

## **Pakistan Media Development Authority ORDINANCE, 2021**

*to regulate films, electronic, print and digital media in Pakistan*

*To create an independent, efficient, effective and transparent Pakistan Media Development Authority (PMDA) to regulate all forms of media and bring them under one converged regulator and statutory authority;*

Definition (d&e) web TV, online news platforms, over the top (OTT) content platforms, included in Broadcast Media.

Def (f): “Broadcaster” means a person engaged in broadcast media and digital media;

Def (j): Webcasting and OTT included in the definition of ‘Channel’

Def (sc): Webcast, websites and OTT will need license or NOC from the Authority otherwise will be considered ‘Illegal Operation’.

Def (ue): Now print media or digital media will also need a license from Authority to established and operate print media or digital media;

Def (va): Publisher will also be needed for online publications;

Def (vd):) “Online platform” means online information and content delivery systems accessed via internet for the purpose of watching television (live or recorded) or similar content services, such as web TV channels, youtube channels, Netflix, Amazon Prime etc and “Over The Top (OTT) content” means television channels or content provided via internet to users either free of cost or through a subscription fee;

Def (vj): “Registration certificate” means certificate issued for publication and news digital platform by the authority;

### **4. Functions of the Authority. - (1) The Authority shall:**

- a) regulate the establishment and operation of electronic media including broadcast media and distribution services in Pakistan established for the purpose of international, national, provincial, district, local or special target

audiences, foreign TV, radio and digital media services being received or distributed in Pakistan;

- b) regulate the establishment and operation of printing press, print media including newspapers, news agencies, journals, magazines etc;
- c) audit of circulation of newspapers and rating of broadcast and digital media platforms;
- d) regulate the establishment and operation of digital media including online newspapers, web TV channels, OTT content platforms, online news channels, video logs etc.;
- e) grant and renew licenses or registration certificates or declaration or NOC for electronic, print, digital media services and film services;
- f) monitor and enforce licenses or registration certificates or declaration or NOC;
- g) investigate and adjudicate on complaints and other claims made against licensees arising out of alleged contraventions of the provisions of this Ordinance, the rules & regulations made and licenses or registration certificates issued thereunder and take action accordingly;

**5. Power of the Federal Government to issue directives.** – The Federal Government may, as and when it considers necessary, issue directives to the Authority on matters of policy, and such directives shall be binding on the Authority, and if a question arises whether any matter is a matter of policy or not, the decision of the Federal Government shall be final.

6 (1): PEMRA: Members of Authority. - (I) The Authority shall consist of a Chairman and twelve<sup>24</sup> members to be appointed by the President of Pakistan.

6. PDMA: - (1) The Authority shall consist of a Chairman and eleven (11) members to be appointed by the President of Pakistan on the advice of the Federal Government.

6 (2): PMDA: The Chairman of the Authority shall be appointed from a panel of grade 21-22 of Information Group officers.

(Presently according to PEMRA law The Chairman of the Authority shall be an eminent professional of known integrity and competence having substantial experience in media, business, management, finance, economics or law)

6 (3): PMDA: Out of eleven (11) members appointed by the Federal Government, six (06) shall be eminent citizens chosen to ensure representation of all provinces, Gilgit Baltistan and Azad Jammu and Kashmir, with expertise in one or more of the following fields: media, art, film, law, cyber security, human rights, engineering, management and social service. Of the six (06) members from the general public, two (02) members shall be women.

(According to PEMRA Law : Out of twelve members one shall be appointed by the Federal Government on full time basis and five shall be eminent citizens chosen to ensure representation of all provinces with expertise in one or more of the following fields: media, law, human rights, and social service. Of the five members from the general public, two members shall be women.)

