

CHAPTER 72:04 - BROADCASTING: SUBSIDIARY LEGISLATION

INDEX TO SUBSIDIARY LEGISLATION

Broadcasting Regulations

Broadcasting (Fees) Regulations

BROADCASTING REGULATIONS

(under section 23)

(29th October, 2004)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Ownership
4. Commencement of broadcasting service
5. Fairness in advertising
6. Scheduling of advertisements
7. Sponsorship of programmes
8. Infomercials
9. Harmful interference
10. Local content
11. Broadcasting standards
12. Protection of children
13. Accurate, fair and impartial reporting
14. Broadcast of unconfirmed reports
15. Correction of errors in broadcast
16. Reporting on controversial issues
17. Conduct of interviews
18. Comments
19. Invasion of privacy
20. Consent to broadcast
21. Sexual offences
22. Payment of criminals
23. Public notices of emergencies or public disaster announcements
24. Special event broadcast licence
25. External satellite feed
26. Broadcasts conducted without Board's authority
27. Amendment of licence conditions by Board
28. Amendment of licence conditions at request of licensee
29. Restrictions on dealing with foreign governments
30. Cable broadcasting
31. Community broadcasting
32. Commercial broadcasting
33. Public broadcasting

- 34. Complaints
- 35. Dispute resolution
- 36. General penalty

S.I. 97, 2004.

1. Citation

These Regulations may be cited as the Broadcasting Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires-

"advertising" means the broadcasting of any item in return for payment or other valuable consideration to a broadcaster with the intention of-

- (a) selling to a viewer or listener, any product or service;
- (b) convincing a viewer or listener of a belief or course of action; or
- (c) promoting a product, service, belief, course of action, person or organisation;

"assigned frequency" means the center of the frequency band assigned to a broadcasting service;

"Board" means the National Broadcasting Board established by section 3 of the Act;

"broadcaster" means any person who composes or distributes television or radio programme services for reception by subscribers to such services or members of the public;

"broadcasting licence" means a licence granted to a person and issued by the Board, for the purpose of providing a broadcasting service;

"cable owner" means a person who owns or operates a cable network;

"children" means persons who are below the age of 18 years;

"commencement date" means the date on which a licensee commences the operation of a broadcasting service;

"commercial broadcasting" means a broadcasting service which is operated for a profit, or which forms part of a profit-making entity;

"coverage area" means the territory covered by a broadcasting station signal strength, allowing for clear reception, and includes an area specified in a broadcasting licence by the Board;

"disaster" includes any event or circumstance arising out of accidents, natural phenomena, fires, floods, explosions, or incidents involving exposure or potential exposure to radioactive or

toxic materials;

"frequency band" means that part of the electromagnetic radio frequency spectrum which is allocated for the use of broadcasting services by the International Telecommunications Union, in so far as such allocation has been agreed to by the Government of Botswana;

"harmful interference" means any interference which endangers the functioning of a radio communications service, or which seriously degrades, obstructs or repeatedly interrupts such a service;

"infomercial" means any advertising broadcast in visual or audio form, lasting for more than two minutes, which may contain demonstrations of the use of the product or service advertised, entailing direct offers to the public in return for payment, and which results in the broadcaster receiving payment in monetary terms or otherwise;

"local content" means the total of all television or radio programmes that have been produced using material gathered in Botswana, and which mostly use Botswana personnel and services in Botswana;

"local market" means the area in which a licensee is licensed to operate;

"national emergency organisations" include the police force, security forces, fire brigade, ambulance services, medical services, veterinarian services and environmental disaster agencies, whether or not such organisations are owned and managed on a private or public basis;

"performance period" means the period between 6.00 a.m. and 12 midnight each day;

"political party" means a party which is either registered or recognised as being legally exempt from the requirement of registration as a political party in Botswana;

"programme", in relation to a broadcasting service, means visual information or sounds, or a combination of visual information and sounds, which inform, enlighten or entertain members of the public, and includes advertising or sponsorship material, whether of a commercial nature or not;

"public notice of emergency service" means any service provided by the licensee alone, or in conjunction with any other person, by means of which emergency broadcasts are made free of charge by national emergency organisations;

"radio licence" means a licence issued in terms of section 42 of the Telecommunications Act, to construct, operate and maintain a radio communications system;

