

PEMRA Rules 2002

PAKISTAN ELECTRONIC MEDIA REGULATORY AUTHORITY

(PEMRA) Rules, 2002

NOTIFICATION

S. R. O.- PEMRA-1(1)/2002. In exercise of the powers conferred under Sub-section (1) of Section 39 of the Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance, 2002, the Pakistan Electronic Media Regulatory Authority, with the approval of the Federal Government, is pleased to make the following rules: -

1. Short Title and Commencement. – (1) These rules shall be called The Pakistan Electronic Media Regulatory Authority (PEMRA) Rules, 2002.

(2) They shall come into force at once.

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

(a) "code" means the Code of Conduct for Media Broadcasts, contained in schedule annexed to these rules;

(b) "Federal Government" means the Ministry of Information and Media Development;

(c) "form" means the application form set out in the Schedule annexed to these rules;

(d) "Ordinance" means the Pakistan Electronic Media Regulatory Authority Ordinance, 2002.

(e) "Council" means the Council of Complaints established under the Ordinance;

(f) "rules" means the rules made, from time to time, under the PEMRA Ordinance, 2002;

(g) "applicable licence fee" means the licence fee determined through the bidding and to be paid by a successful applicant at the time of issuance of the licence;

(h) "subscriber" means a person who receives the signal of a cable television system at a place indicated by him to the cable television operator without further transmitting it to any other person;

(i) "cable service" means the transmission or re-transmission of audio-visual programmes by cables or by MMDS;

(j) "cable television system" means a system for distribution of radio and television programmes through a set of closed transmission paths, including terrestrial wireless, for reception by

multiple subscribers, comprising: coaxial or fibre-optic cable; trunk amplifiers; line extender amplifiers; return amplifiers; line isolators; passive devices; connectors and subscriber-drops;

(k) "head-end" means a specific location for receiving and processing the programming service for further transmission or distribution to the subscribers;

(l) "cable television operator" means any person who provides service through a cable television system or otherwise controls or is responsible for the management and operation of a cable television system;

(m) "service point" means a system outlet on the system which may be used for monitoring the system parameters;

(n) "TV de-scrambler or decoder service" means the reception of programmes through satellite or other means of telecommunication, by using TV de-scramblers or decoders, and transmitting to the subscribers;

(o) "TV de-scramblers or decoders" means the equipment used to receive the television de-scrambler or decoder service;

(p) "MMDS" means Multi-channel Multi-distribution Service to transmit audio-video signals through satellite or other wireless telecommunication devices;

(q) "uplinking" means transmission of audio-video signal from ground transmission facility to a satellite, in order to transmit any programme within or outside Pakistan;

(r) "set-top box" means a device for receiving and decoding encrypted television signal for onward transmission to the subscribers;

(s) "proprietary radio set" means a radio signal receiving apparatus, sold or provided by the owner of a radio channel, designed to exclusively receive his transmissions;

(t) "foreign broadcasting service" means a broadcasting service which is transmitted from outside Pakistan and is received in Pakistan;

(u) "programme" means any systematic audio, visual or audio-visual live performance or presentation, or live transmission of films, features, dramas, advertisements and serials relayed or distributed through recognized broadcast or cable TV station;

(v) "illegal operation" means the operation of broadcast station or cable TV system, without having a valid licence from the Authority; and

(w) "schedule" means the Schedule annexed to these rules.

(2) Words and phrases used but not defined in these rules, unless the context otherwise requires, shall have the meanings assigned to them in the Ordinance.

3. Remuneration of Members. – The members shall receive such fee and expenses as determined, from time to time, by the Authority.

4. Meetings of the Authority, etc.- (1) The Authority shall hold not less than four meeting in a calendar year. However, the Authority may meet as often as it wishes in order to dispose of its functions as prescribed in the Ordinance;

(2) The agenda and minutes of the meeting shall be circulated at least one-week prior to the date of the meeting.

(3) The Authority may invite any officer or specialist to attend its meeting for a specific item of agenda.

(4) The Chairman shall convene a meeting of the Authority. More than half the total membership, may also request for the meeting of the Authority which shall be convened by the Chairman.

(5) The Authority may, in its discretion, appoint ad-hoc committees from among its own members or officers including persons who are not members of the Authority for specific tasks.

5. Officers, employees, etc.- The Authority shall make regulations for recruitment, remuneration, service structure and other allied matters relating to the officers and employees and such other experts, consultants and advisers as it may, from time to time, appoint.

6. Categories of broadcast and cable TV network licences.- (1) There shall be six categories of licences, namely:

i. International scale stations;

ii. National scale station;

iii. Provincial scale station;

iv. Local area/community based stations;

v. Specific and specialized subject stations; and

vi. Cable television network stations.

(2) Within the categories specified in sub-rule (1), the Authority may divide each category into further sub-categories as may be required.

7. Duration and renewal. – (1) The licence shall be granted for period of five, ten or fifteen years.

(2) The licence shall be valid for the term for which it is granted subject to the payment of the annual fee, as specified in the Schedule annexed to these rules.

(3) The fee shall be deposited in the account of the Authority for all applications for issuance, or as the case may be, renewal or revalidation of a licence.

8. Application for grant of licence to operate broadcast or cable TV network stations.- (1) Any person desirous of obtaining a licence shall apply to the Authority, for grant of licence on the prescribed 'Application Form'; set out in the Schedule; or on such other form as the Authority may specify through the official Gazette.

(2) The Authority shall determine the number of licences to be issued in each category and may review these numbers annually taking into account the number of the existing licences and the economic justification and expected demand for service.

9. Particulars of application for grant of a licence to operate a broadcast or cable TV station.-

(1) The applicant shall indicate the desired category of licence from amongst the categories and the sub-categories provided in rule 6.

(2) Every application for grant of licence shall be accompanied by the application processing fee(non-refundable), as prescribed by these rules and set out in the Table contained in the Schedule.

(3) The Authority may forward the application to the Frequency Allocation Board

(FAB) to ascertain whether the frequency proposed to be utilized by the applicant is:

i. available;

ii. suitable for the system; and

iii. the application, prima facie, conforms to the criteria for allocation of frequency.

(4) The application may be processed simultaneously; however, the licence shall not be granted until the approval of frequency allocation is received from FAB.

10. Criteria for evaluating licence application. – Applications for the grant of a licence shall, in the first instance, be short listed by using the following criteria; namely:

i. economic viability;

ii. technical competence;

iii. financial capability;

iv. credibility and track record;

v. extent of Pakistani share in ownership;

vi. prospects of technical progress and introduction of new technology;

vii. market advancement, such as improved service features or market concepts;

viii. contribution to universal service objectives; and

ix. contribution to other social and economic development objectives.

11. Issuance of licence.- (1) The Authority shall process each application and on being satisfied that the applicant(s) fulfils the conditions and the criteria and procedure as provided for in section 19 of the Ordinance, may, on receipt of the applicable licence fee, as determined through the bidding process, and the prescribed security deposit, issue licence to the applicant(s) concerned.

(2) In addition to General Terms and Conditions contained in the Schedule, the Authority may impose on the licensee such other terms and conditions as appear to it necessary;

(3) The Authority will consult the Government of the Province, with regard to proposed location of the broadcast station and the possible area of coverage, through the Chief Secretary of the Province or an officer so authorized by him.

(4) The Authority, if satisfied that the issue of the licence to a particular person is not in the public interest, may, for reasons to be recorded in writing and after giving the applicant an opportunity of being heard, refuse to grant a licence.

(5) The Authority shall take decision on the application for a licence within one hundred days from receipt of the application;

(6) The Authority shall make regulations setting the procedures for an open and transparent bidding process in such cases where the number of the applicants is likely to exceed the number of licences which the Authority has fixed for that category of licence.

12. Fees and security deposits. – (1) The fees payable pursuant to these rules shall be as set out in the Tables contained in the Schedule;

(2) Each successful applicant shall, before the issue of the licence, deposit the applicable licence fee and make a security deposit, set out in the Schedule, at the time of initial installation of a broadcasting or a cable TV station. The security deposit shall be refundable after the expiry of one year of operation of the station to the satisfaction of the Authority.

(3) The Authority shall have the power to revise and update, from time to time, the application fee and the fee for the grant, renewal or extension of a licence by substituting the Tables contained in the Schedule by the Authority to be published in the official Gazette.

13. Subscription Tariff.-(1) A licensee operating a cable TV network station may charge from the subscribers for the service provided to them according to the rates as specified in Table-VII contained in the Schedule.

(2) The Authority may, suo moto but with justification to be placed on record, or on a formal written request from a licensee, revise the tariff rates contained in the Schedule by an order of the Authority to be published in the official Gazette;

(3) The licensee shall notify to its subscribers any change in the subscription tariff as approved by the Authority, not later than thirty days before the enforcement of the revised rates.

14. Decoder Tariff. – (1) A licensee shall be allowed to charge such fixed annual subscription fee, as set out in the Schedule, for decoders and set-top boxes sold to the subscribers;

(2) The licensee shall not charge more than the approved rates.

15. Sale of proprietary radio set etc.- The sale of proprietary radio set shall require a licence from the Authority.

16. Extension of the licence term.- (1) The licensee may, at least six months before the expiry of the original term, referred to in rule 7 sub-rule (1), apply to the Authority, for the extension of the licence for such term, and the Authority shall extend the licence subject to:

i. satisfactory past performance of the licensee. The Authority may seek opinion in this regard from Council of Complaints;

ii. payment of the extension fee as determined by the Authority at that time;

iii. all other terms and conditions as prescribed in the rules and including any new terms and conditions which the Authority may deem fit to impose having regard to all relevant factors including without limitation, changes in technology and prevalent market conditions.

(2) The Authority may decide not to extend a licence beyond the expiry date of the on-going term; provided that the Authority shall convey such decision to the licensee, not later than the one-fourth of the on-going term, before the expiry of the term.

17. In-eligibility for getting a Licence:

A licence to establish or operate a broadcast or cable TV network station shall not be granted to:

i. a person who is not a citizen of Pakistan or resident in Pakistan;

ii. a foreign company organized under the laws of any foreign government;

iii. a firm or company the majority of whose shares are owned or controlled by foreign nationals or whose management control is vested in foreign nationals or companies;

iv. a person whose licence under the Ordinance has previously been cancelled because of the contravention of the provisions of the Ordinance; or

v. a person who already owns or operates, as sole or joint shareholder, any other broadcast or cable TV network station, printed newspaper or magazine or an advertising agency.

18. Prohibition of broadcasts.- (1) The Authority, or an officer so authorized by the Authority, may, giving reasons in writing, prohibit any broadcaster from broadcasting or re-broadcasting any programme, if the Authority, or as the case may be the officer, is of the opinion that such particular programme is likely to create hatred among the people or is prejudicial to the maintenance of law and order or is likely to disturb peace and tranquility or endangers national security or is violative of the terms and conditions of the licence.

(2) Subject to sub-rule (1) of this rule, the officer, after making such an order, shall inform the Authority in writing within 24 hours, with his reasons for passing the orders and all relevant supporting material. The Chairman shall decide whether the matter requires the convening of an emergent meeting and if in his opinion it does not, the matter shall be put before the Authority in its next regular meeting.

19. Proscription of a foreign broadcasting service.- (1) If the Authority, on having brought to its notice, considers that the content of any foreign broadcasting service is unacceptable, it shall order proscription of that service;

(2) The Authority shall not consider a foreign broadcasting service to be unacceptable, for the purpose, unless it is satisfied that the content of that service included any matter which prejudices the security and sovereignty of Pakistan, the public interest or order or national harmony or is against good taste or decency or morality.

20. Suspension of the licence.- The Authority may suspend the licence of a broadcaster or cable TV operator, for a period not exceeding three weeks, on one or more of the following grounds, namely:-

- i. the licensee has failed to pay the annual licence renewal fee;
- ii. the licensee has contravened any provision of the Ordinance or rules made thereunder;
- iii. the licensee has failed to comply with any condition of the licence;
- iv. if the shareholders of the licensee, being a company, have transferred, whether in one or more or a series of transactions, the majority of their shares.

Provided that no licence shall be suspended or cancelled unless the licensee has been given reasonable notice to show cause and personal hearing.

21. Cancellation of licence.- (1) Where a licensee contravenes any provision of the Ordinance or these rules, or any condition of the licence, the Authority, in consultation with or on the recommendation of the Council of Complaints, established under section 26 of the Ordinance, may, by written notice require the licensee to show cause within fifteen days, as to why his licence should not be cancelled.

(2) If the Authority, on considering the explanation of the licensee, is of the opinion that the licensee has contravened any provision of the Ordinance or the rules or conditions of the licence, it may cancel the licence.

22. Seizure of broadcasting or distributing equipment.- The Chairman, or an authorized officer of the Authority, may order the seizure of a licensee's broadcast or distribution system equipment or any other equipment which is used to provide, assist or help to operate or broadcast a programme, which has been suspended or terminated by the Authority or which is in use for illegal operation.

23. Appeals.- A person, aggrieved by an order of an officer of the Authority, acting under the delegated powers of the Authority, may, within thirty days of issuance of the order, appeal to the Authority and the Authority shall decide the matter within forty five days of the submission of the appeal.

24. Programming content.- (1) The contents of the programmes and advertisements broadcast or distributed by the broadcast or cable TV network stations shall conform to the provisions of section 20 of the Ordinance and the Code of Conduct set out in the Schedule;

(2) Programmes shall conform to the provisions of the Motion Pictures Ordinance, 1979 (XLIII of 1979), and the rules and Code of Conduct framed thereunder;

(3) The advertisements shall conform to the TV Code of Advertising Standards and Practices in Pakistan.

(4) The duration of the advertising break shall not be more than three minutes continuously and there must be at least a fifteen-minute regular programme duration between successive advertisement breaks;

(5) The licensee shall maintain a record and register of the programmes being broadcast by him and shall preserve the programmes aired or distributed, on audio or as the case may be on the video tapes, at least for a period not less than thirty days.

(6) The Authority may issue regulations regarding minimum Pakistani content in the programmes and channel mix, to be broadcast or distributed by a licensee.

(7) The Authority may, by regulations, specify as eligible channels, which it considers suitable for broadcasting or distribution.

(8) The cable TV operation licensee shall include the national TV broadcast channels, in his respective bouquet, amongst the first five of the serial order of the distributed channels.

25. Sharing of facilities.- The Authority may issue guidelines about sharing of facilities by the licensees.

26. Validation of existing broadcast and cable TV stations.- (1) The existing cable TV operators, who on the commencement of the Ordinance, held licences issued by PTA, shall be deemed to hold valid licences in accordance with the provisions of the Ordinance and the rules made

thereunder and the terms and conditions of the licences as provided in these rules, and issued from time to time, by the Authority. The annual fee for renewal of the licences shall be payable to the Authority after the commencement of the Ordinance;

(2) The existing private broadcasters, who on the commencement of the Ordinance, were in operation after having been granted respective monopolies in multi-modal distribution system and FM radio, shall, within sixty days from the date on which these rules are notified, apply for the broadcast licences under the provisions of these rules; and the Authority, on receipt of the applicable fees and the security deposit, shall grant the licence, subject to such terms and conditions, as the Authority may, from time to time, prescribe.

27. Mergers and transfers.- (1) A licensee shall not merge or amalgamate with any other person without the prior approval of the Authority.

(2) A person who is the shareholder of, or owns an interest in, a company which is a licensee, shall not transfer or dispose of his shares or the interest, without the prior approval of the Authority,

Provided that in the case of a listed company, the shares, representing not more than two percent of the issued and paid up share capital, may be transferred without such approval.

28. Maintenance of accounts.-The licensee shall maintain proper accounts, as required by the applicable laws, and shall cause to be carried out the audit of his accounts by one or more auditors who are chartered accountants within the meaning of Chartered accountants Ordinance, 1961 (X of 1961) and shall submit the audited financial statement to the Authority not later than three months after the closing date of its financial year.

29. Powers to grant Uplinking permission.- (1) The Authority may grant, on receipt of a written application, permission to a broadcast station, cable TV operator, local or foreign radio or television team for uplinking the signal between the ground transmitting facility and a satellite, for a short term or long term duration in order to transmit any programme content for broadcast purposes within or outside Pakistan.

Provided that that the short term uplinking permission shall be granted by the Authority, on a formal recommendation of the External Publicity Wing of the Ministry of Information and Media Development;

(2) The Authority shall determine the fee chargeable for granting permission for the short term uplinkings and also the for long term uplinkings.

30. Powers to make regulations.- The Authority shall issue regulations for exercising the powers given to it under the ordinance and the rules