**Directorates of Authority:** To carry out the purpose of the Ordinance, the Authority shall post (03) full time executive members from Information Group officers of Grade 20 and above, who will be heading the Electronic Media, Digital Media and Print Media Wings for execution of the Ordinance. Brief of directorates is given below:

- (1) **Electronic Media Directorate:** This directorate shall be responsible for carrying out all functions for regulating the establishment, operation, maintenance and enforcement of electronic media. The activities shall, inter alia, include licensing, holding bidding for the grant of licenses, renewal of licenses, formulation of eligibility criteria for licenses, initiation of legal actions for violation of any provision of the Ordinance, determination of fee & tariff including fee for grant of license, annual fee, renewal fee, variable fee including percent of annual gross revenue or gross advertisement revenue, holding of public and personal hearings, imposition of fine, confiscation and seizure of equipment used in illegal operation and other such tasks.
- (2) **Print Media Directorate:** This directorate shall be responsible for carrying out all functions for regulating the establishment, operation, maintenance and enforcement of print media. The activities shall, inter alia, include registration, audit of circulation, formulation of eligibility criteria for registration, central media list, initiation of legal actions for violation of any provision of the Ordinance, determination of fee & tariff including fee for grant of registration, annual fee, renewal fee.
- (3) **Digital Media and Films Directorate:** This directorate shall be responsible for carrying out all functions for regulating the establishment, operation, maintenance and enforcement of digital media and granting NOC for exhibition, shooting and production of films. The activities shall, inter alia, include licensing, holding bidding for the grant of licenses, renewal of licenses, formulation of eligibility criteria for licenses, registration, NOC, and ratings, initiation of legal actions for violation of any provision of the Ordinance, determination of fee & tariff including fee for grant of license, NOC, annual fee, renewal fee, variable fee including percent of annual gross revenue or gross advertisement revenue, holding of public and personal hearings, imposition of fine, confiscation and seizure of equipment used in illegal operation and other such tasks.
- (4) *The Authority may also set up other sub-directorates or wings within each directorate to effectively carry out its functions. These sub-directorates or wings may include licensing, enforcement, legal, administration, human*

*resource, finance, audit, technical or engineering, monitoring and other such wings.*

**19. Categories of licenses, registration certificates, declaration and No Objection Certificates.** - (1) The Authority shall issue licenses for electronic, print and digital media in the following categories, namely: -

- (i) National scale;
- (ii) Provincial and regional;
- (iii) District and Tehsil level;
- (iv) Local Area and Community based;
- (iv) Specific and specialized subjects;
- (v) International scale targeting countries abroad;
- (vi) Other categories as the Authority may prescribe from time to time.

(2) The Authority may further sub-categorize the categories specified in sub-section (1) as it may deem fit, such as news & current affairs, entertainments, sports, regional language, education, agriculture, health, specialized subject, kids, travel & tourism, science and technology etc.

**20. Licenses, Registration Certificates, declaration and NOC for media services and films :**(1) The Authority shall have exclusive right to issue licenses for the establishment and operation of all electronic, print and digital media services, provided that this exclusive right shall be used by the Authority in conformity with the principles of fairness and equity applied to all potential applicants for licenses whose eligibility shall be based on prescribed criteria notified in advance.

**Provided that the bidding shall be held for specific licenses of electronic media as may be prescribed by the Authority** in case where the number of applications exceeds the number of licenses to be issued by the Authority.

(4) The Authority shall have the power to determine number of licenses/ registration certificates to be issued in each category or sub-category of media

services and charge fees at such rates as the Authority may fix from time to time for the grant of a license/ registration certificates, application processing fee, annual fees including fixed fee late payment fee and such percentage of gross revenue fee or gross advertisement revenue as determined by the Authority from time to time, renewal fees and such other fees as may be prescribed from time to time.

(5) The Authority shall devise a Code of Conduct for programmes and advertisements for compliance by the licensees or registration certificate.

**21. Terms and conditions of license or registration certificate or declaration or NOC.** - Every license or registration certificate or declaration or NOC under this Ordinance shall contain terms and conditions which may, inter alia, include –

(d) conditions requiring the licensee to adhere to the provisions of this Ordinance and the rules and regulations made thereunder;

(e) conditions requiring the licensees to pay the fees including license fee, annual fees including fixed fee and such percentage of gross revenue or gross advertisement revenue as determined by the Authority from time to time, renewal fee and such other fees as may be prescribed from time to time.