"satellite broadcasting service" means a broadcasting service which is broadcast by transmitters situated on a satellite;

"signal" includes any signs, sounds, text, images, information or data of any configuration sent, or to be sent, for conveyance by a licensed system;

"special event broadcast licence" means a broadcasting licence issued for an event that does not last for more than 7 days and which is broadcast-

- (a) outside a licensee's coverage area; or
- (b) in partnership with a foreign broadcaster;

"sponsored programme" means a programme that has all or part of its costs paid by a sponsor, with a view to promoting that sponsor's, or another sponsor's name, product or service;

"station format" means an arrangement of programmes which are presented on a broadcasting station;

"subscriber" means a person who has entered into an agreement with a cable owner in relation to the reception of cable television broadcasts;

"telecommunications" means any system of conveying signals, sounds, communications or other information through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, or through the agency of radio waves;

"terrestrial broadcasts" means the services that are broadcast from a transmitter situated upon the earth's surface within the country; and

"territory" means the geographical area of Botswana.

3. Ownership

A person shall not own a television station and a radio station that serve the same local market.

4. Commencement of broadcasting service

(1) A licensee shall publish a notice in a newspaper, published and circulated in the licensee's local market, not later than seven days before commencing to transmit a broadcasting service from a broadcasting station.

(2) A notice under subregulation (1) shall contain-

- (a) a statement about the licensee's intention to transmit a broadcasting service from a station in the licensee's local market;
- (b) the commencement date and time of transmissions;
- (c) the assigned frequency that the station will use;
- (d) the station format;
- (e) a statement that members of the public should contact the licensee if any transmission by the licensee causes interference with the services provided by other licensees; and

(f) the address and telephone number of the licensee.

5. Fairness in advertising

(1) A licensee shall ensure that any advertisements that are broadcast by him or her are-

- (a) lawful;
- (b) honest;
- (c) decent; and
- (d) in conformity with the principles of fair competition in business.

(2) A licensee shall ensure that any advertisements that are broadcast by him or her-

- (a) do not contain any descriptions, claims or other material which may, directly or by implication, mislead members of the public in relation to the product or service advertised, or about its suitability for the purpose recommended; and
- (b) do not unfairly attack or discredit, directly or by implication, any other advertisers, products or advertisements.

(3) A licensee shall, before broadcasting an advertisement, ensure that any descriptions or claims in the advertisement have been adequately substantiated by the advertiser thereof.

(4) A licensee shall not unreasonably discriminate against or in favour of any advertiser.

6. Scheduling of advertisements

(1) A licensee shall exercise responsible judgement when scheduling advertisements which may be unsuitable for children during periods when large numbers of children may be expected to be watching or listening.

(2) A licensee shall ensure that any advertising breaks are clearly distinguishable from broadcast programmes.

(3) A licensee shall ensure that its presenters, when reading advertisements, make a clear distinction between programming material and the advertisements they deliver.

7. Sponsorship of programmes

(1) A licensee shall not accept sponsorship of news broadcasts.

(2) A licensee may accept sponsorship of weather broadcasts, financial broadcasts or traffic reports:

Provided that the licensee shall retain ultimate editorial control of the sponsored programme.

(3) A licensee shall ensure that sponsorship of an informative programme does not compromise the accuracy and impartiality of the programme's contents.

(4) A licensee shall not unreasonably discriminate against or in favour of any particular sponsor.

(5) A licensee shall not broadcast any programme which has been sponsored by a political party.

(6) The sponsorship of a programme shall clearly be acknowledged by a licensee immediately before and after the programme is broadcast, and any link between the programme's subject-matter and the sponsor's commercial activities must be made clear.

8. Infomercials

(1) An infomercial shall not be broadcast-

- (a) for a period exceeding three hours of the performance period in any day;
- (b) during prime-time; or
- (c) during any break in the transmission of a children's programme.

(2) A licensee shall ensure, either by visual or audio form, that the broadcast of any infomercial is distinguishable from any programme material broadcast.

(3) A licensee shall ensure that all infomercials that are broadcast are-

- (a) lawful;
- (b) honest;
- (c) decent; and
- (d) in conformity with the principles of fair competition in business.

(4) The provisions of subregulations (1) and (2) shall not apply to channels which exclusively broadcast infomercials.

9. Harmful interference

A licensee who operates a broadcasting station by transmitting on an assigned frequency in the broadcasting service band shall not cause harmful interference to any broadcasting service provided by another station.

10. Local content

(1) Except as otherwise stated as a specific licence condition, a licensee shall broadcast programmes with a minimum local content of 20 percent of all programmes for television broadcasts, and a minimum local content of 40 percent of all programmes for radio broadcasts.

(2) The provisions of subregulation (1) shall not apply to news broadcasts.

(3) Except as otherwise stated as a specific licence condition, local news shall constitute the

majority of a licensee's news broadcast content.

11. Broadcasting standards

A licensee, or any employee thereof, shall not broadcast any matter which, measured by contemporary community standards-

- (a) offends against good taste or decency;
- (b) contains the frequent use of offensive language, including blasphemy;
- (c) presents sexual matters in an explicit and offensive manner;
- (d) glorifies violence or depicts violence in an offensive manner; or
- (e) is likely to incite or perpetuate hatred or vilify any person or section of the community on account of the race, ethnicity, nationality, gender, sexual preference, age, disability, religion or culture of that person or section of the community.

12. Protection of children

(1) A licensee shall ensure that due care is exercised in order to avoid content which may disturb or be harmful to children when the licensee broadcasts programmes at times where a large number of children may be expected to be watching or listening to radio or television programmes.

(2) A licensee shall, when determining whether a large number of children are watching or listening to any programme, take into account any available audience research carried out, as well as the times that programmes are broadcast.

(3) The content of programmes which may disturb or be harmful to children includes offensive language, explicit sexual or violent material, music containing sexually explicit lyrics or music containing lyrics which depict violence.

13. Accurate, fair and impartial reporting

(1) A licensee, its employees or agents shall report news and information accurately, fairly and impartially.

(2) A licensee shall ensure that news and information are broadcast and presented in a balanced manner, without any intentional or negligent departure from any facts through distortion, exaggeration, misrepresentation, material omissions or through excessive summarising or editing.

(3) A licensee, its employees or agents shall broadcast a fact fairly, having regard to its context and importance.

14. Broadcast of unconfirmed reports

(1) A licensee shall not broadcast any report that is not based on a fact or that is founded on

an opinion, supposition, rumour or allegation unless the broadcast is carried out in a manner that indicates these circumstances clearly.

(2) Where any doubt exists as to the accuracy of a report, and verification is not possible, this fact shall be mentioned in the report.

(3) A licensee shall not broadcast any report where there exists sufficient reason to doubt the accuracy thereof and it is possible to verify accuracy of the report before it is broadcast.

15. Correction of errors in broadcast

A licensee shall broadcast the correction of any factual error-

- (a) without reservation, as soon as is reasonably possible after the error has been committed; and
- (b) with such degree of prominence and timing as may be adequate and fair so as to easily attract attention and, where appropriate, shall include an apology.

16. Reporting on controversial issues

(1) A licensee shall ensure that, when reporting on controversial issues, a wide range of views and opinions is reported, either within a single programme or within a series of programmes, which shall be broadcast as soon as is reasonably possible.

(2) A licensee shall endeavour to ensure that when broadcasting controversial issues of political, industrial or public importance during phone-in programmes, a wide range of views and opinions is represented.

(3) A person or organisation whose views have been criticised on any controversial issues of political, industrial or public importance during a programme, and who makes any representations, within a reasonable time, to the licensee responsible for the programme, that he or she or the organisation is aggrieved, shall be offered an opportunity by the licensee to reply to such criticism.

(4) A reply to a criticism under subregulation (3) shall be given a similar degree of prominence to the original criticism during its broadcast, and shall be broadcast during a similar time-slot to the original criticism, as soon as is reasonably possible after the original criticism.

(5) For the purposes of this regulation "programme" includes news bulletins, current affairs programmes, informative programmes, interviews, panel discussions and phone-in discussions.

17. Conduct of interviews

(1) A person that is to be interviewed by a licensee shall be-

- (a) advised of the subject of the interview; and
- (b) informed, before the interview takes place, as to whether the interview is to be

recorded or broadcast live.

(2) A licensee shall, before conducting an interview with a minor, request permission to conduct the interview from the minor's parents or guardian.

(3) A licensee shall exercise sensitivity in conducting interviews with bereaved persons, survivors of traumatic incidents or witnesses thereof.

18. Comments

Any comments that are broadcast by a licensee, or by any person invited by a licensee, shall be presented in a manner that clearly indicates that it is a comment and that it is made on facts which are clearly stated.

19. Invasion of privacy

A licensee shall not broadcast any material which invades a person's privacy unless there is a justifiable reason, in the public interest, for doing so.

20. Consent to broadcast

A licensee shall not broadcast any information acquired from a person without that person's consent, unless the information so acquired is essential to establish the credibility and authority of a source, or where the information is clearly in the public interest.

21. Sexual offences

(1) A licensee, its employees or agents shall not disclose, in a broadcast, the identity of a victim of a sexual offence unless such victim consents, in writing, to the disclosure of his or her identity.

(2) A licensee, its employees or agents shall not disclose, in a broadcast, the identity of a minor where such minor is a victim of a sexual offence.

(3) A licensee, its employees or agents shall avoid the use of unnecessary or repetitive detail when broadcasting the circumstances of a sexual offence.

(4) Any person who fails to comply with or contravenes a provision of this regulation shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding 6 months or to both.

22. Payment of criminals

A licensee shall not pay-

- (a) any person involved in a crime; or
- (b) any person who has been convicted of a criminal offence,

in order to obtain information, unless there is a compelling reason in the public interest to do so.

23. Public notices of emergencies or public disaster announcements

A licensee shall provide a public notice of emergency service or a public disaster announcement made by any Government department, free of charge.

24. Special event broadcast licence

(1) An application for a special event broadcast licence shall be made to the Board at least ten working days before the event for which the licence is applied for, takes place.

(2) A profit-making applicant shall pay a special event broadcast licence fee of P300 and a non-profit-making applicant shall pay a special event broadcast licence fee of P100.

25. External satellite feed

(1) A licensee shall not carry out an external satellite feed without a special event broadcast licence.

(2) A licensee shall apply to the Board, in writing, to carry out an external satellite feed.

(3) An application under subregulation (2) shall be accompanied by the following particulars-

(a) the name of the licensee; and

(b) the type of external satellite feed which the licensee intends to carry out.

(4) Where the authority under subregulation (1) is granted, a licensee shall pay an annual fee of P1000 to the Board.

(5) Where a licensee's application under subregulation (2) is rejected by the Board, the licensee may appeal to the Minister, within 14 days, who shall decide on whether or not to grant such application.

(6) A foreign broadcaster which transmits audio and visual broadcasts via satellite or other remote transmission modes shall pay radio licence fees and service fees, which shall be determined on the basis of reciprocity of fees.

26. Broadcasts conducted without Board's authority

(1) A licensee shall not conduct any broadcasts, other than those permitted in the licensee's licence, without the authority of the Board.

(2) A licensee shall apply to the Board, in writing, to conduct broadcasts which are not permitted in the licensee's licence.

(3) An application under subregulation (2) shall be accompanied by the following particulars-

(a) the name of the licensee;

(b) the date on which the licensee was granted a licence by the Board; and

(c) the type of broadcasts which the licensee intends to conduct.

(4) Where the authority under subregulation (1) is granted, a licensee shall pay an annual fee of P500 to the Board.

(5) Where a licensee's application under subregulation (2) is rejected by the Board, the licensee may appeal to the Minister, within 14 days, who shall decide on whether or not to grant such application.

27. Amendment of licence conditions by Board

(1) The Board may amend any licence condition-

(a) to such extent as may be necessary by virtue of an international agreement or convention to which Botswana is a party; or

(b) where the amendment does not cause substantial prejudice to the licensee.

(2) Where the Board intends to amend a licence condition, it shall give the licensee 30 days notice of its intention to do so.

(3) The notice under subregulation (2) shall invite the licensee to make a written representation to the Board in respect of the intended amendment.

(4) Where the notice under subregulation (2) has been given to the licensee, the licensee shall make a written representation in respect of the intended amendment within three months, or within such other period as the Board may determine.

(5) The Board may consult a licensee before making a decision to amend a condition of the licensee's licence.

28. Amendment of licence conditions at request of licensee

(1) A licensee may apply to the Board to amend its licence conditions at any time.

(2) An application under subregulation (1) shall include the reasons for the proposed amendment, and shall be accompanied by any relevant documents or information.

