሎት በሚያካሂድ ድርጅት ውስጥ በሥራ ሰዓት ለመግባትና ቁጥጥር ለማድረግ ይችላል።
- ፫. ኢንስፔክተሩ ማንኛውንም የብሮድካስት መሣሪያ ለመመርመር፣ አግባብ ያላቸውን ሰነዶች ለማየትና ቅጅው እንዲሰጠው ለመጠየቅ ይችላል።
- ፬. ኢንስፔክተሩ ቁጥጥር ወደሚያደርግበት ሥፍራ ለመግባት ለሥራው የተወከለበትንና የመታወቂያ ወረቀቱን ማሳየት አለበት።

፵፪. ቅጣት

- ፩. በወንጀለኛ መቅጫ ሕግ የበለጠ ቅጣት የሚያስቀጣ ካልሆነ በስተቀር፡
 - ሀ) የዚህን አዋጅ አንቀጽ ፲፮(፩) በመተላለፍ ጥፋት የፈጸመ ማንኛውም ሰው ከ፫ዓመት በማያንስና ከ፳ ዓመት በማይበልጥ እሥራት እና ከብር ፲፫ በማያንስና ከብር ፳፫ በማይበልጥ የገንዘብ መቀጮ ይቀጣል።
 - ለ) የዚህን አዋጅ አንቀጽ ፴፯ ወይም ፴፱ በመተላለፍ ጥፋት የፈጸመ ባለፈቃድ ከ፩ ዓመት በማያንስና ከ፫ዓመት በማይበልጥ እሥራትና ከብር ፳፫ በማያንስና ከብር ፲፫ በማይበልጥ የገንዘብ መቀጮ ይቀጣል።

39. The Duty to Respect the Right to Reply

- 1) The broadcaster is duty bound to respect the right of a person to give reply concerning an issue when he alleges that a transmitted programme has encroached on his right or failed to be presented properly.
- 2) The broadcaster has an obligation to clearly transmit the reply statement in a proportional and similar time.

40. Transmission of political Programmes and Statements

- 1) Every broadcaster shall allocate free air time, for political parties and candidates registered in accordance with the relevant law, to publicize their objectives and programmes to the people or transmit statements during election period. The implementation shall be set out by a directive to be issued by the Agency.
- 2) Without prejudice to Sub-Article (1) of this Article, any political party or candidate can transmit political advertisement.
- 3) The charges for political advertisement shall not exceed that of commercial advertisement.
- 4) The party or private candidate provided with air time shall be responsible for the legality of the programme or statement transmitted.

**PART SIX
Miscellaneous Provisions**

41. Power of Inspection

- 1) The Agency can assign inspectors who enable it to ensure that the provisions of this Proclamation and decisions rendered in accordance with this Proclamation have been respected.
- 2) An inspector assigned in accordance with sub-Article (1) of this provision is empowered to enter and inspect a broadcasting service organization during working hours.
- 3) The inspector is empowered to examine any broadcasting instruments, refer to relevant documents and demand a copy thereof.
- 4) When the inspector enters into the inspection site, he shall show his work authorization and identity papers.

42. Penalty

- 1) Unless a higher penalty is provided for in the Penal Code:
 - (a) Whosoever is found guilty of violating Article 17 (1) of this Proclamation shall be punishable with imprisonment not less than three years but not exceeding five years and with fine not less than Birr 10,000 and not exceeding Birr 20,000.
 - (b) Any licensee who is found guilty of violating Article 37 or 39 of this Proclamation shall be punishable with imprisonment not less than one year but not exceeding three years and with fine not less than Birr 5,000 and not exceeding Birr 10,000.