(f) Conditions requiring the licensee to include in its daily transmission, broadcast, publication, programmes or information in the public interest specified by the Federal Government or the Authority in the manner indicated by the Government or, as the case may be, the Authority, provided that the duration of such mandatory programmes is not less than five per cent of the total duration of broadcast or operation or publication in twenty-four hours;

(m) Conditions requiring the license to not broadcast, distribute or make available online any programme inciting violence or hatred or any action prejudicial to maintenance of law and order;

(n) Conditions requiring the licensee to not broadcast, distribute or make available online anything which defames or brings into ridicule the Head of State, or members of the armed forces, or legislative or judicial organs of the state;

(o) Conditions requiring the licensee to not broadcast, distribute or make available online any programme or discussion on a matter which is sub-judice and however court reporting may be aired/publish in an informative manner; and

(p) Conditions requiring the licensee to not broadcast, distribute or make available online anything which is known to be false or baseless or is malafide or for which there exist sufficient reasons to believe that the same may be false, baseless or malafide.

(q) No broadcast media channel/ print media or digital media platform will be entitled for public sector advertisement till the completion of one-year non-stop operation since its official launch.

23. Exclusion of monopolies and undue concentration the Media Sectors.- (1) No person shall be entitled to the benefit of any monopoly or exclusivity in the matter of any media service or the establishment and operation of print, electronic or digital media services or in the supply to or purchase from, a national broadcaster of air time, programmes or advertising material and all existing agreements and contracts to the extent of conferring a monopoly or containing an exclusivity clause are, to the extent of exclusivity, hereby declared to be inoperative and of no legal effect.

(2) In granting a license or registration certificate and declaration the Authority shall ensure that open and fair competition is facilitated in the operation of more than one media services and that undue concentration of media ownership is not created in any city, town or area and the country as a whole:

Provided that if a licensee owns, controls or operates more than one media service, he shall not indulge in any practice which may impede fair competition and provision of level playing field.

(3) The Authority shall conduct market research every three years to determine significant market players in electronic, print and digital media sectors and shall

issue regulations or guidelines restricting the grant of licenses beyond a limit in a particular media sector or prohibiting grant of licenses in multiple or cross media sectors with a view to avoid monopolies and undue concentration in the media sector by a single player or few players.

24. Call for information: The Authority may call for any information, audited financial statements, or any other relevant document required for carrying out the purposes from any person involved directly or indirectly, licensee in respect of any regulated activity or any matter incidental or consequential thereto. Any person called upon to provide such information, documents or reports shall do so within the stipulated time period and his failure to do so shall be punishable by the imposition of such fines as may be prescribed.

25. (4) A license or registration certificate, declaration and NOC for any media service shall be valid for a period of five, ten or fifteen years subject to payment of the annual fee and such other fees as prescribed from time to time and subject to compliance with the provisions of this Ordinance, rules or regulations and terms and conditions of license/ registration certificate.

(5) The Authority may renew a license or registration certificate and declaration on such terms and conditions as may be prescribed and in case of refusal to renew a license or registration certificate and declaration reasons shall be recorded in writing.

**27. Media Complaints Council.** – (1) The Federal Government shall, by notification in the official Gazette, establish Media Complaints Council at Islamabad, the Provincial capitals, Sukkur, Multan, Gawader , Gilgit , Muzaffarabad and also at such other places as the Federal Government may determine.

(2) Each Council shall receive, scrutinize, investigate and review complaints made by persons or organizations from the general public against any



aspects of news, analysis, programmes on print, broadcast, films and online platforms or distributed by any media service provider established through a license or **registration certificate, declaration and NOC** issued by the Authority and **complaint from media workers for nonpayment of wages.**

(3) Each Council shall consist of a Chairperson and five members being citizens of eminence from the general public at least two of whom shall be women.

(3 a) **Advisory Commission:** It will be composed of **four members from the government, four members from stakeholders and chairman of the authority** with an advisory role to shortlist panels for members, chairman of Media Complaints Councils as well as Chairman and members of the Media Tribunal as prescribed by the rules.

(5) The council shall have powers of civil court in certain matters. - **The Council shall have all the powers of a civil court** while trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely: -

- I. Summoning and enforcing the attendance of any person; and
- II. Requiring the supply of any information and production of any document which may be useful for the conduct of personal hearing.