(3) The Board may invite other licensees to-

(a) make representations on the applicant's proposed amendment; or

(b) indicate to the Board, in writing, whether the proposed amendment, if granted, will be prejudicial to their interests.

(4) Where the other licensees under subregulation (3) make representations on the applicant's intended amendment, such representations shall be delivered to the applicant on the same day.

(5) The applicant shall be given such period, as may be determined by the Board, to respond

to the representations of other licensees.

(6) The applicant shall furnish the Board, on demand, with any information or document which enables the Board to reach a decision on the applicant's proposed amendment.

(7) The Board may consult the applicant before making a decision on the proposed amendment.

29. Restrictions on dealing with foreign governments

A licensee shall not acquire any licence, right, privilege or concession from a foreign government, or enter into any agreement with such government, without the approval of the Board.

30. Cable broadcasting

(1) A cable owner shall re-transmit the television terrestrial broadcasts of a local public television service which is licensed in Botswana.

(2) A television terrestrial broadcast which is re-transmitted under subregulation (1) shall have the use of at least one channel of a cable network.

(3) Any programme that is subject to obligatory re-transmission shall be transmitted via channels that are available to every subscriber to a cable network.

(4) Where a cable network utilises three or less channels, the broadcasts of the Botswana Television shall be subject to obligatory transmission.

(5) A cable owner shall identify the broadcasts that its subscribers wish to have re-transmitted via the cable network, and shall broadcast its subscribers' choices.

(6) Where there are unutilised channels in a cable network, after a cable owner has broadcast its subscribers' choice of broadcasts under subregulation (5), the cable owner may utilise the channels to broadcast any programmes:

Provided that the cable owner notifies its subscribers of its intentions regarding such use at least two months before the commencement of broadcasting.

(7) Where a majority of a cable owner's subscribers oppose the cable owner's intention to utilise channels to broadcast any programmes under subregulation (6), the cable owner may utilise such channels if it ensures that shielding is provided, at no extra cost, to the subscribers who do not wish to receive the broadcasts.

31. Community broadcasting

(1) A licensee shall broadcast the following programming services on a community broadcasting service channel-

(a) community programming;

- (b) announcements promoting broadcasting services;
- (c) public service announcements;
- (d) information programmes funded by public service organisations or the Government;
- (e) announcements providing information about the programmes to be broadcast on the community broadcasting service channel;
- (f) commercial broadcasts that mention or display, in the course of community programming relating to a community event-
 - (i) the name of a person sponsoring the community event, or
 - (ii) the goods, services or activities sold or promoted by a person sponsoring the community event; and
- (g) oral or written acknowledgements in community programming that mention the name of a person, the goods, services or activities sold or promoted by the person and the person's address and telephone number, where the person provides-
 - (i) financial assistance for the community programming in which the acknowledgement is contained, or
 - (ii) goods or services free of charge to the licensee, for use in connection with the production of the community programming in which the acknowledgement is contained.

(2) Where a licensee does not broadcast community programming on a community broadcasting service channel, the licensee may distribute the programming service of a local radio station or an educational radio programming service on that channel.

32. Commercial broadcasting

(1) A licensee who engages in commercial broadcasting shall ensure that advertisements are broadcast in the allotted breaks in a programme and in the interval between the end of one programme and the beginning of another.

(2) There shall be no more than four advertising breaks per hour in the case of television broadcasts.

- (3) The advertising content of any programme shall not exceed-
- (a) thirty seconds, in a programme lasting five minutes;
 - (b) two minutes, in a programme lasting ten minutes;
 - (c) three minutes, in a programme lasting fifteen minutes; and
 - (d) five minutes, in a programme lasting thirty-five minutes.

(4) In a period of programming lasting for sixty consecutive minutes, an advertisement shall last for not more than twelve minutes, except where-

- (a) a licensee broadcasts the programme as a public service; or
- (b) there is a national broadcast which interrupts a scheduled programme and results in the loss of advertising time.

(5) A licensee shall be entitled to compensate for any loss caused by the broadcasts under subregulation (4), over a period of seven days following the day on which the interruption occurred, by increasing the time specified under subregulation (4) to not more than fourteen minutes.

(6) A licensee who engages in commercial broadcasting shall cause a record to be kept, at his or her broadcasting station, for inspection by an authorised person during business hours, of-

- (a) the title of every broadcast programme;
- (b) the time at which every broadcast programme commences and ends;
- (c) the use of electro-mechanical reproduction in the course of a broadcast and the form and nature of such reproduction;
- (d) the time at which any advertisement or programme is broadcast and the duration thereof;
- (e) the name of the sponsor of an announcement;
- (f) the time at which an interruption of a broadcast occurs and the duration of and reason for such interruption; and
- (g) in respect of the broadcast of a speech-
 - (i) the name of the speaker,
 - (ii) the organisation, if any, under whose auspices the speech is given, and
 - (iii) the name of the political party or the political affiliation of the person giving the speech, where a speech is made on behalf of a political party for the purpose of promoting the election of any person.

(7) A licensee who keeps a record under subregulation (6) may use any special letters or abbreviations when doing so, which shall be clearly set out in a document made available for inspection by the licensee to an authorised officer.

(8) Where the Board intends to inspect the records of a licensee, the Board shall give notice thereof to the licensee not less than twenty-four hours before the proposed date of such inspection.

33. Public broadcasting

(1) A public broadcaster shall do all such acts as may be required by the Board or under a licence granted by the Board.

(2) A public broadcaster shall ensure, as far as is reasonably possible, that the programmes broadcast by, or on behalf of, it-

- (a) consist of a wide range of subject-matter;
- (b) serve the needs of different audiences;
- (c) are transmitted at appropriate times, in order to take into account, the children who may be watching, or listening to, such programmes;
- (d) are accurate, fair and impartial;
- (e) do not contain any material expressing the opinion of the broadcaster on current affairs or matters of public policy;
- (f) do not cause offense to the religious views and beliefs of the persons belonging to a particular religion or religious denomination;
- (g) provide a public service for the dissemination of information, education and entertainment;
- (h) reflect the diversity of cultural activities in Botswana;
- (i) provide coverage of sporting and other leisurely interests; and
- (j) contain educational material.

34. Complaints

(1) A licensee shall establish procedures to investigate and deal with complaints levelled against it by members of the public.

(2) A licensee shall submit to the Board-

- (a) before such licensee begins its operation, the procedures established under subregulation (1) and the names and addresses of the persons designated to handle complaints; or
- (b) where there is a change in the procedures previously submitted to the Board, the change in those procedures, within 7 days of the change being made.

(3) A licensee shall broadcast information on the procedure for lodging complaints at least 3 times per week, during prime-time.

(4) Where a complaint is made to a licensee, the licensee shall advise the complainant that the complainant has the right to refer the complaint to the Board if the complainant is

dissatisfied with the licensee's response to the complaint.

(5) Where a complaint is referred to the Board under subregulation (4), a licensee shall-

- (a) submit, on request, any recordings or documentation required by the Board;
- (b) respond to queries from the Board relating to allegations of non-compliance with the Act or with licence conditions;
- (c) submit, on request by the Board, written reports or written responses to allegations of non-compliance with the Act or with licence conditions; and
- (d) appear, when requested, before the Board during the adjudication of any complaint or investigation into any alleged non-compliance with the Act or with licence conditions.

(6) The Board shall invite a licensee to make written or oral representations within such period as may be specified by the Board, where it intends to investigate-

- (a) any alleged non-compliance with the Act or with licence conditions; or
- (b) any complaint relating to the licensee's failure or refusal to deal with any complaint, or the unsatisfactory handling of any complaint, by a member of the public.

(7) Where the Board finds that a licensee has failed to comply with any provisions of the Act or has breached any of its licence conditions, the Board may make such order as it considers appropriate:

Provided that where the Board imposes a fine, such fine shall not exceed P500.

(8) Where an order is made by the Board under these Regulations, the Board may, where necessary, order a licensee to broadcast an apology, correction or retraction, in such terms as the Board may specify.

35. Dispute resolution

(1) Where there is any dispute between a licensee and another licensee, or between a licensee and any other party, any or both of the parties to the dispute may refer the matter to the Board for dispute resolution.

(2) The Board may order that the parties engage in mediation before it accepts a referral of a matter to it for dispute resolution.

(3) Where the Board accepts a referral of a matter to it for dispute resolution, the Board may-

- (a) appoint a person to assist in the resolution of the dispute; or
- (b) proceed to render a decision.