ሐ) የዚህን አዋጅ አንቀጽ ፱፣ ፴፩፣ ፴፪፣ ወይም ፴፫ በመተላለፍ ጥፋት የፈጸመ ባለፈቃድ ከ፪ወር በማያንስ እና ከ፪ ዓመት በማይበልጥ እሥራት እና ከብር ፲ሺ በማያንስና ከብር ፶ሺ በማይበልጥ የገንዘብ መቀጮ ይቀጣል።

መ) የዚህን አዋጅ አንቀጽ ፳፰፣ ፴፱፣ ፴፳፣ ፴፺፣ ወይም ፵ በመተላለፍ ጥፋት የፈጸመ ባለፈቃድ ከ፩ ዓመት በማያንስ እና ከ፫ ዓመት በማይበልጥ እሥራት እና ከብር ፲፮ሺ በማያንስና ከብር ፶ሺ በማይበልጥ የገንዘብ መቀጮ ይቀጣል።

፪. በዚህ አንቀጽ ንዑስ አንቀጽ (፩) የተመለከቱት ድንጋጌዎችን በመተላለፍ የተፈጸመው ጥፋት በሕግ የሰውነት መብት በተሰጠው አካል የሆነ እንደሆነ አነስተኛውና ከፍተኛው የገንዘብ መቀጮዎች ሦስት እጥፍ ይሆናሉ።

ዓ፫. ስለውርስ

በዚህ አዋጅ አንቀጽ ፳፯(፱) የተመለከተውን ድንጋጌ በመተላለፍ አግባብ ባለው የወንጀለኛ መቅጫ ሕግ ጥፋተኛ ሆኖ የተገኘ ሰው ከዋናው ቅጣት በተጨማሪ ለብርድካስት ያዋለው ንብረቱ ይወረሳል።

ዓ፬. የሌሎች ሕጎች ተፈጻሚነት

፩. የዚህ አዋጅ ድንጋጌዎች እንደተጠበቁ ሆነው የፕሬስ አዋጅ ቁጥር ፴፬/፲፱፻፹፭ ከአንቀጽ ፯ እና ከአንቀጽ ፲፫ በስተቀር ሌሎች አግባብ ያላቸው ድንጋጌዎች በብርድካስት አገልግሎት ላይ ተፈጻሚ ይሆናሉ።

፪. የዚህን አዋጅ ድንጋጌዎች የሚቃረን ማንኛውም ሕግ በዚህ አዋጅ ውስጥ የተመለከቱ ጉዳዮች በሚመለከት ተፈጻሚነት አይኖረውም።

ዓ፭. አዋጁ የሚጸናበት ጊዜ

ይህ አዋጅ ከሰኔ ፳፪ ቀን ፲፱፻፺፩ ዓ.ም. ጀምሮ የጸና ይሆናል።

አዲስ አበባ ሰኔ ፳፪ ቀን ፲፱፻፺፩ ዓ.ም

ዶ/ር ነጋሶ ጊዳዳ
የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ
ፕሬዚዳንት

(c) Any licensee who is found guilty of violating Articles 30, 31, 32 or 33 of this Proclamation shall be punishable with imprisonment not less than six months but not exceeding two years and with a fine not less than Birr 10,000 but not exceeding Birr 50,000.

(d) Any licensee who is found guilty of violating Articles 28, 34, 35, 36 or 40 of this Proclamation shall be punishable with imprisonment not less than one year but not exceeding three years and with fine not less than Birr 15,000 but not exceeding birr 50,000.

2) If the person who is found guilty of violating the provisions of Sub-Article (1) of this Article is a juridical person, the penalty in fine shall be three fold of the minimum and maximum penalty provided for each offence.

43. Confiscation

The property used for broadcasting of a person who is found guilty of violating the provision of Article 27 (4) of this Proclamation shall, in addition to the principal penalty, be confiscated.

44. Application of Other Laws

- 1) Without prejudice to the provisions of this Proclamation, the relevant provisions of Press Proclamation No. 34/1992, with the exception of Articles 7 and 13 thereof, shall be applicable.
- 2) Any law which is inconsistent with the provisions of this Proclamation shall not apply to matters provided for under this Proclamation.

45. Effective Date

This Proclamation shall enter into force as of the 29th day of June, 1999.

Done at Addis Ababa, this 29th day of June, 1999.

NEGASO GIDADA (DR.)
PRESIDENT OF THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA

Annex 2: Code of Conduct and Practice of Journalism in Kenya

(Published by the Media Industry Steering Committee, with the assistance of Friedrich Ebert Stiftung, Nairobi 2001).

Preamble:

Whereas the freedom of expression and the right of the public to information are fundamental to the establishment, nurturing and sustenance of a democratic society,

AND

Whereas respect for truth and for the right of the public to truth is the first duty of a journalist,

AND

Whereas the right of the public to know must be balanced against the need to protect the privacy of individuals in a manner that secures the public interest,

NOW THEREFORE, we members of the Media Industry Steering Committee, hereby adopt this Code of Conduct as the foundation for the practice of journalism in Kenya.

1. Accuracy and Fairness

a) The fundamental objective of a journalist is to write a fair, accurate and an unbiased story on matters of public interest. All sides of the story should be reported. It is important to obtain comments from anyone who is mentioned in an unfavourable context.

b) Whenever it is recognised that an inaccurate, misleading or distorted story has been published or broadcast, it should be corrected promptly.

Corrections should present the correct information and should not restate the error except when clarity demands.

c) An apology should be published or broadcast whenever appropriate.

d) When stories fall short on accuracy and fairness, they should not be published. Journalists, while free to be partisan, should distinguish clearly in their reports between comment, conjecture and fact.

e) In general, provocative and alarming headlines should be avoided. Headings must reflect and justify the matter printed under them. Headings containing allegations made in statements should either identify the body or the source making them or at least carry quotation marks.

2. Opportunity to Reply

A fair opportunity to reply to inaccuracies should be given to individuals or organisations when reasonably called for. If the request to correct inaccuracies in a story is in the form of a letter, the editor has the discretion to publish it in full or in its abridged and edited version, particularly when it is too long. But the remainder should be an effective reply to the allegations. However, the editor should not omit or refuse to publish important portions of the reply /rejoinder which effectively deal with the accuracy of the reply / rejoinder. If the editor doubts the truth or factual accuracy of the reply/ rejoinder, even then it is his or her duty to publish it with liberty to append an editorial comment doubting its veracity. Note that this should be done only when this doubt is reasonably

founded on unimpeachable evidence in the editor's possession. The editor should not, in a cavalier fashion, without due application of mind, append such a note as: "We stand by our story". In this context, these standards also apply to electronic media.

3. Letter to the Editor

An editor who decides to open his/ her columns on a controversial subject is not obliged to publish all the letters received in regard to that subject. He/she may select and publish only some of them either in their entirety or the gist thereof. However, in exercising this right, he/she should make an honest attempt to ensure that what is published is not one-sided but presents a fair balance of pros and cons of the principal issue. The editor has the discretion to decide at which point to end the debate in the event of a rejoinder upon rejoinder being sent by two or more parties on a controversial subject.

In the case of the electronic media, a broadcasting licensee who presents a programme in which controversial issues of public importance are discussed shall make reasonable effort to fairly present significant points of view either in the same programme or in a subsequent one forming part of the same series of programmes presented within a reasonable period of time in substantially the same time slot.

In addition, a person whose views have been criticised in a broadcasting programme on a controversial issue of public importance shall be given a reasonable opportunity to reply should such a person so request.

4. Unnamed Sources

Unnamed sources should not be used unless the pursuit of the truth will best be served by not naming the source who must be known by the editor and reporter. When material is used in a report from sources other than the reporter's, these sources should be indicated in the story.

5. Confidentiality

In general, journalists have a professional obligation to protect confidential sources of information.

6. Misrepresentation

a) Journalists should generally identify themselves and not obtain or seek to obtain information or pictures through misrepresentation or subterfuge.

b) Subterfuge can be justified only in the public interest and only when material cannot be obtained by any other means. The public interest includes detecting or exposing crime or serious misdemeanour or anti-social conduct, protecting public health or safety, preventing the public from being misled by some statement or action of an individual.

7. Obscenity, Taste and Tone in Reporting

In general, the media should avoid publishing obscene, vulgar, or offensive material unless such material contains a news value which is necessary in the public interest.

In the same vein, publication of photographs showing mutilated bodies, bloody incidents, and abhorrent scenes should be avoided unless the publication of such photographs will serve the public interest. Television stations must exercise great care and responsibility when presenting programmes where children are likely to be part of the audience.

8. Paying for News and Articles

When money is paid for information, serious questions can be raised about the credibility of that information and the motives of the buyer and the seller. Therefore, in principle, journalists should avoid paying for information unless public interest is involved. In the same context, journalists should not receive any money as an incentive to publish any information.