(7) **The Councils may recommend to the Authority after receiving a complaint within a period of 20 days appropriate action of censure, fine** against any media service provider or licensee for violation of any provision of the Ordinance or the codes of programme and advertisements for the media services as approved by the Authority as may be prescribed. The council may also recommend a fine against the complainant for filing of frivolous complaint.

**28. Prohibition of print, electronic or digital media service and films operation.**

- The Authority shall by order in writing, giving reasons thereof without issuing

show cause notice and affording opportunity of hearing, prohibit any person, print media, electronic media or digital media service operator or licensee or platform for a period as may be prescribed from –

- (a) Printing, Broadcasting, Webcasting, re-broadcasting, distributing or making available online any programme, advertisement or content if it is of the opinion that such particular programme, advertisement or content is against the ideology of Pakistan or is likely to create hatred among the people or is prejudicial to the maintenance of law and order or is likely to disturb public peace and tranquility or endangers national security or is pornographic, obscene or vulgar or is offensive to the commonly accepted standards of decency, this shall also apply to foreign broadcast having landing rights of the Authority or any digital media service operating from abroad but with Pakistan as target market and operating under a license of the Authority; or

**29. Giving airtime to any foreign broadcaster or media service operator.** - The electronic media licensee of the Authority shall not enter into an agreement with any foreign broadcaster to sell its air time or otherwise provide its air time to another foreign broadcaster or any media service operator without prior written permission of the Authority.

31. (6) Where a licensee contravenes any provision of this Ordinance or the rules or regulations made thereunder or any term and condition of the license or registration, the Authority, Chairman or any of its officers not below the rank of director may by a written notice require the licensee **or registered entity, declaration** and NOC to show cause within seven days as to why an enforcement order may not be issued. This shall be followed by an opportunity of hearing to be conducted by a committee constituted by the Chairman headed by an officer not below the rank of a Director General comprising officers from the enforcement, licensing, legal and any other such directorate or sub-directorate of the Authority as may be required.

(8) Where a licensee or registered entity, declaration and NOC fails to—

(a) respond to the notice referred to in sub-section (6); attend hearing on the date specified in the notice or

(b) satisfy the committee constituted by the Chairman for hearing in sub-section (6) above about the alleged contravention; or

(c) remedy the contravention within the time allowed in the notice referred to in sub-section (6) above, the Authority or the Chairman may on the recommendation of the committee, by an order in writing — (i) levy fine which may extend to twenty-five million rupees.

34. (5) Notwithstanding anything contained in sub-section (5) of section 29 or any other provision of this Ordinance, where the Authority takes action under sub-section (3) without notice by reason of necessity in the public interest, the Authority or the Chairman, as the case may be, may order in writing direct to seize the equipment of media station or seal the premises of the licensee:

Provided that in a situation of emergency the Authority or the Chairman may direct closure of any broadcast or distribution network for such period as it may determine.

**35. Tribunals.** – (1) The President may, by notification in the official Gazette, establish Media Tribunal and the federal government shall specify the territorial limits within which each such Tribunal shall exercise jurisdiction under this Ordinance. The Tribunal has all such powers including the contempt.

**(2) A Tribunal shall consist of—** Ten members including a Chairman. The Chairman of the Tribunal shall be a person who has been, or is, qualified to be a judge of High Court. The President shall appoint the Chairman. Other members shall be

appointed by the federal government from amongst citizens of eminence and learning having substantiated experience in media, films, cyber security, finance, human rights and law. The Advisory Commission comprising of four members from the government, four members from stakeholders and chairman of the authority shortlist panels for Chairman and members of the Media Tribunal as prescribed by the rules.

