



**NATIONAL  
BROADCASTING  
BOARD**

## **BROADCASTING LICENCES IN BOTSWANA**

### **Application and Assessment Procedures for Private and Public Broadcasting Services**

**FEBRUARY 2009**



# Contents

1. Introduction.....	02
2. Definition.....	04
3. Public Broadcasting Service.....	05
4. Private Broadcasting Service.....	08
5. Requirements for Advertisements as part of Licence Conditions.....	13
6. Technical Standards.....	16
7. Procedure for Licensing.....	17
8. Fee Structure.....	20
9. Monitoring.....	22
10. Penalties.....	24
Appendix: Applications Forms.....	25



## 1.0 Introduction

The National Broadcasting Board (“The Board”) is charged by the Broadcasting Act, 1998, hereinafter called “The Act” with the allocation of available frequency spectrum resources to broadcasting services. To this end, the Board “may establish different application and assessment procedures for private, community and public broadcasting” (Section 10 [2]). It is the objective of this document to outline these procedures with the overall goal to contribute to the realisation of ‘Vision 2016 - Towards Prosperity for All’ which states: “Botswana will ... have taken strides to become a regional powerhouse in the field of production and dissemination of information.....Botswana will also have utilised its communication capacity in the electronic media: radio and television and the print media. This will enable Botswana to become an informed nation in which a culture of transparency and accountability will flourish.”

In particular, the Board will endeavour to

- “ensure the widest possible diversity of programming and optimal utilisation of the spectrum resources” (Section 10 [1] ( c ) , Broadcasting Act);
- promote development of broadcasting as one engine of economic growth;
- enhance citizen empowerment within the broadcasting sector by specifying quotas for citizen ownership;
- encourage investment in and promote stability of the broadcasting industry as well as a fair and competitive environment.



To this end, the Board has developed application and assessment procedures for broadcasting licences in Botswana to guide members of the public on how to apply for a broadcasting licence in Botswana.

The Board will initiate a thorough research process to establish criteria for the economic viability of broadcasting services in the country and their impact on the media market as a whole.



## 2.0 Definitions of Public and Private broadcasting sectors

Section 2 of the Act defines the tiers of broadcasting services in Botswana:

Public broadcasting service: “a broadcasting service provided by any statutory body which is funded either wholly or partly through State revenues”;

Private broadcasting service: “a broadcasting service operated for profit and controlled by a person who is not a public or community broadcasting licensee”;



## 3.0 Public broadcasting service

3.1. The provider of a public broadcasting service is defined by the Act.

3.2. The Board requires the public broadcasting service to provide

3.2.1 a diversity of programmes for all, in which everyone will find material to inform, entertain and educate;

3.2.2 a forum for democratic debate, with news and current affairs reporting which is impartial, independent, explanatory and pluralistic, which stimulates debate and clarifies the issues;

3.2.3 a showcase for culture, by promoting the cultural diversity as well as the intellectual and artistic life in Botswana;

3.2.4 a vehicle for development in areas such as health, agriculture, education, environmental protection, and commerce;

3.2.5 access to events of public interest and importance;

3.2.6 a reference standard for quality in both radio and TV;



3.2.7 original material, by stimulating and supporting local production;

3.2.8 nationwide coverage.

**3.3.** The following content-related requirements serve only as broad guidelines.

3.3.1 the public broadcasting service shall;

3.3.2 provide varied and balanced programming for all sections of the population;

3.3.3 serve public interest;

3.3.4 meet high professional quality standards in broadcasting;

3.3.5 offer programmes that provide information, entertainment and education;

3.3.6 contribute to the development of free and informed opinion and, as such, constitute an important element of the democratic process;

3.3.7 reflect, as comprehensively as possible, the range of opinions and of political, philosophical, religious, scientific and artistic trends;

3.3.8 reflect and promote diversity and unity of Botswana culture, ;

3.3.9 respect human dignity and human rights and freedoms, and contribute to the tolerance of different opinions and beliefs;

