

Addis Ababa University
School of Graduate Studies
School of Journalism and Communication

**A critical analysis of Ethiopian
broadcasting media regulation
1991-2007**

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July 2007
Addis Ababa

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A thesis submitted to the School of Graduate Studies of Addis Ababa
University in partial fulfillment of the requirements for the degree of
Master of Arts in Journalism

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July 2007

Addis Ababa

Declaration

I, the undersigned, declare that this thesis is my original work and all the sources of materials used for the thesis have been duly acknowledged.

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A critical analysis of Ethiopian broadcasting media regulation 1991-2007

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To:

Sintayehu Birhanu (Santa),

*A Lawyer, a genuine caretaker, a name I
called out when I was in depths of despair*

Sant,

You are a Jewel.

Acknowledgements

This is from **His** wide palms, so **He** deserves all the possible to me. **God**, Your way outs are so incredible and mysterious.

My external advisor, **Terje Skjerdal**, Asst. Professor, Gimlekollen School of Journalism and Communication, Norway. Your utter assistance and availability has been a courage in writing up my thesis; you have my heartfelt thanks. If there is any pitfall in the work, it absolutely is my loss of attention.

My internal advisor, **Dr. Yacob Arsano**, Asst. Professor, Addis Ababa University, I thank you very much for your kind advice and understanding.

To **Dr. Negussu Legesse**, a genial, ally and member of the whole family, who played the whole thing forward- for his long stretched hands and encouraging thoughts since the inception of the thought of my studies. Gash Negussu, you always said *"Thank you would suffice"*

Yilma Debebe, a father in deed - my mother **Beletu Yimer (Bele)** - whose prayer sustained me and the rest her kids, I am proud to be your son. My little brother **Zelalem Yilma**, a teen economist, lecturer at Jimma University, I doubt you are my younger.

Sintayehu Birhanu, yours better left unsaid. If now, at the end, my name proves competent, it is because of the genuine and heartfelt care you gave me. You mean my success. I know I have hit F1 hard.

Andualem B. (**Gatew**), Andargachew W. (**Fes**), Sena T. (**Sane**), Woyesa G. (**Wayaman**), Asegid T. (**Deze**), Selamawit H. (**Babi**), , (who now are all Lawyers , Judges) - for you all were there when the ATP melted. Adane Ketema (Rozina), be sure you were there by the right time-thank you. **Fitsum** (Fitse stationery), burden eases now, I owe you much.

Wondy, now is 70 cents-I think, but it was too expensive. Godspeed.

Colleagues of SJC: **Yacob Abieslom**, for the lion's share- **Debesay Teklemuz**, whose glance saved dainty dishes- - **Hallelujah (Halye)**, wow- the least divisible is 5, - you have a clean heart, **Tsigewoiny** - see you in Sodore again; and the entire third batch, you made me feel at home. **Demeke Deboch**, SJC's ICT coordinator, you have been kind to me, may God bless you.

NORAD - for the funds.

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List of acronyms

- ACHPR:** African Charter on Human and People's Rights
- AM:** Audio Modulation
- DPFEA:** Declaration of Principles on Freedom of Expression in Africa,
- EBA:** Ethiopian Broadcast Agency (now Authority)
- EBP:** Ethiopian Broadcast Proclamation
- EFPJA:** Ethiopian Free Press Journalists Association
- EPRDF:** Ethiopian Peoples' Revolutionary Democratic Front
- EWP:** Ethiopian Workers' Party
- FDRE:** Federal Democratic Republic of Ethiopia
- FM:** Frequency Modulation
- HOR:** House of Peoples' Representatives
- ICCPR:** International Covenant on Civil and Political Rights
- TV:** Television
- UDHR:** The Universal Declaration on Human Rights
- UN:** United Nations
- UNESCO:** United Nations Educational Scientific and Cultural Organization
- WBI:** World Bank Institute

Abstract

This research attempts to look into what practical changes the broadcasting media in Ethiopia have experienced in light of media regulation policies, and if the intended changes have not taken place, attempts to point to reasons.

The period after the coming into power of EPRDF (Ethiopian People's Revolutionary Democratic Front), 1991, marked a change in Ethiopian media politics. Of the reforms EPRDF made was liberalizing the media through granting different freedoms. This was done through various laws and policies. The 1992 press law that gave citizens the freedom to exercise freedom of expression through private print media, the 1999 broadcast proclamation, the 2003 press law and the newly endorsed broadcast proclamation of the year 2007 are the major policies introduced with regard to the media. The 1995 Ethiopian Constitution also is a monumental document for reinforcing freedom of expression in Ethiopia. Article 29 of the Constitution confirms that all citizens have the right to "seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in prints in the form of art, or through any idea of his/her choice" (FDRE Constitution, Art 29).

After eight years of the endorsement of the first Broadcast Proclamation in 1999, which further affirms the full grant of the right to own a private broadcasting station, there is no private television station, and radio stations are still under the control of the government in one way or another. Why are the broadcast media regulated severely while full freedom of expression is granted on other arenas? Data for the study was acquired from documents and personal interviews with actors in the media industry. The conclusion of the research include: private broadcasters and licensees do not work together; the new broadcasting regulation policy gives broadcasters a chance to appeal and imprisonment is excluded from the punitive articles.

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Chapter 1: Introduction

1.1 Background and problem statement

1992 marked a change in Ethiopian media politics. This was the year after the coming into power of the current Ethiopian government, EPRDF. Of the reforms EPRDF made was liberalizing the media through the grant of freedom. This was done through different laws and policies. The 1992 press law that gave citizens the freedom to exercise freedom of expression through private print media, the 1999 broadcast proclamation, the 2003 press law and the newly endorsed broadcast proclamation of the year 2007 are the major policies introduced with regard to the media.

Above all, the 1995 Ethiopian constitution grants all citizens the right to exercise freedom of speech. Article 29 confirms that all citizens have the right to “seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in prints in the form of art, or through any idea of his/her choice” (FDRE Constitution, Art 29). Even so, there have been many – both individuals and organizations – who have questioned the actual possibility to perform freedom of expression within the Ethiopian media. Of such organizations are Ethiopian Free Press Journalists’ Association (EFPJA), an association of free press journalists. EFPJA contends that Ethiopian media policies, particularly for the print medium, aim at attacking the exercise of free press and is punitive (IFEX, 2003). Another body with a similar criticism is the International Press Institute (IFEX, 2003).

This study shall deal with the broadcasting media in particular. The research will examine the discrepancy between the official broadcasting policies of the Ethiopian government and the actual conditions for broadcasting in the period 1991 to 2007. The study will specifically investigate the broadcasting proclamations of 1999 and 2007.

1.2 Objectives of the study

The broader aim of this study is to assess media policies ruled out after 1991, following the coming into power of EPRDF. The research will attempt to look into the Ethiopian

broadcast media regulation policy in light of principles of freedom of expression with a focus on the two broadcasting proclamations of 1999 and 2007. What practical changes the broadcasting media have experienced in light of the new media policies, and whether the intended changes have taken place, are subsequent concerns of the research.

One of the questions in focus is whether Ethiopia's broadcast media policies are enacted in accordance with the country's constitution, as well as in line with relevant international agreements. The study will focus on the history, motives, standards and practices of Ethiopian broadcast media regulation policies since 1991.

1.3 Significance of the study

The completion of this paper is expected to give the following significances:

- It takes a deep look into what grounds serve as a base for Ethiopian broadcast media policies. It examines how policies are set accordingly and what considerations are taken into account in the course of ratifying the broadcasting media regulations.
- It explains the changes that have taken place concerning broadcast media regulation policies and broadcast media regulatory body organization in the country over the past 16 years.
- It opens up a room for discussing the issue of broadcast media regulation policies in the country and might initiate studies posing critical questions on the issue.
- It also serves as a background document for the status of non-government broadcasting in Ethiopia.

1.4 Research questions

These are some of the questions to be entertained in the study:

- What have been the overall changes in Ethiopian broadcasting media regulation policy since 1991?
- Which developments has Ethiopian broadcast media regulation had since 1991 in terms of organization?

- How is the government's political ideology reflected in the broadcast media policy?
- Which interests are favored by the policy?
- To what extent has the government opened up for private broadcasting?

1.5 Limitations of the study

I will point to two particular limitations of the study: Time constraint is what limited the study most. More data and analysis could have been put on matters related to experiences of other countries' broadcasters if more time was available.

The other limitation is also obvious: The study remains to some extent hypothetical for it cannot examine the policy of private broadcasting against the actual behavior of the broadcasters since there are no established private broadcasting in Ethiopia at the moment.

1.6 Organization of the study

The paper largely follows the standard outline of a master's thesis work at Addis Ababa University.

The *first* (present) *chapter* is dedicated to giving a general background of the problem statement, objectives of the study, significances of the study, research questions, limitations and organization of the study.

The *second chapter* holds the reviews of different literature. Some of the central issues are media policy, media ownership, media development, international agreements on the right to enjoy freedom of expression, standards to set a broadcast media policy and pitfalls on establishing private broadcast media. It also gives a highlight on the legal framework of Ethiopian laws pertaining to freedom of expression and its limitations.

Chapter three discusses the methodology employed in the study.

The history of broadcast media regulation policies since 1991 will be discussed in *chapter four*. What developments, changes and practices have taken place in Ethiopia since the coming into power of EPRDF will be discussed. The chapter also discusses legal frameworks for broadcast media policies with regard to other laws of the country. The chapter will also discuss drawbacks of the media policy both in the eyes of standards and practicality. It also discusses why the policies are not put into effect and the reasons for this by checking policies against government interests. This chapter aims to answer some of the research questions listed earlier.

Last, conclusion and recommendations will be forwarded in the *fifth chapter*.

Chapter 2: Review of relevant literature

2.1 A brief history of the Ethiopian broadcast media

2.1.1 Media in light of the three regimes

The print media in Ethiopia naturally precedes the broadcasting media and dates back to the early 1900s. This was a time when the first Amharic newspaper *Aemero* was published (Makuria, 2005: 4). Some historians still contend that the print media can be traced back the late 1880s with hand-written newspapers administered by missionaries (see Aadland and Fackler, 1999). There were also newspapers that came into being with a limited circulation dedicated to the dignities around the royal family (see Aadland and Fackler, 1999). Makuria (2005: 4) also points out that there were changes in the Ethiopian media during the Italian invasion 1935–1936; a period in which the Italians themselves engaged in newspaper production.