(6) Powers of Tribunal:

- a) To decide the appeals filed any person against the order or decision of the Media Complaints Council or authority.
- b) To implement wages for print, broadcast and digital media persons. Tribunal will also oversee their employment and professional related issues with media employees.
- c) To exercise such control and disciplinary powers over the members and employees of the tribunal as may be prescribed
- d) To levy and collection of fee for filing of an appeal as may be prescribed
- e) To make regulations for the smooth functioning of the tribunal

36. Appeal before Tribunal. - Any person aggrieved by any decision or order of the Authority may, within (30) thirty days of the receipt of such decision or order, an appeal to the tribunal established by the Federal Government within whose territorial jurisdiction the proceedings were held and impugned order was passed and Tribunal shall decide the appeal within a period of 45 (forty-five) days. (THIS MEANS APPEAL CANNOT BE FILLED IN HIGH COURT)

37. Jurisdiction of courts barred-. Save as otherwise provided by this Ordinance, only Supreme Court of Pakistan shall have jurisdiction to question the legality of anything done or decision or any action taken under the ordinance.

40. **Offences and penalties.** - "(1) Any licensee and registered entity, declaration and NOC holder or person who violates or abets the violation of any of the provision

of this Ordinance shall be guilty of offence punishable with imprisonment for a term which may extend to three years or with a fine which may extend up to two twenty five million rupees or with both.

(2). Where any licensee and registered entity, declaration NOC holder or person who repeats the violation or abetment, such person shall be guilty of offence punishable with imprisonment for a term which may extend to five years or with a fine which may extend to TWO Twenty-five million rupees or with both.

(3) Where the violation, or abetment of the violation of any provision of this Ordinance is made by a person who does not hold a license, or registration certificate, declaration and NOC such violation shall be punishable with imprisonment for a term which may extend to five years, or with fine upto two twenty-five Million, or with both, in addition to the confiscation of the equipment used in the commission of the act.

(4) Whosoever damages, removes, tampers with or commits theft of any equipment of a media station, printing press or system, cinema houses licensed by the Authority, including transmitting, broadcasting, uplinking apparatus, receivers, boosters, converters, distributors, antennae, wires, decoders, set-top boxes or multiplexers, servers etc. shall be guilty of an offence punishable with imprisonment which may extend to three years, or with fine upto two twenty five million , or both.

48. Power to make rules. - (1) The Authority may, with the approval of the (Government) division concerned, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may be provided for all or any of the following matters, namely: -

(a) to prescribe the forms for the licenses/ registration certificates for working, installing, operating, or dealing in transmission, broadcast, print, digital or distribution, publishing, webcasting, webstreaming, video on demand or any other media related apparatus and the manner in which applications for the licenses or registration certificates shall be granted;

(b) to prescribe the terms and conditions of the license and registration certificate and declaration

(c) to prescribe standards and measures for the establishment of printing press, broadcast media stations, installation of broadcasting, distribution service, teleporting equipment, transmitters, webstreaming and video streaming, video on demand servers and other allied equipment, content delivery networks, receivers, boosters, converters, distributors, common antennae;

(d) to prescribe terms and conditions for the electronic, print or digital media operators who own, control or operate more than one category of media licenses or media enterprises; and

(e) to define the circumstances constituting undue concentration of media ownership and abuse of powers and anti-competitive practices by media companies in consultation with Competition Commission of Pakistan

49-(1) Repeal and Saving. –

The Press Council Ordinance ,2002,

The Press, newspaper, news Agencies and books Registration Ordinance,2002,

Newspaper Employees (Conditions of Service) Act 1973,

Pakistan Electronic Media Ordinance 2002 as amended by PEMRA Amendment Act 2007 and

The Motion Pictures Ordinance 1979 are hereby repealed.

(2) Notwithstanding the repeal of said ordinances, acts, without prejudice to the provision of section 24 of the General Clauses Act, 1987, anything done, appointments made and the terms of appointment already fixed, notifications, rules and regulations made, licenses issued, forms prescribed, proceedings commenced, or action taken under that the said ordinances, acts shall, so far as they are not inconsistent with the provisions of this Ordinance, continue in force and be deemed to have been made, issued or taken under the provisions of this ordinance.

50. Application to existing licensees, NOCs, Declarations, Registration certificates and operations: -- (1) Notwithstanding anything contained in this Ordinance, all persons lawfully carrying on regulated activities immediately before the commencement of this Ordinance shall be deemed to be validly carrying on such regulated activities pursuant to this Ordinance:

