

Pakistan Electronic Media Regulatory Authority (Media Ownership and Control) Regulations, 2002.

GOVERNMENT OF PAKISTAN

PAKISTAN ELECTRONIC MEDIA REGULATORY AUTHORITY
(MEDIA OWNERSHIP & CONTROL) REGULATIONS. 2002

In exercise of the powers conferred by Rule 30 of the Pakistan Electronic Media Regulatory Authority (PEMRA) Rules, 2002 read with Section 39 of the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (No.XIII OF 2002), the Pakistan Electronic Media Regulatory Authority is pleased to make the following Regulations, namely:-

1. Short Title and Commencement.-(1) These Regulations may be called the Pakistan Electronic Media Regulatory Authority (Media Ownership and Control) Regulations, 2002.

(2) These Regulations shall come into force at once.

2. Definitions.-(1) In these Regulations, unless there is anything repugnant in the subject or context.-

(a) "agreement" includes any arrangement or understanding whether in writing or not and whether it is, or is intended to be, legally enforceable or not;

(b) "associated undertakings" mean any two or more companies, undertakings or a company and an undertaking interconnected with each other in the following manner, namely:-

(i) If a person who is the owner or a partner or director of a company or an undertaking or who, directly or indirectly, holds or controls shares carrying not less than ten percent of the voting power in that company or undertaking; or

(ii) If the companies or undertakings are under common management or common control or one is the subsidiary of another;

(c) "associated persons means two or more persons, with one person having relationship with another as father or mother or son or daughter or wife or brother or sister;

(d) "Authority" means the Pakistan Electronic Media Regulatory Authority established under section 3 of the Ordinance;

(e) "broadcasting Station" means a location from where television and radio programmes are broadcast.

(f) "Control" in relation to a Company or an undertaking, means the power to exercise a controlling influence over the management or the policies of the Company or the undertaking and, in relation to shares, means the power to exercise a controlling influence over the voting power attached to such shares; and, in relation to person, means a controlling influence over that person;

(g) "cross media ownership" means the ownership by one person or ` associated persons or associated undertakings of more than one of any of the following, namely, print media, Advertising Agency, Television Broadcast Station or Radio Broadcast station;

(h) "products" means advertisements, television Programmes or Radio Programmes;

(i) "Licence Area" means the geographical area for which Licence is issued by the Authority;

(j) "market" in relation to products or services, includes the geographic limits of a licence area as determined by the Authority in which competition in the production or sale of such products or the provision of such services takes place;

(k) "monopoly power" means the ability of a person or associated persons or associated undertakings in a market to set non- competitive prices or restrict output without losing a substantial share of the market or to exclude others from any part of that market;

(l) "ordinance" means the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (XIII

of 2002);

(m) "person" includes the Company and the undertaking;

(n) "person in control of licence or undertaking" means a person who is in a position to control the licensee or the undertaking;

(o) "price", in relation to the sale of any products or to the provision of any services, includes every valuable consideration, whether direct or indirect which in effect relates to the sale of any products or the provision of any services;

(p) "rules" means the Electronic Media Regulatory Authority (PEMRA) Rules 2002.

(q) "service" means provision of news, education, information, entertainment or amusement, or of facilities in connection with broadcast media;

(r) "trade practice" means any act or practice relating to the carrying of a trade or business in the field of broadcasting, distribution or programming;

(s) "undertaking" means a business concern engaged in broadcasting, distribution or programming and includes any operation for control over all or any part of the programmes or programme schedules of one or more broadcasting undertakings;

(t) "restrictive trade practices" means a trade practice which has or may have the effect of unreasonably preventing, restraining or otherwise lessening competition in any manner;

(2) Words and expressions used but not defined in these Regulations shall have the same meaning as are ascribed to them in the Ordinance and the Rules.

3. Undue concentration of media ownership prohibited. There shall be no undue concentration of media ownership, cross media ownership, monopoly power or restrictive trade practices by a person or associated persons or associated undertakings.

4. Circumstances constituting undue concentration of media ownership. – (1) Undue concentration of media ownership shall be deemed to have been brought about, maintained or continued if :-

(a) In respect of Television Broadcasting

(i) a person or associated persons or associated undertakings is/are in a position to control television broadcasting licensees whose combined licence area population exceeds 35% of the population of Pakistan; or,

(ii) a person or associated persons or associated undertakings is/are in a position to exercise control over more than one television broadcasting licensees in the same licence area;

(b) in respect of radio broadcasting licence, a person or associated persons or associated undertakings is/are in a position to control more than one radio broadcasting licences in the same licence area;

(c) in respect of television broadcasting licence and radio broadcasting licence, a person or associated persons or associated undertakings is/are in a position to control

(i) a television broadcasting licence; and

(ii) a radio broadcasting licence.

5. Circumstances constituting cross media ownership. Cross media ownership shall be deemed to have been brought about, maintained or continued if a person or associated persons or associated undertakings:

(a) own(s) or control(s) both a newspaper and a radio broadcast station; or

(b) own(s) or control(s) both a newspaper and a TV broadcast station;

(c) own(s) or control(s) both a Television broadcast station and a Radio broadcast station; or

(d) own(s) or control(s) both an advertising agency and a TV broadcast station; or

(e) own(s) or control(s) both an advertising agency and a radio broadcast station.

6. Requirement for licensee to notify control. (1) Each television broadcasting licensee and radio broadcasting licensee shall, within one month after the end of each calendar year notify to the

Authority, in writing, details of the persons who, to the knowledge of the licensee were in a position to control the licensee during that calendar year.

7. Requirement to notify changes in control. If it comes to the knowledge or notice of a television broadcasting licensee, or a radio broadcasting that:

(a) a person or undertaking who was not in a position to control the licensee has assumed a position which enables him or it to control the licensee; or,

(b) a person or undertaking who was in a position to control the licensee has ceased to be in that position;

The licensee shall, within 7 days of such knowledge, notify the Authority of that event.

8. Persons in control of television broadcast licence or radio broadcasting licence to notify the Authority of newspaper or an advertising agency interests. (1) Each person who is in a position to control a television broadcasting licence or a radio broadcasting licence shall notify to the Authority, in writing details of any financial interests in any newspaper, periodical or an advertising agency within 7 days of such happening.

9. Circumstance constituting unreasonable monopoly power.- (1) Unreasonable monopoly power shall be deemed to have been brought about, maintained and continued if :-

(a) there has been created or maintained any such relationship between two or more persons or undertakings as makes them associated persons or associated undertakings in the same licence area where they produce, supply, distribute or provide not less than one third of the total products and services in such market; or

(b) there has been any acquisition by one person or undertaking of the stock or assets of any other person or undertaking, or any merger of undertakings, where the effect of the acquisition or merger is likely to create monopoly power or to substantially lessen competition in any market, including any acquisition which creates any such relationship as is referred to in sub-Regulation (a).

10. Restrictive trade practices.-Unreasonable restrictive trade practices shall be deemed to have been established or resorted to or continued if there is any agreement between licensees who are actual or potential competitors and have entered into such agreement for the purposes of fixing minimum resale prices and has the effect of

(a) fixing the purchase price or selling price or imposing any other restrictive trading condition with regard to the sale or distribution of any products or the provision of any services; or

(c) dividing or sharing the markets for any products or services; or

(d) limiting the quantity or the means of production, distribution or sale with regard to any products or the manner of providing any service; or

(e) limiting technical development or investment with regard to the production, distribution or sale of any products or the provision of services.

11. Penalty. (1) The Authority may, by an order in writing, suspend or revoke the licence or direct any person or undertaking or licensee to pay a penalty of such sum not exceeding rupees one hundred thousand as the Authority shall specify in the order if, after giving the person or undertaking or licensee concerned an opportunity of being heard, it determines that such person or undertaking;

(a) has failed to comply with any prohibition or condition or clause contained in these Regulations;

(b) has failed to furnish any information or made any statement to the Authority which he knows or has reason to believe to be false in any material particular.