The press showed a slow development until the two daily newspapers *Addis Zemen* and *The Ethiopian Herald* came into circulation following the expulsion of fascist Italy in 1941 and 1943 respectively (Makuria, 2005: 4). These two newspapers, accompanied by another newspaper, *Yezareyitu Ethiopia*, continued to be the dependant media outlets. These newspapers continued to be published after the coming of the Dergue regime in 1974, side by side with party line newspapers started by the Dergue. During the 17 years of Mengistu's rule, the government and party-owned publications *Meskerem* ('September'), *Serto Ader* ('Worker'), and the pre-Derg *Yezareyitu Ethiopia* ('Ethiopia Today') were published in addition to the previously mentioned *Addis Zemen* and *The Ethiopian Herald* (Aadland and Fackler, 1999).

2.1.2 Radio

Radio came into being during the reign of Emperor Haileselesie I in 1941. Radio Ethiopia started its transmission that year with a 7 kilo watt shortwave transmitter and five full time employees which hardly covered the scale of Addis Ababa (Makuria, 2005: p. 10).

In the subsequent years, Radio Ethiopia has undergone different phases of development. The changes have served as hopeful signs of making radio the medium of the masses.

“After 1970, Radio Ethiopia has succeeded in substantiating its claims to be the voice of Ethiopia by completely overcoming the problems of its formative years with coverage of 40 percent of the people in all major cities, towns and hamlets of the country under the direction and guidance of the Ministry of Information.”

(Makuria, 2005: 10)

It can be drawn from the above discussion that it was only after 30 year of service that radio was really able to reach the masses. However, in the meantime there was a religious radio station – Voice of the Gospel, owned by the Lutheran World Federation – which reached a significant portion of the country’s population. It began to operate prior to the overthrow of Emperor Haileselesie in 1974 (Aadland and Fackler, 1999).

Following the 1974 Revolution, Dergue confiscated Voice of the Gospel and changed the name of Radio Ethiopia to ‘Voice of the Revolutionary Ethiopia’, so as to fit the name into the revolutionary changes which occurred by that time. The name ‘Radio Ethiopia’ was restored soon after the existing government came into power in 1991 (Makuria, 2005: 10).

The EPRDF transitional government in 1991 ratified a press proclamation that freed the print media from any censorship. This can only be described as a radical departure from the past in that it created for the first time in the history of the country a legal framework enabling the private sector to engage itself in the print and electronic media without any state agency controlling its activities (Andargachew, 2006: 13). Following this, hundreds of private newspapers came into circulation. According to the Ministry of Information, 726 licenses have been given out for press ownership since 1991 (Ministry of Information, 2006). Many of the earlier newspapers nevertheless ceased soon after 1991.

Concerning broadcasting, the government only later announced that it would open up the airwaves for private actors. The issuance of private radio licenses took more than

five years after the organizations had submitted their applications. Despite the decision to open up the radio waves, there has not been any sign to allow private TV broadcasting. The two radio stations that were awarded licenses in February 2006 were ZAMI Public Connections, owned by the editor-in-chief of the government-affiliated newspaper *Iftin*, together with his wife, a former VOA Amharic service journalist; and *Adey Promotions and Entertainment*, owned by a group of journalists who have bought airtime on Addis FM 97.1 for a Saturday afternoon broadcast. These two radio stations are not yet on air.

From the new Ethiopian Broadcast Proclamation No. 533/2007, it can be argued that broadcasting laws are reinforced in a way to halt or discourage private ownership of TV channels. Laws are overwhelmingly skewed against private broadcasting media ownership (the new proclamation is thoroughly discussed in chapter four).

Statistics from 1999 tells us that there were 178.3 radio receivers per 1000 inhabitants and 7 radio stations in the country, all state-run (Aadland and Fackler, 1999). There are radio stations in regions of Amhara, Tigray, Southern Nations, Nationalities and Peoples, Oromia, and now there are regional radio stations in Awassa, Bahir Dar, Mekelle and Dessie, all state-run.

Contrasting Ethiopia, Uganda can be used as an example of a country which has freed the airwaves for public use. Even if Uganda has fewer years of broadcasting history than Ethiopia, it now has more than 100 radio stations which are opened up and administered by the public (Mbaine, 2004: 3).

2.1.3 Television

Television was first introduced in Ethiopia in 1963 for the sake of transmitting the first Organization of African Union meeting. Since then Ethiopian Television (ETV) has accompanied radio as a state broadcaster. Color transmission was introduced in 1985 marking the 10th anniversary of the Ethiopian Workers Party (EWP). The Dergue did not attempt to promote private ownership of the media or to liberalize the broadcasting

media from government control. However, television showed considerable changes regarding expansion of both the station and program contents during the Dergue regime. Equipment to upgrade both the radio and television stations was imported; either purchased or in the form of aid from colleague socialist countries. But television, like the rest of the media, served the Dergue as a party mouthpiece under harsh government control.

Broadcasting services in Ethiopia have since 1999 been administered under the Broadcasting Proclamation No. 178 of 1999, which have been replaced by the newly endorsed Broadcasting Proclamation No. 553/2007.

The mandate to regulate broadcasting services in Ethiopia was given to the Ethiopian Broadcast Agency in 1999, a body that was made accountable to the office of the Prime Minister, and not to the Ministry of Information (Broadcasting Proclamation No. 178/1999). The Agency was vested the full power to issue, suspend and cancel licenses and had the full power to inspect media stations upon thought of their having illegal materials pertinent to the country's other media laws, essentially through the order of the court (Broadcasting Proclamation No. 178/1999, article 7).

In short, the Broadcasting Agency of Ethiopia was given the entire mandate to execute broadcasting policies in the country, except for the allocation of wavelengths which is done by the Telecommunications Corporation of Ethiopia, another monopolized government agency.

2.1.4 Broadcasting after 1991

Post-1991 holds a new chapter in the history of the Ethiopian media. It marks a juncture for the media in that they went partly into private hands – at least with regard to the print media. However, whether the opening up for private media has reached the desired scale remains a debate.

Though the history of Ethiopian broadcast media traces back some six decades, it did not show much of a change except for rolling in hands of different regimes and moving from

an old roof to a marble building. This goes to have a different meaning when it comes to the press. For the press there has indeed been signs of real freedom, although a little freedom with much punitive lines. The government however, even after 1991, did not give a way into broadcast freedom.

Radio remains the most accessible broadcasting media in Ethiopia for different reasons, such as illiteracy, infrastructure technology and citizens' ability to own a radio before a TV set. A 2003 UN report indicates that 196 out of 1000 people own a radio while only 6 out of 1000 own a TV set (Ong, 2004).

The then Ethiopian Broadcasting Agency, now Ethiopian Broadcasting Authority, admits that it is a failure not to have a private broadcasting culture (interview with EBA official, May 2007). The reason the Authority gives for why private broadcasters are not operational so far is that the country needs to explore what it takes to have a situation where broadcasting services could get out of government control to some extent. Arguably the nature of Broadcasting Proclamation No. 178/1999 also looks repulsive; it does not invite private broadcasters to get involved. It has many articles that are punitive and contains outspoken threats such as confiscating the broadcaster's property if it does not behave. This topic will be revisited in chapter four.

Irrefutably, those undetected lights have brought a brutal response that has by no means been unique to Ethiopia. This was especially inspected immediately in the aftermath of the 2005 election. It was a case during the 2005 election period for Ethiopians to rely on foreign media to have alternative information channels since the local broadcasting stations were seen as one-sided. According to the Ethiopian Constitution article 29 (5), tolerance of different ideas should at all be respected. It is no wonder the broadcast media tried to let unrevealed what really happened out there on the streets, because it would amplify the brutality of the media government's media policy.

During the three regimes (the Emperor's regime, the Dergue regime and the EPRDF regime), television and radio have been monopolized by government, except for a recent

effort to free the airwaves for two radio stations. In this regard, Ethiopia has not exhibited a significant media development like that of several other African countries. One theory is that the slow media development is a result of the government's vested political interest in controlling the media.

If media laws, policies and proclamations have provisions that in reality discourage interested bodies, it means that it signals threats instead of encourages media diversity. In Ethiopia's case, it arguably also would mean a breach of the Constitution's grant of freedom under article 29 (4).

However, this is not because there was no capable body that demanded to take part of the broadcast media into private hands, but because of laws and policies that tightly worked in the country. There were clear forces that gave a push for the presence of broadcast media in Ethiopia at different times, and now, too, the need for liberalizing the airwaves, especially television is seen as a no option. This is because television is now probably the single most important medium for the communication of political information, and, one reason for such a reluctant trend of the broadcast media is that governments, in most case the third world, have understood the power of broadcast media. Broadcast media, for many, are the crucial source of the outside world. What we understand from this is that governments tend to have full control of the broadcast because governments have a fear that the information flow the outside world has got an influence on the local audience.

Governments also understand that the effect of such outsider information would be effective in a way that it brings lots of experiences with regard to politics, economy, social welfare and other basics which governments lacked to effectuate for their people. It gives sense that these media bring about alternative frameworks for such failures. Governments would gradually be questioned for such lacks through the concern learnt by the local people. So, governments often tend to have repressive, rigid and on paper value media policies.

It is observed that it is likely or possible to have such media chaos at times when there are big events like election campaigns. For example, for the mere reason Ethiopian Television and radio, the broadcast media, was considered as a national instrument of broadcast, the whole care of the campaign was handled in a way it would satisfy the interests of the ruling party. One good example can be the allotted time for political broadcasting for different parties, in which the ruling party used the broadcast media outlets much more than the others. This shows that the loose use of policies or laws, or, inappropriate enactment of them, varies to bodies that should be seen in the same eye.

Whose interest to have a look at first in making media policies is a priority? Clearly, the people. For the people to feel belongingness on policies being made in their name there has to be a practical measure in materializing such policies. Nothing without the consent of the public, which is considered as the owner of the media, should be taken into account as a working framework.

The question is not whether the government plays a role in establishing our media and communication systems because it plays a foundational role. The question is in whose interests and for what values are government policies in communication meant to encourage (Thomas and Nain, 2004: 50).

2.1.5 Media ownership

A look at the media trend in Ethiopia prior to 1991 reveals a tendency towards centralized broadcasting systems, highly repressed contents and party line politics. On the other hand, following the change in government in 1991, and most important in ideology, momentous advances are seen – although with regard to rigidity of program contents and monopoly of the airwaves the situation has not changed.

Having full control over the media would give governments a chance to run over citizen's rights. As Francis Nyamnjoh, cited in Thomas and Nain (2004) notes, "African governments are all too eager to capitalize upon any concessions or oversights on the part of their critics to divert attention from their own excesses vis a vis the media and freedom of expression (Thomas and Nain, 2004: 123).