9. Plagiarism

a) Using someone else's work without attribution - whether deliberately or thoughtlessly - is a serious ethical breach. However, borrowing ideas from elsewhere is considered fair journalistic practice.

b) Words directly quoted from sources other than the writer's own reporting should be attributed. In general, when other work is used as the source for stylistic inspiration the final result must be clearly different from the original work of the reporter.

10. Discrimination

In general, the media should avoid prejudicial or pejorative reference to a person's race, tribe, clan, religion, sex or sexual orientation or to any physical or mental illness or handicap. These details should be avoided unless they are crucial to the story.

11. Covering Ethnic, Religious, and Sectarian Conflict

News, views or comments relating to ethnic, religious, or sectarian disputes should be published after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere congenial to national harmony, amity and peace. Provocative and alarming headlines are to be avoided. News reports or commentaries should not be written in a manner likely to inflame the passions, aggravate the tension or accentuate the strained relations between the communities concerned. Equally so, articles with the potential to exacerbate communal trouble should be avoided.

12. Recording Interviews and Telephone Conversations

Except in justifiable cases, journalists should not tape or record anyone without the person's knowledge. An exception may be made only if the recording is necessary to protect the journalist in a legal action or for some other compelling reason. In this context, these standards also apply to electronic media.

13a. Privacy

a) The public's right to know often needs to be weighed against the privacy rights of people in the news.

b) The journalist must stick to the issues.

c) Intrusion and inquiries into an individual's private life without the person's consent are not generally acceptable unless public interest is involved. Public interest must itself be legitimate and not merely prurient or morbid curiosity. Things concerning a person's home, family, religion, tribe, health, sexuality, personal life and private affairs are covered by the concept of privacy except where these impinge upon the public.

13b. Intrusion into Grief and Shock

In cases involving personal grief or shock, inquiries should be made with sensitivity and discretion.

14. Sex Discrimination

Women and men should be treated equally as news subjects and news sources.

15. Financial Journalism

a) Journalists should not use financial information they receive in advance of its general publication for their own benefit. They should not also pass the same information to others.

b) Journalists should not write about shares, securities and other market instruments in whose performance they know they or their close families have a significant financial interest, without disclosing the interest to the editor.

Journalists should not buy or sell, directly or through nominees or agents, shares or securities and other market instruments about which they intend to write in the near future.

16. Protection of Children

Children should not be identified in cases concerning sexual offences, whether as victims, witnesses, or defendants. Except in matters of public interest, e.g., cases of child abuse or abandonment, journalists should not normally interview or photograph children on subjects involving their personal welfare in the absence or without the consent of a parent or other adult who is responsible for the children. Children should not be approached or photographed while at school and other formal institutions without the permission of school authorities. In adhering to this principle, a journalist should always take into account specific cases of children in difficult circumstances.

17. Victims of Sex Crimes

The media should not identify victims of sexual assault or publish material likely to contribute to such identification. Such publication does not serve any legitimate journalistic or public need and may bring social opprobrium to the victims and social embarrassment to their relations, family, friends, community, religious order or the institutions to which they belong.

18. Use of Pictures and Names

As a general rule, the media should apply caution in the use of pictures and names and avoid publication of any where there is a possibility of harming the persons concerned. Manipulation of pictures in a manner that distorts reality should be avoided. Pictures of grief, disaster and those that embarrass and promote sexism should be discouraged.

19. Innocent Relatives and Friends

The media should generally avoid identifying relatives or friends of persons convicted or accused of crime unless the reference to them is necessary for the full, fair and accurate reporting of the crime or legal proceedings.

20. Acts of Violence

The media should avoid presenting acts of violence, armed robberies, banditry and terrorist activity in a manner that glorifies such anti-social conduct. Also, newspapers should not allow their columns to be used for writings which tend to encourage or glorify social evils, warlike activities, ethnic, racial and religious hostilities.

21. Editor's Responsibility

The editor shall assume responsibility for all content, including advertisements, published in the newspaper. If responsibility is disclaimed, this shall be explicitly stated before hand.

22. Advertisements

The editor should not allow any advertisement which is contrary to any aspect of this Code of Conduct. In this regard, and to the extent applicable, the editor should be guided by the Advertisers' Code of Conduct.