3.3.10 further international understanding and the public's sense of peace and social justice, defend democratic freedoms, serve the protection of the



environment, contribute to the realisation of equal treatment between men and women;

3.3.11 broadcast news and current affairs programmes which must be comprehensive, unbiased and independent, as well as commentary which shall be clearly distinguished from news;

3.3.12 promote music of Botswana origin;

3.3.13 observe laws relating to copy-right and neighbouring rights;

3.3.14 not discriminate on the basis of race, colour, creed, ethnicity, religion, gender, place of origin, Political opinions, colour or creed;

3.3.15 not broadcast programmes which contain pornography and obscenity;

3.3.16 not broadcast programmes which contain, promote or perpetuate hate messages or any prejudices against any person or group of people.



## 4.0 Private broadcasting service

4.1. The proprietor of a private broadcasting service can either be a natural or a juristic person.

4.1.1 The Act prescribes under Section 10 (2) that the Board “give preference to enterprises which are owned by citizens or in which citizens have significant shareholding”. The Board defines “significant shareholding” to be at least 55 % of shares for television and 80 % for radio - thus enabling foreign investment in this capital-intensive industry and at the same time securing control by Botswana.

4.1.2 In order to promote diversity, the Board will - where there is more than one application for a particular frequency - grant preferential treatment to applicants that do not own or have no shares in another broadcasting station in Botswana.

4.1.3 An applicant for a private broadcasting licence will have to demonstrate to the Board that there is;



4.1.3.1 demand for such a service in the proposed licence area;

4.1.3.2 need for such a service, taking into account services already existing in the area;

4.1.3.3 capability, expertise and experience in broadcasting;

4.1.3.4 the availability of sufficient financial means and business experience.

4.1.2 No broadcasting licence will be granted to any party, movement, organisation, body or alliance which is of a party political nature. As yardsticks on whether an applicant falls under this disqualification, the Board will consider ownership, funding, board membership, management, programming and public pronouncements which might indicate identification with a particular political party.

**4.2.** The Board requires private broadcasting services to provide:

4.2.1 sustainable investment;

4.2.2 a diversity of programming either as variety or special format services;

4.2.3 regular local news coverage and informative programming with local content;

4.2.4 a contribution to job creation and human resource development in the broadcasting and related industries;



4.2.5 innovation in technology and formats.

**4.3.** The Board will not determine how broadcasting services structure their programmes or guide the nature and content of materials for their programming. The following content-related requirements serve only as broad guidelines. The private broadcasting services shall

4.3.1 meet high professional quality standards;

4.3.2 offer programmes that provide information, entertainment and education;

4.3.3 contribute to the development of free and informed opinion and, as such, constitute an important element of the democratic process;

4.3.4 reflect, as comprehensively as possible, the range of opinions and of political, philosophical, religious, scientific and artistic trends;

4.3.5 respect human dignity and human rights and freedoms, and contribute to the tolerance of different opinions and beliefs;

4.3.6 further international understanding and the public's sense of peace and social justice, defend democratic freedoms, serve the protection of the environment, contribute to the realisation of equal treatment between men and women;

4.3.7 broadcast news and current affairs programmes which must be comprehensive, unbiased and independent, as well as commentary which shall be clearly distinguished from news;



4.3.8 promote music of Botswana origin (the Board will look into the setting of a minimum quota after further research and consultation);

4.3.9 observe laws relating to copy-right and neighbouring rights;

4.3.10 not discriminate on the basis of race, ethnicity, place of origin, political opinions, colour or creed;

4.3.11 not broadcast programmes which contain pornography and obscenity;

4.3.12 not broadcast programmes which contain, promote or perpetuate hate messages or any prejudices against any person or group of people.

**4.4.** Any performance promises by applicants which go beyond the above requirements will form part of the licence conditions.