Controlling the media is often seen as a sway from the public's side while governments consider it as a weapon of repression.

As a World Bank Institute (WBI) report indicates, broadcasting media have the power to breach barriers like geography and infrastructure which the print medium often fail (WBI report, 2002: 10). Such power of the broadcast media has been seen by governments as a challenge. Ownership of the media confers control over the nature of the information disseminated (WBI report, 2002: 10). Here governments often go against laws and policies which are believed to have emanated from the public, and freedoms remain on paper when it comes to the broadcasting media. It seems the print media are allowed to enjoy a little more freedom since they have lesser power than the broadcasting media in that they depend on literacy and physical transportation. So, the nature of the medium by itself contributes to bringing it under government control.

Media ownership raises important policy issues. Government ownership of the print or broadcast facilities may imply the absence of certain political freedoms (WBI report, 2002: 10). However, all radio stations currently on air in Ethiopia, and the only TV channel in the country, still remain under government control. This includes the stations in the capital city Addis Ababa and in the regions - all are government-owned and affiliated.

Radio and television should be protected from government censorship under the umbrella of free speech, argues Gattuso, a senior fellow in regulatory policy at the Heritage Foundation in Washington, when discussing the need to free the broadcasting media. He also considers consumers' choice to be a better way of give direction for the broadcasting media than government interests. Gattuso explains that a consumer choice approach provides for a freer information flow than to leave the responsibility to government rules (cited in Feuerstein, 2006).

Discussing on why media as a whole is not as developed in Africa as elsewhere in the world, media scholar Tawana Kupe gives different reasons. The fact that the majority of

the population in Africa lives in rural areas, illiteracy and poor management can be taken as main reasons. In discussing why the broadcast media is still infant, he says:

Radio, which is the nearest to being a mass medium in Africa, suffers the same handicaps: transmission equipment that does not cover the national territory, weak signals, radio sets that are too expensive to a large section of the population, batteries which are both expensive and in some countries difficult to find. Television does not even exist in some countries; where it does the cost of sets is prohibitive and it is only available where there is electricity, which is normally the urban centre. In terms of content, most programming is cheap and old programmes from Europe, North America and Australia.

(Kupe, 1996: 114-115)

The reliance on imported programs, which is also to some extent the case for ETV, implies that local resources and problems are not addressed effectively.

2.2 International obligations and instruments for guaranteeing freedom of expression and fair media regulation

2.2.1 Freedom of expression

The concept of freedom of expression has a long history and dates back to Britain in the 17th century. A 1978 survey of the constitutions of 161 countries shows that 142 countries, or 87.3 percent of them, guarantees freedom of expression (Jones, 1995: 158). This indicates that freedom of expression has become a universally recognized right. At the same time, Price states that freedom of expression is 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 to be one of the most threatened rights with governments all over the world constantly trying to curtail it (Price, 2002; cited in Meron, 2006).

2.2.2 The need to establish regulation over the media

The inception of the idea of media regulation dates back to the mid 1920s in the USA. "By the mid-1920s, there were so many stations that conditions were, at best, chaotic. Interference, not all of it accidental reached intolerable levels. [...] The nation's broadcasters demanded government action to bring order out of that chaos" (Overbeck,

2006: 434). Subsequently, a regulatory body was set up and it started allocating frequencies. Overbeck's discussion of how media regulation started, which is regretted by broadcasters ever since, as Overbeck describes it, is also expressed by Frederick (1975: 117) as: "ironically such regulation arose at the request of the media themselves." To this end, the demand from broadcasters for a broadcast regulation was a must. Otherwise, there might not be a single clear radio or television transmission. McQuail also discusses that "freedom of broadcasting, by contrast, was defined through the idea that the radio spectrum was a scarce public good whose use had to be protected for the good of all" (McQuail cited in Street, 2001: 118).

Referring to the 1995 Ethiopian Constitution, Article 29 (6), freedom of expression is limited under circumstances whereby the freedom exercised exceeds or violates the limit of others' dignity. Article 29 (6) states:

"These rights [the rights stated in five sub articles of article 29 of freedom 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. 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) of FDRE Constitution)

It can be noted from the above statement that freedom of expression is limited only by the laws of the country. Put clearly the fact that limitation on freedom of expression is left to the laws in Ethiopia, there are regulatory bodies that are set up to regulate media activities. Syvertsen's argument in Rønning (2007: 11) on the need to set up regulation and regulatory bodies, which is competition regulation to protect the market from the formation of strong monopolies, appears to be a little early to the Ethiopian context.

2.2.3 The Universal Declaration on Human Rights (UDHR)

Ethiopia is a signatory state to different conventions that have ratified the basic rights to freedom of expression. One such international convention is the Universal Declaration of Human Rights. The United Nations (UN) expects all signatories to consider the declaration as their local/domestic provision so that it applies in all legal instruments of a signatory state, though it does not have any legal effect on any country's laws. The infamous article 19 states that:

"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 regardless of frontiers." (UDHR, Art. 19, 1948)

This article emphasizes the right to hold, impart and seek information without interference through any media outlet of a citizen's choice. It also says that such a right is applicable regardless of frontiers, which shows that information is a must for all. Based on the fact that such a right should be respected fully, there are different international media based organizations that work on the implementation and effectuation of the said right across the world. Among such bodies is 'Article XIX', an international human rights organization which defends and promotes freedom of expression and freedom of information. Article XIX contents that the full enjoyment of freedom of expression is the most potent force to pre-empt repression, conflict and war; it is central to achieving individual freedoms and developing democracy. Article XIX advocates for the implementation of access to information legislation to ensure transparency and strengthen citizens' participation (see [www. article19.org](http://www.article19.org)).

Ethiopia confirmed this declarative article in its 1995 constitution where the article is stipulated in article 29 with seven sub articles that further stipulate freedom of expression. Accordingly, the public is entitled to express and receive information. The right to free exchange of ideas is not limited in the public right to receive information, and ideas made somewhere else, but also includes the right to disseminate one's belief and opinion concerning any public issue, through any media of his choice. According to

article 9 (4) of the 1995 Ethiopian Constitution, it is stated that “All international agreements ratified by Ethiopia are an integral part of the law of the land.” Accordingly, the freedom of expression is granted to all citizens as follows:

1. *Everyone has the right to hold opinions without interference.*
2. *Everyone has 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 or in print, in the form of art, or through any media of his choice.*
3. *Freedom of the press and other mass media and freedom of artistic creativity is guaranteed. Freedom of the press shall specifically include the following elements:*
 - (a) *Prohibition of any form of censorship.*
 - (b) *Access to information of public interest.*
4. *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.*
5. *Any media financed by or under the control of the State shall be operated in a manner ensuring its capacity to entertain diversity in the expression of opinion.*
6. *These rights 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. Legal limitations can be laid down in order 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.*
7. *Any citizen who violates any legal limitations on the exercise of these rights may be held liable under the law.*

(FDRE Constitution, Art. 29)

According to the expectation of the UDHR and article 9 (4) of the Ethiopian Constitution, which states that all international laws that Ethiopia is a signatory should be taken as laws of the country, it is a must for the country to put freedom of expression into effect. However, laws that are endorsed pertinent to the media, both broadcast and print are not in a way they can materialize the stated basic rights. At the same time, the laws, provisions or policies contain a number of features which are either in breach of international standards of respect for freedom of expression or which give cause for concern on those grounds. In most cases of interpretation, the policies appear to present vague and potentially unreasonable content restrictions on the media opposed to the constitution, which clearly forbids interference under article 29 (1).

2.2.4 International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) was approved by the United Nations on 23 March 1976 and was ratified by the Ethiopian parliament on 11 September 1993. It also entails the idea of protection of any kind of information and ideas expressed either orally, in writing or in print. Here, 'orally' means for the broadcasting service, which gives the interpretation that the right to exercise broadcasting service in any form is also discussed internationally. The ICCPR further elaborates Art. 19 of the UDHR and guarantees the freedom of expression accordingly:

1. *Everyone shall have the right to hold opinions without interference.*
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.*

(ICCPR, Art. 19)

The whole idea and meaning of the ICCPR is incorporated in the 1995 Ethiopian Constitution, which directly means that Ethiopia has fully accepted to respect freedom of expression as one basic element of a human rights principle. According to the articles incorporated in the ICCPR, the forms of expression are wide, not limited and are within the reach of an individual right holder, the right holder having a full right to propagate his ideas and beliefs through any media available. Unlike the UDHR, ICCPR

exhaustively looks into the ways to exercise freedom of expression. Moreover, ICCPR has devised an explicit restriction provision on freedom of expression under its article 19 (3). In this regard, the African Charter also lacks such a detailed look into the ways of freedom of expression in that it does not look into the right to impart and to receive information. In the opposite, UDHR and ICCPR protect such a right of holding opinion absolutely. As such, ICCPR can be taken as a best working international instrument for media practice, and to freedom of expression at large.

2.2.5 African Charter on Human and People's Rights (ACHPR)

The African Charter on Human and People's Rights, which Ethiopia ratified in 1998, a year before it dealt with its 1999 broadcast proclamation, states that people have the right to exercise rights of information within the law. Generally, having understood the need to respect freedom of expression, and having incorporated it in its constitution, Ethiopia has considered ways that materialize the exercise of freedom of expression.

2.2.6 The Windhoek Declaration

The Declaration of Windhoek, another declaration specifically dedicated to the media, was endorsed by UNESCO's General conference held in Windhoek, Namibia in May 1991. The day of the Declaration as of then is commemorated as World Press Freedom Day (May 3). The declaration was set by the effort of different African journalists to mark the end of crisis that followed the colonization period and the cold war, and it was the outcome of a long and frank look at the problems of African print media.

The Windhoek declaration asserts that a free press is essential to democracy and is a fundamental human right. It further declares that: "Consistent with article 19 of the Universal Declaration of Human Rights, the establishment, maintenance and fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation, and for economic development" (Windhoek Declaration, Art. 1).

2.2.7 Declaration of Principles on Freedom of Expression in Africa (DPFEA)

The African Commission on Human and People's Rights agreed on the Declaration of Principles on Freedom of Expression in Africa on its 32nd session in Banjul, Gambia in 2002. Its content is similar to the UDHR, ICCPR and Windhoek declarations, which all amplify the respect for the freedom of expression. DPFEA stresses that freedom of expression is a fundamental and inalienable human right and an indispensable component of democracy.

The said declaration under part I (1) also states that no one shall be subject to arbitrary interference with his or her freedom of expression. While stating this, it also puts that it only is possible to restrict freedom of expression through proper laws. On private broadcasting, the DPFEA under part I (1) also states that states are responsible to encourage a diverse, independent private broadcasting sector. In the same manner, the need to establish an independent body that regulates the broadcasting service is clearly expressed in the declaration. In this regard, the establishment of the Ethiopian Broadcasting Authority has an international ground.

On private broadcasting, DPFEA expects signatory states to encourage a diverse, independent private broadcasting sector. It also mentions that state monopoly over broadcasting is not compatible with the right to freedom of expression. It is also emphasized in the declaration that the broadcast regulatory system shall encourage private and community broadcasting through the allocation of frequencies between private broadcasting uses, both commercial and community; through the issuance of licenses and through support.

In part VI of the declaration, DPFEA expresses the need to transform state and government controlled broadcasters into public service broadcasters. The public broadcaster should be "accountable to the public through the legislature rather than the government", and be "governed by a board which is protected against interference, particularly of a political or economic nature" (DPFEA part VI, 2002).

2.2.8 Declaration of African Civil Society Organizations (DACSO)

This declaration of May 3, 2003, under its article 14, says that countries should encourage the African Charter on Human and People's Rights to continue its effort to promote and protect press freedom and respect for freedom of information, including the wider dissemination of the guidelines on the rights to freedom of expression.

Chapter 3: Research methodology

3.1 Introduction

The main aim of this research is to look into the history of the changes that has taken place in Ethiopia with regard to broadcasting media policies since 1991. It attempts to reassess what major changes have been made to the overall broadcast media policy with a particular focus on the broadcasting proclamations of 1999 and 2007. The present chapter is given to the discussion of methodology, the process of data gathering, selection of data sources and how the analysis of the data was done.

The research method employed in this research is broadly qualitative and based on document analysis and interviews. Data was gathered from primary and secondary sources. Primary sources were key informants and key documents (such as the broadcasting proclamations), while the secondary sources consisted of such material as books, newspaper discussion and commentaries to laws concerning broadcasting.

3.2 Data gathering techniques and sources

3.2.1 Key informants

The researcher has conducted in-depth interviews with people representing various bodies with direct or indirect involvement in the development of the Ethiopian broadcasting media. Informants were employed both in the form of formal interviews and more informal talks, and I found the informal ones to be more fruitful. The informants had different outlooks with regard to the broadcasting media, and this was reflected in the responses they gave to almost similar, but unstructured questions. Babbie and Mouton (2001) usefully outline the advantages of in-depth interviews in that they provide a wealth of detailed information; the rapport between the interviewer and the respondent makes it easier to approach certain topics that might be difficult to discover in other approaches. Schroder et al. (2003: 153) explain that individual

interviews prevent the “spiral of silence” impacts, contentious outlooks and experiences from being expressed in a group perspective.

A purposive selection of interviews was made so as to ensure the views of different bodies concerned with the current Ethiopian broadcast media. In-depth interviews were conducted with the Ethiopian Broadcasting Authority (interview with the public relations department officers of EBA); with the newly licensed private radio stations (interview with Meaza Biru, a veteran journalist and one of the two licensees for a private radio station in Ethiopia), two journalists who worked for long in the Ethiopian broadcasting media (one from Ethiopian Television and one from Ethiopian Radio). Above all, the research focuses on policy and media law documents, which inaccessibility of information on Ethiopian broadcasting media was a lesser problem.

Some failed interviews, which could have contributed more to the research were: one with the other licensee for broadcast media, ZAMI Public Connections (the owner could not make it for health reasons); and the other with the owner of Media and Communications centre and editor-in-chief of *The Reporter* (he was out of the country by the time the interviews were made).

3.2.2 Legal documents, policy documents and other material

Different documents pertinent to the broadcasting media at local, regional and international levels were reviewed to inspect the development of the Ethiopian broadcasting media in light of local politics and the broader international experience.

The two broadcasting proclamations of Ethiopia, endorsed in 1999 and 2007, were taken as the main documents witnessing the major developments with regard to the broadcasting media policy. These are the Ethiopian Broadcasting Proclamation No. 178/1999 and the Ethiopian Broadcasting Proclamation No. 553/2007. Broadcasting media directives of the Ethiopian Broadcasting Agency (now Authority), on community broadcasting services, commercial broadcasting services and directives on general broadcasting media services in the Ethiopia media were reviewed to study the overall developments since 1991, which is a period after the coming into power of EPRDF, the

existing government of Ethiopia. Besides, the 1995 Ethiopian Constitution which grants all citizens the freedom of expression is taken into consideration in the analysis as it is the supreme law of the country upon which all other laws and policies are based.

Moreover, reports of the Ministry of Information of Ethiopia, Article XIX, and different international declarations on human rights and freedom of expression were reviewed and studied to make sure the Ethiopian broadcasting situation was compared and contrasted to international standards.

Apart from this, intended data sources like the minutes of the House of Peoples' Representatives committee that drafted and presented the two broadcasting proclamations for endorsement were unfortunately inaccessible. The draft of the new Ethiopian Broadcasting Proclamation No. 553/2007 was acquired from outside sources, not from concerned bodies like EBA or the House of Representatives.

3.3 Data presentation and analysis

Presentation and analysis of data is done in the fourth chapter. As the research is purely qualitative, it depends on analysing facts put forth by interviewees, concepts and ideas incorporated in Ethiopian broadcasting media policies and laws. The analysis is made after a careful study of universally agreed upon basic human rights, the 1995 Ethiopian Constitution, media experiences of other countries, international and continental declarations on freedom expression, different media proclamations, directives on the practise of broadcasting media in Ethiopia and, not least, basic media knowledge acquired from the two years Master's of Arts intensive study at the Graduate School of Journalism and Communication, Addis Ababa University. A thorough discussion and analysis is given to the data acquired.

Chapter 4: Discussion of obtained data

4.1 Major broadcasting developments since 1991

The first considerable development since 1991 has been the opening of new programs, especially with regard to television entertainment programs. With regard to entertainment, until EPRDF came to power in 1991, television programs were transmitted only in two languages: Amharic and English. Program transmission was then started in two other local languages – Oromiffa and Tigrigna. Ato Haileraguel Tadesse is a journalist who worked for long in Ethiopian Television and served as current news section head. He states that the two local languages were introduced soon after 1991 because they have millions of speakers in the country and the government believed it was a way of ensuring equality.

In addition to this, air time expansion was done to television transmission. Weekend entertainment programs started soon after EPRDF came into office. Different regional radio stations were opened, in addition to AM radio stations run by the government as branches of Ethiopian Radio. By now (2007), FM radio stations in Addis Ababa, FM 97.1, and FM 98.1 transmit programs for 18 hours a day while FM 96.3 transmits programs 12 hours a day.

Concerning the content and genre of the programs, especially radio have taken on a more participatory form. Live telephone discussions on all the radio stations, especially on the FM stations, is common these days. Different issues considered to be untouchable among the society are brought forth for discussion on air at different times. The programs also have become more focused on development and entertainment issues.

The government has also felt a need to control and regulate the broadcasting media service so as to create a healthy media atmosphere. The first Broadcasting Media Proclamation was endorsed in 1999. It was repelled by a new broadcasting proclamation

after eight years; Ethiopian Broadcasting Proclamation No. 553/2007. The second proclamation amends and replaces the former EBP No. 178/1999. The contents of the broadcasting proclamation displays the policy of the Ethiopian government towards radio and TV broadcasting. The following section will go into and discuss the differences between the two proclamations in detail as they exhibit the developments in current broadcasting policy in Ethiopia.

4.2 Major differences between the two broadcasting proclamations: EBP No. 178/1999 vs. EBP No. 553/2007

4.2.1 Extent of the proclamations

To begin with, the earlier broadcast proclamation No. 178/1999 had a total of 45 articles while the newly endorsed broadcast proclamation No 553/2007 has a total of 50 articles, which means an addition of 5 articles. Both are organized in six parts:

- Part I General
- Part II Broadcasting Agency
- Part III License of broadcast service
- Part IV Transmissions of program
- Part V Obligations of a licensee
- Part VI Miscellaneous provisions

Besides the number of articles, there are major changes made to Broadcasting Proclamation No. 553/2007. According to the new proclamation, EBP No. 178/1999 is repealed, and will be of no effect after EBP No. 553/2007 has been introduced. However, the new proclamation is more of an amendment to the former EBP no 178/1999. Both proclamations are applicable to both private and state owned radio and television services.

A significant change between the two proclamations is that the name of the regulatory body is changed from Ethiopian Broadcasting Agency to Ethiopian Broadcasting Authority. Sisay Melese, public relations head of EBA, says that the name change has to do with structural adjustments of overall government policies. Accordingly those bodies

which are accountable to the Prime Minister and the parliament are named as *commissions*, while those accountable to the respective ministry offices are named as *authorities* and *agencies* for regulatory and daily routines, respectively.

Under article 2 of EBP No. 553/2007, there are 21 definitions given while the earlier proclamation had only 11 definitions. Of the newly included definitions are *election campaign advertisements*, *public broadcasting service*, *commercial broadcasting service*, *community broadcasting service*, and *political organization*. The need to define such terms has two implications: one means that there are changes made to an already materialized concept like issues dealing with election campaign advertisement and political parties, while the second means that there is a plan to introduce new concepts like community broadcast service; each meaning changes made and new introduction, respectively.

In the third article of EBP No. 553/2007, the application of the proclamation is given a scope to 'government, commercial and community', discarding the 'private' ownership of the former EBP No. 178/1999. Here the new proclamation does not clearly define what 'private broadcasting' means. Though it is clear from the proclamation, EBA informs that the concept of private broadcasting is referred to in the new proclamation as 'commercial broadcasting service'. Commenting on why the term private broadcasting is not mentioned in the 2007 proclamation, Ato Sisay says the Authority presumes the concept of private broadcasting to be seen in light of commercial broadcasting. So, in EBP NO. 553/2007 'private broadcasting' is taken to have the same meaning as 'commercial broadcasting'. He further adds that such a concept is used in some countries and the Ethiopian Broadcasting Policy is taken from the experience of other countries as a result of visits which he himself was part of.

However, under the license category of commercial broadcasting service, Radio Fana, which is run by the ruling party EPRDF, has been granted a license and has started transmission on FM frequency 98.1. One critical question here is that with reference to article 23(3) of EBP No. 553/2007, similar to article 19(3) of the repelled EBP No.

178/1999, a political party cannot own a private or commercial broadcasting station or be a shareholder or a member. But EPRDF has. How is that license justified?

Ato Sisay explains that the license for Radio Fana is issued as a commercial broadcasting license, not with the status Radio Fana had before. The license was granted after Radio Fana registered as a commercial broadcaster. He also informs that Radio Fana had to remove its board members, who were from EPRDF, and appoint new ones who are not involved in party politics. Consequently, Radio Fana, in addition to the license it took for an AM radio station, has been issued a new license as a commercial FM radio station. The new license is not granted to replace the other license Radio Fana had, but a new license that enables it to run a second radio station.

This somehow would be acceptable. However, the mere reason of replacing board members does not clean Radio Fana from EPRDF. There are other concerns which should be carried out with the issuance of the license: funding, personnel, management, establishment of the station (equipment) and others. Moreover, Radio Fana is still under the control of Mega Fine Arts, which is part of EPRDF's business organization, EFFORT. So we see that the unclear conceptualization of private broadcasting has materialized. Similarly, the radio station Dimtse Woyane ('The Voice of Woyane') is issued a license to operate as a commercial broadcasting service station. The same measure has been taken regarding board membership, according to the Authority. The Authority claims that the two stations definitely are private broadcasting service stations.

The second part of both EBP No. 178/1999 and EBP No. 533/2007 discusses the body that is directly responsible for issuing broadcasting licenses in the country. In the 1999 proclamation, the Ethiopian Broadcasting Agency was established as an autonomous federal administrative agency having its own legal personality. As an agency, it was accountable to the Prime Minister. However, in the new proclamation, EBA's name is changed to Ethiopian Broadcasting Authority, and its accountability is to the Ministry of Information.

Concerning the powers and duties of the regulatory body, the former proclamation had 10 articles that state the powers and duties of the EBA, while there are five additional articles entailing more powers and duties of the new EBA according to the present proclamation (Ethiopian Broadcasting Authority will hereafter be referred to as 'The Authority'). The Authority has new powers and duties like deciding on complaints arising in relation to broadcasting services; other duties are discussed in subsequent paragraphs.

As to the administration of EBA, the former Agency had a General Manager, a Deputy General Manager and supportive staff, while the current has a Director General, a Deputy Director General and supportive staff. Concerning appointment of board members, the former proclamation broadly puts that government appoints the members while the new proclamation in detail states how the board is set up, which part of the government does it and which bodies are constituents of the board. In this regard the new proclamation proves more transparency when it comes to appointment of board members. The head of the board was recommended by the board in the former case, and in the latter, the Minister of Information does the recommendation. This also applies to the deputy head of the board, in the new proclamation referred as 'Deputy Director General'. The Director General of the Authority, according to article 9 (3) of EBP No. 553/2007, will be the secretary of the EBA board, which indirectly implies that the secretary of the board is appointed by the government upon recommendation of the Minister. So, the other way around, the government is on top of the Authority doing decisions for decision is made by the board. Here, it is unlikely that the government would appoint board members who are not pursuant to its orientation.

4.3 The Ethiopian Broadcasting Agency/Authority

4.3.1 Establishment

The Ethiopian Broadcasting Agency, now Authority, is an autonomous federal regulatory body established according to EBA No. 178/1999 with the main objective of ensuring the expansion of high standard, prompt and reliable broadcasting service which contributes to the political, social and economical development of the country. (EBA newsletter, 2006).

Accordingly, EBA has been set up with a vision put below:

“Our vision is to see the broadcasting service expanded throughout the country which transmits timely, accurate and balanced information that contributes a great role for the overall development of the country.” (EBA newsletter, 2006)

Concerning the need to have a regulatory body and the purpose it serves, Overbeck states two main functions: authorizing individuals to transmit through issuance of a license; and regulating or supervising the licensees (Overbeck, 2006: 428). In this regard, the presence of regulation makes a sense of responsibility in discharging the duty of assuring the proper utilization of frequencies. As to the view of private broadcasters, the establishment of EBA is not that important. Meaza Biru, one of the two licensees for a private radio station and twenty four years behind her in journalism career, believes that there is no need to set up a regulatory body that controls broadcasters. According to her, the bigger laws of the country, the different codes, are enough for regulation. Meaza believes that content should not be subject to control. As to the standard of equipment, Telecommunications Corporations of Ethiopia and Ethiopian Standards Authority can check whether it is up to the required standard.

4.3.2 Legal status of EBA

EBA has been given a legal personality to perform broadcasting service administration in Ethiopia by the House of Peoples’ Representatives, or, the Parliament, through a proclamation endorsed and put into force on 29 June 1999.

The name, powers and responsibilities, a clear statement of what it does, the procedure for appointing members of the board, a body that administers EBA, how it is funded and other details have been rendered in the proclamation under articles 4 to 16. However, EBA was made accountable to the Prime Minister and was considered as one part of the Federal offices. So, EBA was given a legal personality as a government body. The case of EBA’s legal personality still is the same that it has a legal status as one government body under the new proclamation too.

4.3.3 Funding

In the former proclamation, EBP No. 178/1999, the Agency used to draw budget from government as a subsidy, license fee the Agency collected from the licensed broadcasting stations and other possible sources, being subjected to annual auditing. However, in the new proclamation, the Authority gets budget from the government and the license fee it collects is not clearly put where it goes whereas it still is subject to an annual auditing. In both cases, the Agency and the Authority, was and is entitled to have a book account in its name. As a regulatory body, EBA is expected to be independent from the influence of government, political parties and other bodies having interest in its activities. Influences can come through various ways and one among this is funding or financial resource. According to Ato Sisay, the Authority now gets all the necessary funds from one pipe, which is from the government. The entire money collected through license fees and other means directly goes to government treasure and it will have a released fund from the government like as any government institution.

4.3.4 Independence

By independence in this case is meant the liberty of EBA to act by its own, being free from the influence or control of other interested actors within the limits put forth by the proclamation. To give decisions by its own and to do the whole regulation according to the interest of the mass, or, the public. To be independent includes independence from government and other bodies that might influence for having a vested interest in which its decisions might alter with interference at times of the presence of such bodies. To this end, Andargachew, on the question of accountability and independence expressively argues :

“The central organs of state have the powers appointing the functionaries of those agencies, [which he refers to both the print agency and the broadcast agency] receiving work reports from them and determining their budgets. There is no way of knowing but the central organs of state [which in this case is the office of the Prime Minister in the former proclamation and the Ministry of Information in the new proclamation] or may have used these powers to fill the agencies with

party members who are enthusiastic about imposing the whims of the ruling party.”

(Andargachew, 2006: 14)

In the same line of discussion, Rønning (2007: 16) states that regulatory bodies should formally be accountable to the public through parliament rather than to a minister. It makes sense that accountability of the regulatory body should be to the parliament, which is a public representation body, than the minister of information, which is one part of the government. The issue of independence of EBA, therefore, is left at the point where it matters most with regard to it is accountable to the Ministry of Information rather than to the Parliament.

The Ethiopian Broadcasting Authority does not have a clear statement on why it is accountable to the government. Ato Sisay repeats the case that Ethiopian broadcasting regulatory system is adopted from the experience of other countries, South Africa, Uganda, Australia and UK. On top of this, the Authority argues that its accountability does not have anything to do with its independence and to whom it is accountable to does not affect its independence. According to the Authority, this was not considered to be a problem during the period of sharing experience immediately after the endorsement of the EBP No. 178/1999 in which a team was assigned to study the experience of other countries so as to set up a broadcasting regulatory body in Ethiopia. The Agency also defends this saying the board of EBA would soothe influences for decisions rest up on the board.

On the issue of EBA's accountability to, Ato Sisay says it does not matter to whom EBA is accountable. This again is a matter of overall government policy adjustment. It was made accountable to the Prime Minister under the repealed EBP No. 178/1999, and now it is accountable to the Ministry of Information. This was a case for all offices that do regulation, discharge routine activities and commission offices. So, the Authority believes that it is not a problem to whichever body EBA is accountable to. Meanwhile, EBA is not independent for reasons it gets all the money it needs from government and

the board members are appointed by the Ministry of Information, which is one big ministerial office of the federal government.

4.4 The licensing process

4.4.1 Why licensing?

One might ask why licensing is necessary. Obviously, there should be licensing for a broadcasting service mainly for two reasons: one for the proper use and management of frequencies, and, two, for the sake of public order. In the experience of other countries' broadcast media regulation system, licensing is taken as one mechanism of regulation. On why the government has the power to regulate the broadcast media and why licensing is necessary, Overbeck (2006: 427) discusses the frequency scarcity rationale: "only a limited number of frequencies are available, and the number of stations that may transmit at one time without causing interference is also limited." Overbeck further discusses that such a trend of issuing licenses to broadcasters is a must to secure a proper utilization of frequencies mentioning the licensing experience in the United States: "A broadcaster must get a license form the Federal Communications Commission [a broadcast media regulatory body in the country] before going on the air and must renew it periodically" (Overbeck, 2006: 427).

The concern towards regulating the media through licensing is emphasized in Overbeck's statement. In this regard, private broadcasters also agree on the concept of issuing a license. On the concern of the scarcity of frequencies, which is one core element of the need to have regulation, Rønning (2007: 11) stresses that cultural and democratic diversities should be taken into consideration. Meaza, a journalist and one of the two licensees for the first two radio stations in Ethiopia, on her part believes that it would not be a problem to have licensing, but she believes that licensing should be as simple as registering for any commercial purpose. She also adds that had it not been for the slow process of issuing a license, she could have started transmission years before. So, what she puts as not acceptable is the way how EBA goes about the process of issuing the license, not the concept of it. To this point, it makes sense that the delay is explained as a problem while private broadcasters agree on the concept of the need to issue a license. In line with Meaza's argument, Rønning (2007: 13) discusses the need to have regulation as:

“as long as the regulation only is concerned with the distribution of limited resources such as frequencies and access to the net, one cannot classify this as being contrary to freedom of expression principle, but as soon as it moves into other areas, it becomes problematic.” The truth that frequency is a scarce resource is understood by Meaza; however, she states that Telecommunications Corporation can regulate the allocation and there is no need to have EBA in this regard.

From this, it can be noted that if everyone happens to have a broadcasting service and this is not regulated properly, it becomes impossible to manage for frequency is a scarce resource.

The second argument on why the broadcast media should be regulated through licensing is more of concerned about the public order. Whosoever happens to acquire a broadcasting service station needs to be regulated because it has to carry the responsibility for any content of its programs. Syvertsen, cited in Rønning (2007: 11) raises the issue of consumer protection. Syvertsen states: “Regulation exists in order to protect the audience from advertising that is deemed to be offensive and harmful” (Rønning, 2007: 11). Since broadcast media by its nature is reachable by many, it makes sense that it could certainly create public disorder within a short period of time if it is unregulated.

Consequently, licensing is incorporated in the Ethiopian broadcasting proclamations. The 2007 proclamation contains an article that categorizes broadcasting services. Under article 16 (1) of the proclamation, there are three categories included, namely public, commercial and community. The proclamation further elaborates what each means. Such categorization was not made in the former EBP No. 178/1999; it all was referred as a broadcasting activity.

The categorization entails one new concept; i.e. an offer to establish a community based broadcasting. However, the new EBP NO.533/2007 does not clearly put a distinction between the three categories it made and who can own which, except for the thirdly

mentioned, which remains illusive. Accordingly, when one applies for a license, he has to specify to which service the license is required. Describing the situation of how the licensing process went on, Meaza says it was lethargic and took her five years. She explained that the selection process, bringing the number of applicants down, has taken three years. They then were asked to produce 30% of the total estimated cost for establishing an FM radio station. In this case, Adey Promotions bided 750, 000 Ethiopia birr which was 30% of the estimated 2,500,000 Ethiopia birr. This was after three years of the submission date of application.. At this stage, there were only six applicants that presented the said amount.

After the said amount was bided, EBA said nothing and the money was kept in a blocked account, which Meaza told it was not fair to hold such an amount of money for three years.. Such a duty to produce 30% of an estimated cost for establishing a radio station, is not mentioned anywhere in the EBP no 178/1999. However, EBA has acted in line with a power that it never has been given by the then working proclamation no 178/1999. in line with Meaza's argument, (Rønning: 2007, 16) discusses that decisions made by regulatory bodies should not affect private broadcasters and such decisions should be subject to the principles of administrative justice, which in Ethiopian context are the codifies laws, and be accompanied by written reasons. To this end, the statement of Rønning and the way EBA acted towards giving decisions pertinent to the 30% bid request do not go parallel and this strengthens Meaza's argument. The thing is that there was no other body to appeal for and the applicants had to bid the required 30% of money, which they did. This gives a meaning that EBA can act beyond the powers it is granted, notwithstanding to the proclamation.

The implication of such unauthorized acts would also mean that applicants are subject to ad hoc procedures of EBA, which leaves EBA under question mark. Commenting on this, Meaza has said the following:

"We had asked EBA why we were supposed to did that 30%; but we were told to do it, just that. We later learnt that such a law came from Israel, I did not know it exists any

where in the world before,” To this end, Meaza expresses her fear that Ethiopian media laws would be tight and restrictive as the trend goes on to be copying such tight laws from different countries. She points it out as “our media laws would be a collection of restrictive articles if we copy only the restrictive ones.”

The EBP NO.533/2007 has also classified six categories of broadcasting service licenses:

1. *Terrestrial to air free radio or television broadcasting service;*
2. *Satellite radio or television broadcasting service;*
3. *Cable television broadcasting service;*
4. *Subscription broadcasting service;*
5. *Signal distribution service;*
6. *Other broadcasting services to be prescribed by the Authority.*

One feature of the new EBP /2007 is that it has put the mentioned categorized services so that those who have interest in broadcasting can deal with in accordance with the specified services, those categorized under types of broadcasting services. In the former EBP no.178/1999,, this was vaguely put in a way that there was a mix up of services for a single license, which could have led to arguments for art 20 of the former EBP NO.178/1999 put it broadly. Both proclamations do not allow running more than one station with a single license.

The new EBP NO.533/2007 has a new article that states the Authority announces an invitation to applicants to apply for a license for a specified category of broadcasting service where by the applicants have to fill out the form prepared by the Authority with the time specified in the notice issued. However, this might be hindering applicants from getting into the broadcasting service for the Authority might issue the offer at times such applicants are not financially or technically ready. However, the new EBP NO.533/2007, notwithstanding to sub articles 1-3, its article 19(4) states that one can apply to get a license for a public broadcasting service. In this case, the Amharic version of the new EBP NO.533/2007 translates *public broadcasting* as a government broadcasting service. So, this might imply that article 19(4) of the new EBP NO.533/2007 is open only for the government. Consequently, the Amharic version of the new EBP NO.533/2007

invalidates the newly introduced concept of public broadcasting. The new broadcasting proclamation also remains open for critic for it barely allows the handover of public broadcasting from government hands.

The new EBP NO.533/2007 also has introduced a new article that entails '*an unacceptable application*'. In the new article, EBP NO.533/2007, art 20, it is stated that one who fails to produce legal evidence to ascertain its financial capacity and source of financing as well as one who fails to produce a detailed project proposal is not entitled to apply for a broadcasting service license. This might prove the fact that EBA is right to demand applicants to bid 30% of the total required money: however, the exact figure that an applicant is required to bid should clearly be put, or, be mentioned in the proclamation. Besides, for how long EBA should hold the money bided by applicants should clearly be stated in the proclamation.

On the other hand, the new EBP NO.533/2007 grants the Authority to set criteria for issuance of a license. This power is given to the Authority by the new EBP NO.533/2007 under article 21. Accordingly, the Authority shall set criteria that enable it to evaluate the capacity of applicants. There is no problem in giving the Authority such a power, but the points enlisted in the subsequent sub articles seem vague and need definition. Of such criteria put under the said article, 21(2) (c) and (d) are open for different interpretations. For example, Adey promotions applied for a license following EBA's announcement for issuance of two licenses for a private FM radio station. Meaza tells that there were 15 applicants at the beginning and finally two; Adey Promotions and ZAMI Public Connections were licensed. But, the two radio stations that started transmission, Fana FM and 'Dimtse Woyane', or, *The Voice of Woyane*, were not in the list of the 15 applicants that registered for a private radio station following EBA's announcement. Another article that further puts criteria for applicants for getting a license is article 21 of the new EBP no 553/2007. Details of the said article read as follows:

- c) *The applicant's organizational capacity, knowledge and experience to render the service.*
- d) *The contents of the program submitted by the applicant and social needs covered by the program.*

When we see sub-article (c), it is not clear by what capacity of the applicant means: is it the personal skill of the applicant, which is professional knowledge he/she has in the area of broadcasting service or his/her ability to establish a competitive management with people who are in the media profession? If it is the first, then, this clearly is a ban against those who want to engage in a broadcast service but who do not have direct knowledge of broadcast media.

It would also mean discouragement to those who like to invest in the broadcast media. The Authority in this regard implicitly forbids issuance of a license to applicants without broadcast media knowledge, whatever amount of money they have. The article is also put illusively in a manner that does not specifically put what type of skill it is. Here, there is no any problem as such if one is licensed for a broadcast media service so long as he/she can hire professionals to run the service.

Unfortunately, if this is the case, we do not have Ethiopian broadcast media professionals as such who have the financial capacity to establish or run a broadcasting service fulfilling the technical requirements. But, this not to mean there are no people or organizations that have the capacity. The first licensees are issued the license after fulfilling the necessary requirements. But how many of the can we have? This was witnessed from Meaza's interview in that the number of applicants dropped from 15 to 6 when they were asked to bid the 30% of money.

According to are 21(2) (d), content of the program vs. 'social needs', the Authority will have a room to exercise more power of rejection for it can give situational definition for the criteria is not pr-defined.

Different from the former EBP NO.178/1999, the new EBP NO.533/2007 in its article 22 (3) allows any one who is denied of a license to appeal to the board within 14 days from the date of the decision while the board is expected to respond to the appeal with 20 days of the receive of the appeal. The former did not have such a room of appeal, so the new EBP NO.533/2007 appears more favorable to the applicant in this regard. Any further place an applicant can pursue an appeal is not mentioned anywhere in the proclamation.

4.4.2 Who is not entitled to get a license?

Within the context of licensing, the former EBP No. 178/1999 had prohibited three types of applicants from undertaking a broadcasting service. Such bodies that were prohibited were:

1. *applicants whose nationality is not Ethiopian*
2. *political parties*
3. *religious organizations*

However, the new EBP No. 533/2007 has raised the number to eight. Under the new EBHP/2007, the following are not entitled to have a broadcasting service license:

1. *a body that is not conferred with a legal personality;*
2. *without prejudice to the provisions of other laws regarding foreign nationals of Ethiopian origin, an organization:*
3. *not incorporated in Ethiopia; or*
4. *in which its capital or its management control is held by foreign nationals;*
5. *an organization of which a political organization is a shareholder or a member of a political organization's supreme leadership is a shareholder or member of its management at any level;*
6. *a religious organization;*

7. *an organization of which its owner or any of its owners or a member of its management is convicted of a serious crime or, by decision of a court, is deprived of exercising his civil or political rights or has fully or partially lost his legal capacity;*
8. *an organization of which more than 50% of its capital is held by another organization which carries on the business of printed press or news agency or a person that owns more than 20% of the capital of such organization;*
9. *an organization applying for a television broadcasting service license while already having a license for television broadcasting service or more than one license for radio broadcasting service;*
10. *an organization applying for a radio broadcasting service license while having a license for radio broadcasting service in the same license area or two licenses in different license areas.*

When we see what is stated under article 23, there is this sub article (23(1)) that talks about legal personality of applicants. Here the proclamation did not put which legal personality it is for there are two types of legal personality: the first is a kind of legal personality one is entitled to have by virtue of birth while the other is what the Ministry of Justice of the country issues. In the latter, it is a case that means on who is conferred as a legal personality is entitled to have broadcasting service license, which contradicts with the proclamation's subsequent articles.

As it is the case in the former EBP NO.178/1999, which prohibits bodies whose nationality is not Ethiopian under its Article 19(1), the same is also in the new EBP NO.533/2007. The new proclamation, however, has further added new articles which broaden the domain of this prohibition. Now, in the new EBP NO.533/2007 under article 23 (2) (a) and (b), the prohibition demands applicants for a broadcasting service not only to have an Ethiopian nationality, but also their incorporation with in Ethiopia. It also prohibits such applicants if the capital or management of the applicant is if a foreign national. The new EBP/ 2007 under article 23 also prohibits foreigners form engaging in

broadcasting service in Ethiopia if they exercise control over capital or management. To this end, (Syvertsen, cited in Rønning: 2007, 10) has come up with an argument on the need to regulate the broadcast media, which is the concern of maintaining local culture, could be raised. The need to incorporate articles in Ethiopian broadcasting media proclamations that strictly prohibit foreign investment in the local broadcasting media service seems to be justifiable from the perspective of maintaining local cultural values. Put forward the unique feature of broadcast media, its power to influence audiences regardless of frontiers and literacy, regulation can be an option to protect the audience with in reach from gradual surrender to foreign culture.

In this regard, according to Ato Sisay, the authority prohibits involvement of foreign investment to maintain the sovereignty of the country. It believes that if the broadcasting service is to be run by foreigners, acculturation, lose of local values and external influence on local order would prevail. However, allowing foreign investment on the broadcasting service might not be as harmful as the Authority states if proper control is established over it.

Here, when the FDRE (Federal Democratic Republic of Ethiopia) is shouting loud for a foreign investment in the country, it will be a paradox to proclaim the banning of foreign investment in the broadcasting service, a sector that is among the least developed of all. It would also contribute to the slow growth of the broadcasting service in Ethiopia. Besides, as situations go on broadening prohibitions, it would extend the broadcasting service to remain in the hands of government.

Similarly, the new EBP NO.533/2007 has put more limitations on prohibition of political parties from getting a license for a broadcasting service with newly introduced detailed restrictions. The former EBP NO.178/1999 under article 19(2) had prohibited political parties from getting a license for broadcasting service; the prohibition was at a political party level and did not give further prohibitions.

On the other hand, the new EBP NO.533/2007 article 23(3) prohibits any organization of which a political organization is a shareholder or a member of a political organization's supreme leadership is a shareholder or member of its management at any level. In both proclamations, there clearly is a violation of the right to exercise freedom of expression without any interference, which is duly granted by the 1995 FDRE Constitution which is the supreme law of the land. On raising the number of bodies that are not entitled for a broadcasting service license, the Authority again refers to policies of other countries and argues that the broadcasting service should not fall under the control of bodies that do have a specific interest like politics and religion. However, this has to be justified and, the policy should be seen against local and standard laws and rights.

In the 1995 Ethiopian constitution, it is stated that any law or provision set in contradiction to the constitution is of no effect. So, is the idea of prohibiting political parties and religious organizations, which of course is interference, constitutional? Is it not evoking the supreme law of the land, article 9(1), which states: "This Constitution is the supreme law of the land. All laws, customary practices, and decisions made by state organs or public officials inconsistent therewith, shall be null and void."

It might also be a wonder for the House of Representatives to endorse a proclamation that clearly contradicts Article 29 (2) of the constitution which states:

Everyone shall have the right to freedom of expression without interference. 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 other media of his choice.

so that the proclamation would be put in to effect

The new EBP NO.533/2007 article 23(3) further violates people's right to participate in any political organization if they involve in a broadcasting service, or have any broadcast media outlet for their political organization. Article 23 (3) of the new EBP 553/2007 states that: an organization of which a political organization is a shareholder or

a member of a political organization's supreme leadership is a shareholder or member of its management at any level" cannot acquire a broadcasting service license. In this case, if one by chance comes to run a broadcasting service, he has to quit political participation, it means. The same applies for religious organizations. If one's right to have any belief of his choice is respected, it also should include the right to express his religious beliefs through any means without interference as article 29 of the Ethiopian Constitution states. To this end, Ato Sisay states that religious organizations are denied of a broadcasting service license because broadcast media by its nature is different from print media in that the message or content of the program gets everyone within the reach, irregardless of the audiences' desire. So, limitation has to be put on this to protect public order.

In addition, the new EBP NO.533/2007 has introduced an article that prohibits multiple ownership of a broadcasting service. Article 23(3) (6), (7) and (8) restricts issuance of a license of a broadcasting service. According to art 23(6) if an organization of which more than 50% of its capital is held by another organization which carries on the business of printed press or news agency or a person that owns more than 20% of the capital of such organization. In the first place, the article is put in a more illusive way. Second, it is not clearly defined what problem might arise form such a venture of the press business. Similarly, according to article 23(7) and (8) an organization applying for a television broadcasting service license while already having a license for television broadcasting is not entitled to have a license. The same applies for radio.

4.4.3 Renewal of a license

On renewal of a license, (Overbeck: 2006, 445) states that renewal of a license depends on the performance of the broadcast station or the licensee, or, as Overbeck puts it: "...the broadcaster is supposed to show good stewardship in the use of its assigned frequency." (Overbeck: 2006, 445). The new EBP NO.533/2007 has also introduced an article that deals with renewal of a license. In the same manner, Article 25 of the new EBP NO.533/2007 holds four sub articles that entail criteria for renewal of a license. Such criteria were not included in the former EBP NO.178/1999 while suspension and revocation of a license were. it is important to have renewal of license incorporated in

the EBP NO.533/2007. However, the said article rather over empowers the Authority to determine renewal according to the interest of the Authority.

Article 25(1) requires a licensee to fill out and submit a renewal form to the Authority not earlier than one year and not later than six months before the expiry of the validity period of the license. The validity period of broadcasting service licenses shall be as follows:

1. *Where the transmission is at the national level, 8 years for radio, 10 years for television;*
2. *Where the transmission is limited to a regional state, 10 years for radio, 12 years for television;*
3. *Where the transmission is limited to local level, 12 years for radio, 14 years for television;*
4. *Where the transmission is limited to Dire Dawa, 10 years for radio, 12 years for television;*
5. *where the transmission is limited to Addis Ababa and its surroundings, 6 years for radio and eight 8 years for television;*
6. *For community broadcasting service 5 years;*
7. *For short-term community broadcasting service not more than 1 year.*

But, the time the Authority should respond to the renewal application is not specified. Article 25(2) states: "Before renewing the license, the Authority shall ascertain that the radio wave is not required for another purpose." Here, comes one question: what does another purpose of a radio wave mean? A radio wave serves for a radio. Besides, according to the said article, if the wave is required for a different purpose, that is, a different radio station, it is not clearly stated what factors or remedies make it subject for a devolvement. It is to mean that the article does not clearly lay how a radio wave is needed for another purpose and the one who already is licensed for it has to terminate

the contract the devolve the wave. What determines priority? Otherwise, the article gives the authority a power for unlawful snatch of licenses for insufficient reasons.

Article 25(3) of the new EBP NO.533/2007 states that the Authority ascertains if the service rendered by the licensee was acceptable to the community and checks records of complaints brought against the licensee before the approval of the renewal of the license. This is one good part of the new EBP NO.533/2007 in that it bears responsibility to the Authority, the sole body given the mandate to administer broadcasting service in the country, to discharge in accordance with public interests. Yes, it is obvious that a licensee that did not serve the community properly and that has got repeated complaints brought against should not continue in the same manner. However, there should be a clear parameter or criteria set forth so that both parties would base their deal on. What does it mean by repeated complaints? How much? What degree of complaints? The said proclamation fails to answer such questions. Moreover, it is not clearly stated how the Authority measures the extent of acceptance of the program by the community. Does it research? If so, how often? What percent of the consumer should be found dissatisfied to label the program as unacceptable? What role /share will the licensee have in the process of consumer identification? All these and related questions are not attempted in the said proclamation.

On top of this, article 25(4) of the new EBP NO.533/2007 states that the validity period of a renewed broadcasting service license shall be determined by the Authority. This gives the Authority a room to define renewal period in its own favorable context. Apart from this, when article 25(4) is seen against article 24 of the same proclamation, it does not put a specified duration of time for a license. Why is the validity of renewed license given to the Authority to decide instead of stating a certain validity period? Otherwise, there should have been a clear distinction between issuance and renewal of a license, as it is the case that the new EBP NO.533/2007 recognizes the difference. I say this because the two articles, Article 24 and Article 25 of the said proclamation give the Authority two different roles to play: one, it identifies which specified validity period fits for a certain

application and issues a license for such a period while the later gives the Authority the power to set /decide the duration of a license.

Another new introduction in the new EBP NO.533/2007 is Article 26 that holds issuance of a license for expansion. Such an idea was not included in the former EBP no. 178/1999. The introduction of the article appears to be of importance in that it helps to regulate wave distribution and improper use of equipment that might occur in a due process of unexpected expansion.

One who wants, and is entitled, to engage in broadcasting service in Ethiopia is expected to pay fee. The former EBP NO.178/1999 under Article 26(1) required one who has received a radio or television broadcasting license to pay an annual license fee determined by the Agency. Meanwhile, the new EBP NO.533/2007 under Article 27(1) demands any broadcasting service licensee to pay license fee, annual fee and license renewal. The two issues differ in that in the later case license fee and renewal fee are included.

The EBP no 178/1999 states that any licensee should set up its own station, fulfilling all the necessary equipment and staff, within one year as of the day of issuance of a license. However, it has been more than one year since the two private broadcasters have been issued a license and they have not yet established their own studio (station) and started transmission. Why?

As to the case of Adey Promotions, as Meaza said, the delay occurred mainly because their application to the Addis Ababa Municipal for a lease land to plant their antenna and studio has not still been replied. Besides, the municipal has required them to bid money of an amount of 1,250,000 in a blocked account and the money is still in a blocked account for more than a year, while the application has got no response. In this regard, Meaza states that EBA does not support licensees in securing such basic facilities, even to the extent of declining to requests for writing a letter of support. As to the other

licensee, ZAMI Public Connections, information is not obtained for request for an interview was declined due to reasons of health status.

As it clearly is mentioned in the proclamation, EBA takes away licenses of applicants who fail to start transmission from their own station within one year from the day of issuance a license. It also is clearly mentioned in the both proclamations that EBA has the power to give another 6 months for the licensees to start transmission from their own station. Both licensees are added a 6 months time and are expected to be operational before October 2, 2007. Thus, no license has been taken away by EBA so far.

On suspension of licenses, both proclamation EBP NO.178/1999 and EBP NO.533/2007, have stated instances whereby a license may be suspended under Article 24 and Article 25, respectively. The difference between the two is that the former required the board to respond to appeals submitted by licensees within 8 days while the later gives 30 days for the board to respond to appeals. The later appears to give much more time for the board to respond to appeals which extends suspension of license which that in turn would elongate the closure period of a station. If, at the end, the suspension was done so without reasons that do not amount for a suspension, the licensee would suffer from the extended days given to the board to respond.

4.5 Reasons for delays of transmission

Meaza says that the previous broadcasting service proclamation no 178/1999 had a room for a private broadcasting service compared to the new EBP NO 553/2007. She says that the newly endorsed EBP NO 553/2007 is more restrictive. However, the repelled EBP no 178/1999 also had problems is that it was endorsed where by there was no any body that executes it, which in this care is EBA.

According to Ato Sisay, EBA was set up after four years of the endorsement of the EBP no 178/1999. The delay of the establishment of EBA, according to him, is because there was no preparation for the establishment and it was needed to study experience of other countries.

Meaza also says that the issuance of a license for private broadcasters is delayed for five years after the start of issuance of licenses. This would be taking broadcasting service steps back and to endorse EBP no 553/2007 which as she points at it, is more restrictive. Broadcasting media in Ethiopia when it comes to taxation is considered as luxury and a high tax is levied on any imported media equipment like as cigarettes, whisky and perfumes. One critical question that should be raised here is that “do those who worked on the tax laws know the real meaning and purpose of broadcast media?” for this question might be beyond the scope of this research. However the case at hand shows both misinterpreted meaning and purpose of media or a deliberate discouragement.

A practical example for this is Adey Promotions. Meaza to this said that Adey Promotions is required to pay a tax of 220,000 Ethiopia birr for equipment bought recently for 32,000 USD (1USD = 8.89 Eth B.)

Adey Promotions and ZAMI Public Connections, the two licensees for a private radio station are given another 6 months time to start transmission from their own station after the one year period was over. So, Adey Promotions has rented a building with an extra cost to meet the deadline set by EBA, which is October 2, 2007. Adey expects to start transmission in August 2007.

During the interview session, it was possible to see reconstruction inside the building rooms, which Adey got for a rent, to give it a form of a studio. A transmission antenna was also being erected on top of the building roof-the first private radio station in Ethiopia.

As to revocation, both EBP NO.178/1999 and EBP NO.533/2007 have similar statements in that a broadcasting license may be revoked in accordance with enlisted failures under Article 25 and Article 29, respectively. However, the new EBP NO.533/2007 has introduced one more article that the former did not have. This, article 29(9) state that failing to meet the expectations of Article 27 of the same proclamation, which is license and annual fees, the failure to do it so amounts to revocation of a license. The said

proclamation has also put an appeal period for revoked licenses while the board is expected to respond to such appeals presented within 14 days of action date.

4.6 Program/content restriction

Both EBP NO.178/1999 and EBP NO.533/2007 expect broadcasting transmissions to be balanced, accurate, impartial and representative. The proclamations under art 27 and art 30, respectively, do not allow any program transmission that violates the dignity and liberty of mankind; commit a criminal offence against the security of the state, defamation, cause dissension and incitation of war. In relation to this, programs with contents that go against the norm of the society and children are subject to regulation. Accordingly, such a regulation should likely not be taken as a violation of the principles of freedom of expression. This is an article that gives a proper power to the regulatory body, which is EBA, to check if public order goes in parallel with freedom of expression. Why this by no means could be taken as limitation on freedom expression is the reason freedom expression has to compatibly go with public order, which the righteous citizen also should have first to exercise freedom of expression.

4.6.1 Children's program

Well being of children is also given protection under article 28 and article 31 of the two proclamations, respectively. As it is common in other countries, a presumed time children will not be watching or listening transmissions is given in both proclamations, which is after 11:00 O'clock in the evenings.

4.6.2 Advertising

Concerning advertisements, both proclamations, EBP No. 178/1999 and EBP No. 533/2007, under art 30 and 33 respectively, prohibit any advertisement from affecting content of other programs, advertisements that undermine other programs and requires any advertisement to be truthful and not misleading. Transmission of advertisements interrupting any program of which the time is not more than 20 minutes or children's program is prohibited. This means that no advertisement transmission is allowed in children's programs. However, this would mean over protection, and it is not wise to prohibit all forms of advertisements, irregardless of content of the program. Broadcasting cigarette, narcotic drugs, liquors with more than 12% of alcoholic contents

and others prohibited by law is prohibited by the broadcasting proclamations under article 31 and article 34 of the said proclamations, respectively. For all possible advisements, unless it is a commercial station, transmission of advertisements cannot exceed more than 20% the whole program transmission.

4.7 Punitive articles

Any broadcaster was/ is subject to an any time inspection of his station by the Agency under article 41 of EBP NO.178/1999 and article 44 of the new EBP NO.178/1999 and article 44 of the new EBP NO.533/2007 during working hours. In return, the broadcaster has the right to ask for authorization documents from the Agency's (Authority's inspectors). The two proclamations do not have difference in this regard. Here, the exercise of inspection can be taken as a good action for broadcasters would always keep the service at its best for inspections are done any time. However, there should no be a way of using this article to threaten broadcasters, and invade privacy by the Authority.

As to penalty, the repelled EBP NO.178/1999 under article 42(1) (a) had stated penalty of imprisonment of not less than three years and not more than five years plus a fine not less than 10,000 birr and not exceeding birr 20,000 for one who violates article 17(1) of the said proclamation, which prohibited anyone from undertaking a broadcasting service license from the Agency. In the new EBP NO.533/2007, the penalty for the same offence is amended under article 45(1) to be a fine not less than 50,000 and not exceeding birr 100,000. In the later case, imprisonment is left off while the fine increased in five folds. This would not be a problem as such for one is less likely to practice this without a license.

Again, under article 42(1) (b) of the repelled EBP NO.178/1999, a 1-3 years of imprisonment and fine of 5,000 to 50,000 birr was laid for those who do not open up for inspection and who do not respect the duty to respect the right to reply. However, in the new EBP NO.533/2007, there is no any fine or punishment laid for one who commits the same violation to what is stated above. This I think is done so either by mistake, or, if it is deliberate, the said proclamation should have explained why it is left out. This argument would be plausible because there would be a need for the Authority to do

inspection as a sole responsible regulatory body. The rest, the major difference between the two proclamations is that the later does not put imprisonment as punishment; however, it has raised the fine in many folds.

One is also subject to a worse measure, a measure with much more than a penalty of confiscation. Any broadcaster, who violates article 30 (4) of the new EBP NO.533/2007, that states:

4. *Any program intended for transmission may not:*
 - a) *violate the dignity and personal liberty of mankind or the rules of good behavior or undermine the belief of others;*
 - b) *commit a criminal offense against the security of the State, the constitutionally established government administration or the defense force of the country;*
 - c) *maliciously accuse or defame individuals, nation/nationalities, peoples or organizations;*
 - d) *cause dissension among nationalities or instigate dissension among peoples;*
or
 - e) *incite war.*

which has replaced article 27(4) of the former EBP NO.178/1999, and which has got the same meaning with the quoted article. one who violates the said article is subject to confiscation of the property used for broadcasting in addition to the principal penalty under article 46 of EBP NO.533/2007 and the repelled art 43 EBP NO.178/1999. This is a violation against one's right to own property; one's basic right to retain property. It can never be a balance to any violation of the proclamation. Compared to what it takes to set up a broadcast station, which EBA itself estimated for a radio, 1,303,300.00 Ethiopian birr. Confiscation of such a property would mean a loss to private broadcasters for broadcaster has expensive equipment in the studio and in the station as a whole.

Chapter 5: Concluding remarks

The Ethiopian Broadcasting Proclamation no 553/2007 is found out to be more or less an amendment to the Ethiopian Broadcasting Proclamation no 178/1999. The amendments made to the former EBP include new concepts like as public broadcasting; whereas, in the Amharic version the term is given a meaning of government broadcasting service.

The Ethiopian Broadcasting Agency (now Authority) is found acting beyond the powers it is given and impeding broadcasters' right notwithstanding to the proclamation that gave it the powers and duties. This is totally a violation against one's right to own property; one's basic right to retain property. It can never be a balance to any violation of the proclamation.

As to content restriction, the Ethiopian Broadcasting Proclamations are found to be inconsistent with article 29 of the 1995 Ethiopian Constitution which states that one's freedom of expression is not subject to limitation on account of content or point of view expressed. Moreover, the restrictive articles are found to be put into effect in contradiction to the supreme law of the land, the Constitution. The endorsement of the broadcasting policy is done by the HOR (House of Peoples' Representatives), which is there to protect the supremacy of the Constitution.

The Ethiopian Broadcasting Proclamations deny political parties and religious organizations their right to freedom of expression, notwithstanding to the vested right to freedom expression in the 1995 Constitution. If limitation has to be put, the Constitution accordingly states it to be done through laws. So, the broadcasting policy, in contradiction with the Constitution, is limiting freedom of expression on those EBA identified as bodies not entitled for a broadcasting service license.

A considerable difference between the two proclamations is that the later does not put imprisonment as punishment; however, it has raised the fine in many folds. This is taken

as one positive part of the new EBP NO.533/2007.A related conclusion is that EBA, private broadcasters, applicants and licensees do not work together.

It is found out that, however, in the new EBP NO.533/2007, there is no any fine or punishment laid for one who commits runs a broadcasting service without a license. This I think is done so either by mistake, or, if it is deliberate, the said proclamation should have explained why it is left out because in the same proclamation it is stated one cannot do engage in a broadcasting service without a license. In short, this opens a free room to interpret the issue.

The new EBP no553/2007 has put in articles that open a room for an appeal to the EBA board for applicants who are not satisfied with a measure taken by EBA. This is a necessary inclusion to the Broadcasting policy in that it gives broadcasters a chance to appeal.

Licensing was the area in which much amendment was made to the Ethiopian Broadcasting Proclamation no 178/1999. On this, it is found out that private broadcasters have a view the new Ethiopian Broadcasting Proclamation is restrictive. It was also possible to review in the research that the new Broadcasting Proclamation has restrictive articles on licensing than the former EBP no 178/1999.

The overall media environment in Ethiopia now is open for all on paper and restricted for many in practice. The collection of articles and provisions from other countries would mean something, however, copying only the restrictive ones, as private broadcasters fear, is not helping the broadcasting media development.

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Appendix 1: List of interviewees consulted during the research

1. **Sisay Melese**, Head of the Public Relations Office of the Ethiopian Broadcast Authority
2. **Haileraguel Tadesse**, Head of News Section, Ethiopian Television and Radio Authority
3. **Meaza Birru**, a journalist and one of the two licensees for a private radio stations in Ethiopia
4. A journalist from Ethiopian television and Radio Authority (anonymity kept upon request)
5. A journalist from Ethiopian television and Radio Authority, who served in the radio section for 13 years (anonymity kept upon request)
6. A staff member of Ethiopian Broadcast Authority (anonymity kept upon request)

**Appendix 2: Ethiopian Broadcasting
Proclamation No. 178/1999**

**Appendix 3: Draft Ethiopian Broadcast Media
Proclamation No. 553/2007**