(4) Any information which is provided to the Board, relating to the resolution of a dispute, shall be kept confidential, unless the Board determines that the information is in the public

interest.

(5) Any information provided to the Board by any of the parties to a dispute, for the purpose of dispute resolution by the Board, may not be used by the parties to the dispute for other purposes, unless the prior consent of the party providing the information has been sought.

(6) During the dispute resolution process, the person appointed by the Board under subregulation (3)(a) may request-

- (a) additional information from the parties; and
- (b) the parties' attendance at any meeting to discuss the matter in dispute.

(7) Where a party to a dispute which is referred to the Board for dispute resolution does not comply with a request under subregulation (6), the person appointed by the Board under subregulation (3)(a) may refer the matter to the Board, and the Board may order the request to be complied with.

(8) Any agreement reached by the parties to a dispute after the dispute resolution process shall be-

- (a) in writing; and
- (b) signed by all the parties to the dispute.

(9) Where no agreement is reached by the parties to a dispute, after the dispute resolution process, the person appointed by the Board under subregulation (3)(a) shall submit a report to the Board concerning all the unresolved matters pertaining to the dispute.

(10) The report referred to in subregulation (9) shall be submitted within such time as may be specified by the Board.

(11) The Board may, after accepting the referral of a matter for dispute resolution, render a decision concerning any unresolved matters between the parties to the dispute.

36. General penalty

Any person who contravenes a provision of these Regulations for which no specific penalty is prescribed shall be guilty of an offence and liable to a fine not exceeding P500.

BROADCASTING (FEES) REGULATIONS

(under section 12(3)(a))

(28th October, 2005)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation

2. Interpretation
3. Fees payable by broadcasters

SCHEDULE

S.I. 65, 2005,
S.I. 86, 2006.

1. Citation

These Regulations may be cited as the Broadcasting (Fees) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"foreign public broadcasting service" means a foreign broadcasting service provided by any statutory body which is funded either wholly or partly through State revenues;

"industry development fee" means a fee imposed on a foreign broadcaster to help to finance training and research into the broadcasting industry's market needs and to help to stimulate and promote local production; and

"net turnover" means the total amounts invoiced to customers or clients of any kind or otherwise, accrued to a broadcasting licensee, in respect of any activity, directly or indirectly related to the licensed broadcasting service, including marketing, sponsorship and merchandising income, sales, indirect taxes and such amounts as are generally allowed in the broadcasting industry as discounts for sale of advertising and agency fees, which shall be payable to the National Broadcasting Board quarterly and in arrears;

3. Fees payable by broadcasters

The broadcasters specified in the first column of Part I of the Schedule shall, on the application for the grant of a licence to broadcast or re-broadcast, pay to the National Broadcasting Board, the fees set out in the second column of Part I of the Schedule in regard to the respective matters contained therein; and the broadcasters specified in the first column of Part II of the Schedule, shall, in addition, on the grant of a licence, pay annually, on the 1st of April of each year, to the National Broadcasting Board, the fees set out in the second column of Part II of the Schedule.

SCHEDULE BROADCASTING FEES

(reg. 3)

PART I

*First Column
Broadcaster*

*Second Column
Fee*

1. Private Television Broadcaster	Application fee Tender fee	P5,000 P2,000
2. Private Radio Broadcaster	Application fee Tender fee	P5,000 P2,000
3. Public Television Broadcaster (Commercial)	Application fee	P5,000
4. Public Television Broadcaster	Application fee	P5,000
5. Public Radio Broadcaster (Commercial)	Application fee	P5,000
6. Public Radio Broadcaster	Application fee	P5,000
7. Community Radio Broadcaster	Application fee	P1,000
8. Foreign Public Broadcasting Service	Application fee Tender fee	P5,000 P2,000

PART II

<i>First Column Broadcaster</i>		<i>Second Column Fee</i>
1. Private Television Broadcaster	Broadcasting service fee	1% of annual net turnover
2. Private Radio Broadcaster	Broadcasting service fee	1% of annual net turnover
3. Public Television Broadcaster (Commercial)	Broadcasting service fee	1% of annual net turnover
4. Public Radio Broadcaster (Commercial)	Broadcasting service fee	1% of annual net turnover
5. Community Radio Broadcaster	Broadcasting service fee	P1,000
6. Foreign Public Broadcasting Service	Industry development fee	P14,300