**4.5.** Private broadcasting services must submit detailed information about their financial resources, business plans and relevant cash flow projections, showing a realistic calculation of the expected levels of costs and revenue based on an analysis of the potential market and target group(s).

In considering the applications, the Board will be guided by the applicant's ability to provide all the necessary resources, including adequate staffing levels; realism of the financial and business plans submitted; capacity to explain their broadcasting plans and vision for the service.

All copies of documents submitted to the Board are to be certified by a Commissioner of Oaths.



4.6. In assessing applications, the Board shall consider whether the applicant:

4.6.1 will contribute to media diversity in terms of ownership and content;

4.6.2 will provide news and information programming of benefit to the public;

4.6.3 will promote Botswana music and culture;

4.6.4 will promote the economic empowerment of Botswana citizens in terms of both ownership and employment;

4.6.5 will contribute significant investment to national economic development;

4.6.6 will contribute to job creation and human resource development on a sustainable basis;

4.6.7 has the necessary experience and expertise to implement the project;

4.6.8 has secured adequate funding to establish and maintain the proposed broadcasting service;

4.6.9 has adequate financial and administrative capacity to assure appropriate staffing;

4.6.10 has submitted a detailed and realistic business plan that incorporates relevant cash flow and market projections;



4.6.11 has or will obtain equipment for broadcasting of an appropriate standard and in compliance with local and international technical specifications, including International Telecommunications Union regulations.

## **5.0 Requirements for advertisements as part of licence conditions**

5.1 Community Standards, Accuracy and Fairness in Advertising

5.1.1 Licensees shall ensure that broadcast advertisements:

5.1.1.1 are lawful, decent, honest and truthful; and,



5.1.1.2 conform to the principles of fair competition in business.

**5.2** Licensees shall ensure that advertisements do not contain any descriptions, claims or other material which might, directly or by implication, mislead about the product or service advertised or about its suitability for the purpose recommended.

**5.3** Before accepting advertisements licensees shall be satisfied that any descriptions and claims have been adequately substantiated by the advertiser.

**5.4** Licensees shall ensure that advertisements do not unfairly attack or discredit other products, advertisers or advertisements directly or by implication.

**5.5** Licensees shall not unreasonably discriminate against or in favour of any particular advertiser.

**5.6** Scheduling of Advertising

5.6.1 Advertising breaks must be clearly distinguishable from programming.

5.6.2 When presenters read advertisements a clear distinction should be made between the programming material and the advertisements which they deliver.

5.6.3 Licensees shall exercise responsible judgement when scheduling categories of advertisement which may be unsuitable for children during periods when large numbers of children may be expected to be watching.

**5.7** Sponsorship



5.7.1 News bulletins shall not be sponsored but licensees may accept sponsorship for weather, financial and traffic reports.

5.7.2 Subject to paragraph 7.2.1 (above) any programme may be sponsored provided that the Licensee retains ultimate editorial control of the sponsored programmes.

5.7.3 Licensees shall ensure that sponsorship of information programmes does not compromise the impartiality and accuracy of the content of the programme.

5.7.4 Licensees shall ensure that sponsors do not advertise or endorse their goods and services within the editorial content of the sponsored programme.

5.7.5 Sponsor funding and contribution to programmes shall be clearly acknowledged immediately before and after the programme and any link between the programme's subject matter and the sponsor's commercial activities must be made clear.

5.7.6 Licensees shall not broadcast any programmes which have been sponsored by a political party.

5.7.7 Licensees shall not unreasonably discriminate against or in favour of any particular sponsor.

**5.8.** In order to create an economic environment which promotes the viability of private and community broadcasting services, the Board shall create mechanisms for competition in the market place.



## 6.0 Technical standards



- 6.1.** The Board in co-operation with the Botswana Telecommunications Authority and in accordance with the appropriate international conventions - will develop a plan for the frequency band allocated for the use of broadcasting services, which will be made public. On the basis of this plan, the Board allocates frequencies to licensees, which will be an integral part of the licence.
- 6.2.** The licensee shall ensure that the broadcasting equipment used, both studio and transmitter, complies with the appropriate regulations of the International Telecommunications Union. To enable the Board to examine compliance, applicants have to submit a list of equipment which they plan to purchase or have in their possession as well as the co-ordinates (longitudes and latitudes) of the proposed site in degrees, minutes and seconds as well as the altitude of the transmitter sites and the height above ground of all antennas.
- 6.3.** The licence will require the broadcasting service to operate the signal distribution systems within the limits of the maximum values of the transmitting characteristics (power and coverage area). The maximum values will be determined by the Board in accordance with the mission, the target group and area as well as the geographical location of the proposed service.

## **7.0 Procedure for licensing**

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- 7.1 The procedure for licensing shall be transparent.
- 7.2 The frequencies assigned to Private broadcasting service shall be by public tender.
- 7.3 The Board will provide an information package for the broadcasting category for a fee determined under clause 10.5 below,
- 7.4. **Application procedure for terrestrial broadcasting service licence**
- 7.4.1 The Board shall put a Notice of Intent to Tender through national and/or local media
- 7.4.2 The Board shall call for Tender through publication in national and/or local newspapers
- 7.4.3 Applications have to be submitted on a Broadcasting Service Licence Application Form and hand delivered or through registered mail on or before the deadline.
- 7.4.4 The opening of Tenders shall be conducted in public.
- 7.4.5 Thirty (30) days after the deadline for applications, the Board will publish a list of all applicants in the national and/or local newspapers, giving particulars of the applicant, the licence area and the nature of the proposed service. In the case of community broadcasting service, public consultations shall be conducted.
- 7.4.6 The Board shall inform the applicant of any objection to their application.



7.4.7. Where objections have been received, the Board shall within thirty (30) days invite the applicants, persons who have lodged objections to a hearing to which members of the public shall be invited as observers.

7.4.8. The Board will decide on the applications and provide written reasons for its ruling, within sixty (60) days of receipt of applications.

## **7.5 Application procedure for satellite broadcasting service**

7.5.1 All correspondences of the Board are channelled through the Secretariat's Broadcasting Regulation department.

7.5.2 The NBB Secretariat is responsible for making sure that these procedures are adhered to.

7.5.3 Applications will be received by the Secretariat and registered for filing and processing.

7.5.4 The Secretariat shall respond within 24 hours after receipt of the application for acknowledgment of receipt, including the next step of action.

7.5.5 Where an Applicant did not fill in an Application Form, the Applicant shall be requested to do so.

7.5.6 The Secretariat shall make recommendations to the NBB for consideration which shall be followed by a Board meeting to consider the application.

7.5.7 If the Application is accepted, further requirements from the Applicant may be made before a draft licence is sent to the Applicant; if unsuccessful the applicant is notified.



7.5.8 Upon satisfying the Board with the preliminary requirements, a draft licence is sent to the Applicant to consider.

7.5.9 Negotiations of Terms and Conditions of the Licence will then follow (negotiations can take as long as the Board deems essential).

7.5.10 The Licence is awarded.

7.5.11 Applications shall be processed within a period of 16 months from the date of receipt and if the applicant fails to submit the required information within this period, the application shall be closed. A 'cooling off' period of 12 months shall be enforced within which the applicant shall not be allowed to submit a fresh Application on a similar business.

## **7.6 Renewal of Licences**

7.6.1 The renewal of licences will be dependent upon compliance with the terms and conditions of the Licence. Where an existing Licensee did not satisfy the terms and conditions during its licence term, the procedure as described under 7.1. to 7.4.8 will apply.

**7.7** Any performance pledges by applicants that go beyond the basic terms and conditions of the licence shall form part of the licence conditions.

## **7.8 Special Event Licences**

The Board will consider applications for special event licences with a term of validity not exceeding 30 days for the coverage of special events, training purposes and similar events. The Board may exempt any such application from any or all the provisions in clauses 7.4 and 7.5.



## 8. Fee structure

8.1 In terms of Section 12 (3)(a) of the Act, Regulations may provide for “the payment of an annual or other fees for broadcasting or re-broadcasting licences” from the licensees.

8.1.1 Such fees are provided for under the Broadcasting (Fees) Regulations, 2005.

### 8.2 Application fee as per Broadcasting (fees) Regulations, 2005)

8.1.1 public broadcasting services: P 5,000.00

8.1.2 private broadcasting services :P 5,000.00.

These fees must accompany the application and are not refundable.

### 8.3 Annual licence fee

8.3.1 for public broadcasting services (commercial): 1 % of Annual Net Turnover, payable three months after the end of each operational year;

8.3.2 for private broadcasting services: 1 % of Annual Net Turnover, payable three months after the end of each operational year;



8.3.3 for public broadcasting services: P100 000.00 or 1% of the recurrent budget whichever is greater, payable three months after the end of each financial year

All broadcasting services shall submit audited financial statements to the Board annually within 90 days of the end of the financial year.

**8.4** Amendment Fee

An Amendment fee shall be charged for any application for an amendment of the original licence conditions by more than 15 %, there shall be charged an Amendment Fee which shall be determined by the Board in line with the scope of the proposed amendments, but which shall not exceed the original application fee.

**8.5** Renewal Fee

The Renewal Fee shall be identical to application fee.



## 9. Monitoring

9.1. The Board will monitor to ensure compliance with all Licence conditions imposed on the licensee. In terms of Section 19 of the Act, the Licensee shall;

9.1.3 keep and store sound and video recordings of all programmes broadcast or re-broadcast for a minimum period of three months after the date of transmission of the broadcast or re-broadcast, or for such further period as may be directed by the Board; and

9.1.2 on demand by the Board produce such material that has been broadcast for examination or reproduction.

9.2. In addition, all Licensees shall keep the following records for the period of their licence or any period that the Board may decide:

9.2.1 documentation relating to the ownership and management of the service such as legal status and the constitution, details of the directors, members or trustees, the shareholding and financial records;

9.2.2 all contracts entered into by the Licensee;

9.2.3 a log of all programmes broadcast;



9.2.4 a file containing full records of public complaints received by the licensee and correspondence in this regard;

9.2.5 a log of all advertisements broadcast;

9.2.6 during an election period a log of all party-political advertisements and/or party political broadcasts;

9.2.7 a log of all sponsorships for programmes,

9.2.8 a log containing the percentage of Botswana music broadcast between 6 a.m. and 10 p.m.

**9.3.** In addition to the records mentioned under 9.2 above, the Licensee for Community broadcasting services shall keep the following records:

9.3.1 minutes of the proceedings of all meetings including annual general meetings and board meetings;

9.3.2 documents which reflect community support;

9.3.3 a list of all donations or financial and non-monetary donations.

9.4 The Board shall from time to time ask Licensees to submit to the Board material as listed under 9.1. to 9.3. for examination. The Board will audit such material to check whether the service is in compliance with its licence conditions and will send a report on the findings to the Licensee within eight weeks of receipt of the material.



9.4.1 Where there are minor irregularities, the Board will recommend remedial action. However, in more severe cases the Board will impose penalties in terms the provisions of Section 17 of the Act

## 10. Penalties

**10.1.** Any person who contravenes the provisions of the Act or Licence Conditions shall be dealt with in terms of section 22 of the Act.

**10.2.** The revocation of Licences or the refusal to renew licences shall be done in accordance with Section 17 of the Act.

10.2.1 The Licence may be withdrawn if Licensee does not commence its operations within a period stated in the licence conditions.

**10.3** Where the Licensee does not comply with the conditions of the Act and/or the Licence, the Board may issue a warning, giving a time limit for necessary corrections. If at the expiry of the time limit the licensee has still not complied, the Board may withdraw it.



## Appendix

### APPLICATION FORM FOR A PUBLIC/PRIVATE BROADCASTING LICENCE

**This Form must be accompanied by a P5000.00 (Five Thousand Pula) Application Fee as per the Broadcasting (Fees) Regulations 2004**

(Frequency)..... (Area).....

#### 1. PARTICULARS OF APPLICANT (Person or body applying for licence)

1.1. Full name of applicant:

Street address:

Postal address:

Telephone number:

Fax number:

e-mail:



Name of contact person if different from name of applicant:

1.2. Proposed name of broadcasting service:

1.3. Legal form of applicant (attach founding documents):

1.4. If registered:

Office and place of registration:

Registration No.:

Date of registration:

1.5. Attach a complete ownership profile, listing consortium partners and their equity holdings valued in Pula. Distinguish between owners who take an active role in the company and those with an equity interest only.

1.6. Attach a shareholder agreement stating the control of and/or veto rights in the company.

1.7. Attach details of any ownership interests in newspapers or other media, including broadcasting and telecommunications, of the owners listed in the ownership profile.

1.8. Attach curriculum vitae of the owners/shareholders and management personnel setting out their relevant experience in broadcasting, business, management, technical, journalism and other appropriate fields.

## **2. THE MARKET**

2.1. Provide a population profile of the licence area.



- 2.2. Describe the target group for the proposed broadcasting service.
- 2.3. Attach a market study.
- 2.4. Describe other broadcasting services operating in the licence area and how they differ from the proposed service:

### **3. PROGRAMMING**

- 3.1. Proposed hours of broadcasting.
- 3.2. Describe the uniqueness of the proposed programming format and explain how it will add to the diversity of broadcasting in the licence area.
- 3.3. Will the proposed broadcasting service provide for regular news services and programmes on matters of public interest? If so, how often during the day?
- 3.4. What kind of music will be broadcast and what approximate percentage is envisaged for Botswana music?
- 3.5. Attach a draft programme schedule.

### **4. FINANCES AND MANAGEMENT**

- 4.1. Provide an organogram of the service's management and administration.



- 4.2. Provide a business plan and relevant cash flow projections showing a realistic calculation of the expected levels of costs and revenue over a period of five years, in particular with regard to
- costs for capital investment (equipment, building, offices, vehicles and the like)
  - current costs (staff, royalties, rent, energy, communications and the like)
  - financial investment from owners
  - revenue (advertisements, sponsorships).
- 4.3. Attach a financial guarantee equivalent to the required peak funding for the service underwritten by a recognised financial institution registered in Botswana.
- 4.4. Are there any commitments from advertisers or sponsors? If so, attach documentation.
- 4.5. How many jobs - full-time, part-time, freelance - will be created by the broadcasting service?
- 4.6. Do applicants have any previous convictions, are there any pending charges against them, or have they ever been declared insolvent?

## 5. THE LICENCE AREA

Use a map to describe the geographical boundaries of the area of coverage.

## 6. TECHNICAL MATTERS (give particulars where known)

- 6.1. Make and model of each proposed transmitter:
- 6.2. Proposed effective radiated power (ERP):
- 6.3. Proposed power output:



- 6.4. Proposed antenna polarisation:
- 6.5. Antenna gain
- 6.6. Proposed horizontal broadcasting pattern:
- 6.7. Type of antenna
- 6.8. Physical address (if any) of location of proposed transmitter:
- 6.9. Geographical co-ordinates or map reference of transmitter's position:
- 6.10. Site height above sea level:
- 6.11. Effective antenna height above site:
- 6.12. Kind of studio equipment to be used by the broadcasting service:
- 6.13. Licensee shall ensure that the broadcasting equipment complies with the relevant ITU recommendations for Region 1
- 6.14. Name, address, qualifications of person/s who will be in charge of technical matters:

## **7 COMMENCEMENT OF SERVICE**

If a licence is granted, when will the service begin operations?